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, June 6, 2022 | **7:00 PM** | **Amherst Municipal Building**

I. IN MEMORY

Diane Johnston

II. INVOCATION

Deputy Supervisor Berger

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on June 6, 2022 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

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

V. MINUTES APPROVAL

1. Monday, May 23, 2022

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

Supervisor Kulpa presented a proclamation to the Amherst Chamber of Commerce for its 65th Anniversary.

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2022-545

Tudor Court Parking Restriction

A public hearing to install a parking restriction at the bulb of the Tudor Court cul-de-sac to ease the passage of school buses.

"Parking is hereby restricted around the cul-de-sac turnaround portion of Tudor Court between 7 a.m. and 4 p.m. on school days between the east property lines of 26 and 33 Tudor Court."

6/6/2022
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 7:08 PM.

Christopher Schregel, Traffic Safety Liaison, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:11 PM.

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

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

2. Resolution 2022-546

Fair Woods Drive Parking Restrictions

A public hearing to install parking restrictions along the recently extended portion of Fair Woods Drive within the Fair Woods Estates subdivision.

"Parking is hereby restricted on both the north and south sides of Fair Woods Drive from the Heim Road curb line to a point that is 30-feet east along the roadway centerline ~~the east property line of 108 Fair Woods Drive (Lot #12) for a distance of 156 feet along the roadway centerline~~."

~~and,~~

~~"Parking is hereby restricted between 11:00 AM to 5:00 PM on Fridays between the west property line of 102 Fair Woods Drive (Lot #11) to the east property line of 84 Fair Woods Drive (Lot #8) on both sides of Fair Woods Drive, for a distance of 262 feet."~~

and,

"That a 'No Standing Any Time' be established between a point 10-feet west of the raised center median to a point 10-feet east of the raised center median on Fair Woods Drive ~~the west property line of 78 Fair Woods Drive (Lot #7) to a point 140 feet easterly on the both the south and north sides of Fair Woods Drive including the center island~~."

6/6/2022

A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

Christopher Schregel, Traffic Safety Liaison, presented and provided an amended resolution shown above.

Phil Nanula, Owner of Essex Homes spoke.

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 7:29 PM.

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

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

3. Resolution 2022-547

Local Law Amending Chapter 4 - Administration of Government

Public Hearing with respect to a Local Law Amending Chapter 4 - Administration of Government.

6/6/2022
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 7:29 PM.

Stanley Sliwa, Town Attorney, presented.

The following speaker addressed the Town Board:
Don Smith, N. Long St. - restructuring and changing the way the department functions

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing and set a decision date for the June 27th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:40 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 6/27/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

4. Resolution 2022-548

4252 - 4258 Ridge Lea Road Rezoning

Request to rezone 4252 - 4258 Ridge Lea Road from CTR-8 to RD & GI.

6/6/2022
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 7:40 PM.

Attorney James Boglioli, Benderson Development, presented.

The following speakers addressed the Town Board and spoke in opposition:
Gerri DiCosmo, 378 Meyer, Joe Voytovich, 35 Bucyrus, Jane Cox, 4584 Harlem, Sheila Goldberg, 306 Meyer and Don Smith, N. Long.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing and set a decision date for the June 27th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:16 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 6/27/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

VIII. DEVELOPMENT REVIEW ACTIONS

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 (9)

3. Amherst Community Diversity Commission (5)

Supervisor Kulpa appoints Melissa Abel to the Amherst Community Diversity Commission for her first term to conclude December 31, 2025.

4. Amherst Conservation Advisory Council (5)

5. Amherst Government Financial Advisory Board

Membership is full.

6. Amherst Industrial Development Agency

Membership is full.

7. Amherst Veterans Committee (3)

8. Arts & Culture in Public Places Board

9. Board of Assessment Review

Membership is full.

10. Board of Electrician Examiners

Membership is full.

11. Board of Ethics

Membership is full.

12. Board of Plumbing and Drainage Examiners

Membership is full.

13. Design Advisory Board

14. Employee Suggestion Program Merit Award Board

Membership is full.

15. Employee Suggestion Review Committee

16. Energy Conservation Citizens Advisory Committee (3)

17. Freedom of Information Law (FOIL) Board

18. Glen Park Joint Board (1)

Village vacancy

19. Historic Preservation Commission

Membership is full.

20. Information Technology Advisory Committee (1)

21. Library Board of Trustees

Membership is full.

22. Minority / Woman Owned Business (4)

23. Open Government Advisory Board (4)

24. Planning Board

Membership is full.

25. Recreation Commission (1)

26. Recycling and Waste Committee (3)

27. Senior Services Advisory Board (2)

28. Traffic Safety Board

Membership is full.

29. Youth Board (5)

Adult vacancies (6), Youth vacancies (0)

30. Zoning Board of Appeals

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 Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 8:17 PM.

Supervisor Kulpa gave an update on the yard waste collection issues.

The following speakers addressed the Town Board:
Ron Rudnicki, 465 Ruskin Rd - yard waste collection
Don Smith, N. Long St - Resolution 2022-562
Ryan Licata, Senior Refuse Control Officer - gave an update on where the Town stands with Modern Disposal regarding the yard waste collection issues
Michael McInerney, CEO of Modern Disposal - apologized for the issues, changes will be made
Dennis Moriarty, VP of Collection Operations at Modern Disposal - talked about changes in leadership and plans for pickup regarding the town
Scott & Lisa Friedman, 725 LeBrun Rd - appealing the decision from the Historic Preservation Commission

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was closed at 9:07 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:

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

E. COUNCILMEMBER SZUKALA:

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2022-549

2022 Engineering Department Vehicles and Equipment Amended and Restated Bond Resolution ($432,000)

AGENDA ITEM : JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Engineering Department Equipment & Vehicle Bond**
2022 C.I.P. - Project No. E-1
Amended and Restated Bond Resolution - $432,000

Kindly adopt the attached amended and restated bond resolution to allow for a revision to the PPU (Period of Probable Usefulness) for equipment for the Town of Amherst Engineering Department.

Said action has no effect, be it financial or otherwise, on the previously adopted bond resolution (Resolution 2022-503 - May 23rd, 2022) for the same project.

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Vaishali Reberholt, PE, CPESC (*w/attachment*)

6/6/2022
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 2022-550

2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000)

AGENDA ITEM - JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Highway Department Vehicles and Equipment (5YPPU)**
Bond Resolution - $151,000.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $151,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Patrick G. Lucey, Superintendent of Highways (*w/attachment)*
Paul Anderson, Deputy Superintendent of Highways (*w/attachment)*

6/6/2022
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 2022-551

2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000)

AGENDA ITEM - JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Highway Department Vehicles and Equipment (15YPPU)**
Bond Resolution - $679,000.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $679,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Patrick G. Lucey, Superintendent of Highways (*w/attachment)*
Paul Anderson, Deputy Superintendent of Highways (*w/attachment)*

6/6/2022
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 2022-552

PILOT Agreement: Blocher Homes (CRS #3431)

AGENDA ITEM : JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **PILOT Agreement:**
Blocher Homes Housing Development Fund Corporation as nominee for Blocher Homes Apartments and the Town of Amherst, et al. (CRS# 3431)

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

WHEREAS, Blocher Homes Housing Development Fund Corporation, as nominee for Blocher Homes Apartments, has requested that the Town Board approve a PILOT Agreement with a term of fifteen (15) years for the Property; and

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

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

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

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

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

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

SAA:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - June 6, 2022**)
Emily Murphy, Town Assessor (*w/attachment*)

6/6/2022
Consent

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

5. Resolution 2022-553

Settlement of Article 7 Matter - 4459 Bailey, LLC

AGENDA ITEM : JUNE 6th, 2022

TO: Town Board

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

DATE: June 1, 2022

RE: Settlement of Article 7 Matter
5271 Main Street, LLC, 4459 Bailey Avenue, LLC, 200 Bassett Road, LLC v. Town of Amherst, et al.
4459 Bailey Avenue, LLC v. Town of Amherst, et al.

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 Partial Stipulation of Settlement and Judicial Order and Stipulation of Settlement and Judicial Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : June 6, 2022**)
Emily Murphy, Town Assessor (*w/attachment*)

6/6/2022
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 2022-554

Request to Auction

Please authorize the sale of our surplus of old office furniture and floor scrubbing machine through Auctions International. Thank you for considering this request.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment corrects the account number in Financial Impact. 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

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2022-555

Budget Transfers and Amendments

For June 6, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 6/1/2022
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:***
A1440.1000 Personal Services $6,075.25	A1410.1000 Personal Services $9,791.00
A1440.8030 FICA $464.75	A1410.8030 FICA $749.00
A1440.4090 Professional Services $4,000.00	

To transfer funds from Engineering Office to Town Clerk for records consulting project.

A1990.4000 Contingency $500.00	A1220.4020 Supervisor - Postage $500.00

To transfer funds for special mailing.

KP2034.4979 Contingency $5,245.89	KP2034.4971 Design $5,245.89

To transfer funds from contingency to design in KP2034 Streetlight Replacement.

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
D5112.05001 Paving - Refund of C/Y Exp. $14,000	D5112.4330 Resurfacing Materials $14,000

To setup budget for refund of current year expense for Frontier Road paving.

N2144.02785 New Construction - PI $6,750.00	N2144.4000 Contractual $6,750.00
N2149.02785 HOME Admin- PI $750.00	N2149.4003 Admin $750.00

To recognize Community Development program income from 25 Rowland, Cheektowaga.

N2123.02785 CDBG & VG PI $170.00	N2123.4000 Contractual $170.00

To recognize Community Development program income from 169 Hillcrest, Amherst.

N0001.20080 CDBG Income 20/21 $40,000 N2066.4000 CDBG Meals on Wheels $40,000
To setup budget for amendments to action plan for COVID -19 #2 (RES 2021-1) for Meals on Wheels.

DECREASE: ***DECREASE:***

N2140.02785 Amherst HOME Rehab $170.00 N2140.4000 Contractual $170.00
To fix RES2022-516 funds from 169 Hillcrest, Amherst, monies should have gone to CDBG program.

6/6/2022
Consent

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

2. Resolution 2022-556

Payment of Community Development Vendor and Payroll Warrants

Please approve the attached procedures to allow the operating and payroll bank accounts float balance to loan funds to Community Development until drawdowns are processed and received from HUD.

6/6/2022
Consent

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

3. Resolution 2022-557

Interfund Load

Please approve an interfund loan from the General Fund (A) to the Capital Fund (KP) for $4,435,238.54 to cover NYPA LED Street Lighting payment CRS# 3199, for materials, labor and equipment. The loan will be repaid when the Town goes to bond market for funding.

6/6/2022
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 2022-558

Authorize Temporary Access, Working Rights and Occupation Agreement - CRS #3399

WHEREAS, on June 17, 2019 the Town Board authorized funding to remove dead ash trees along Youngs Road as part of the Town Ash Tree Remediation project; and

WHEREAS, adjacent residents expressed concerns over the condition of the site after the tree removal had taken place; and

WHEREAS, the Town provided a tree restoration plan and in Resolution 2021-258 awarded a contract to Beau Enterprises, Inc. to plant vegetation within the project site along Youngs Road between Maple Road and Sheridan Drive; and

WHEREAS, the contract with Beau Enterprises expired in March 2022, but maintenance activities will continue through the end of 2022;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Supervisor to sign a Temporary Access, Working Rights and Occupation Agreement with Beau Enterprises, which will allow them to continue to work on Town property during the maintenance period.

6/6/2022
Consent

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

2. Resolution 2022-559

Award Bid #2022013 - Adulticides and Pesticides - CRS #3432 & 3433

WHEREAS, bids were received by the Contract Compliance & Administration Department on May 5, 2022 for Bid #2022013 Adulticides and Pesticides; and

WHEREAS, two (2) vendors submitted bids, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, that bid items be awarded as follows: Adapco LLC (CRS #3432) - Items: #10, 11, 13, 15, 21-23; Clarke Mosquito Control (CRS #3433) - Items #2-6, 8, 8 Alt., 9, 14, and 16-20; and

BE IT FURTHER RESOLVED, that both vendors deliver via third party shipping companies and will not be on Town property, so a waiver of insurance is requested; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Adapco LLC, and Clark Mosquito Control; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing system due to the fact that the Town is currently without a contract for these items.

6/6/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and approved via Roll Call vote 4-1 (nay, Bucki).

RESULT:	**ROLL CALL VOTE (ADOPTED) [4 TO 1]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Lavin, Szukala
NAYS:	Bucki

3. Resolution 2022-560

Award Bid #2022014 - Busing - CRS #3436

WHEREAS, bids were received by the Contract Compliance and Administration Department on May 12, 2022 for Bid #2022014 Busing; and

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

NOW, THEREFORE, BE IT RESOLVED, the bid be awarded to Erie Bus Inc. - dba WNY Bus Co.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Erie Bus Inc. - dba WNY Bus Co.; and

BE IT FURTHER RESOLVED, that approval of this contract is pending successful completion of the contract routing system due to the fact that the first field trip is schedule for June 28th, and the next Town Board meeting is not until June 27th.

6/6/2022
Consent

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

4. Resolution 2022-561

Award Bid #2022016 - Parking Lot Crack Fill, Seal Coat & Stripe - CRS #3437

WHEREAS, the Contract Compliance and Administration Department received bids on May 19, 2022 for Bid #2022016 Parking Lot Crack Fill, Seal Coat & Stripe; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Baughman Magic Seal, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Baughman Magic Seal, Inc.; and

BE IT FURTHER RESOLVED, that approval is subject to successful completion of the contract routing system due to the fact that the next Town Board meeting is not until June 27th, and a contract needs to be awarded in order to begin scheduling of work.

6/6/2022
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:

1. Resolution 2022-562

American Rescue Plan Act, Subrecipient Agreement with Erie County - Amherst Central Park CRS #3362

Authorize the Supervisor to sign the American Rescue Plan Act, Subrecipient Agreement with Erie County pending CRS approval. The Town of Amherst shall utilize the ARPA Funds to create a world-class park entitled, Amherst Central Park in the heart of Amherst. The funding will be utilized by the Town of Amherst to complete the planning, design and engineering of the park space, including infrastructure needs throughout the property. With a focus on preservation of green space, the park design will include a public square to support a variety of economic driving activities like local markets, including an annual holiday market, for the Town and region's small businesses.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2022-563

Authorize Travel to 2022 NYSEDC Basic Economic Development Course

Please approve travel for Angela Rossi and Emily Melski of the Economic Development Department to attend the 2022 NYSEDC Basic Economic Development Course in Albany, New York, June 26, 2022 thru June 30, 2022, at a total estimated cost not to exceed $2,200 each. This training is not available locally. Funds are available in the Economic Development 2022 budget.

6/6/2022
Consent

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

J. EMERGENCY SERVICES:

K. ENGINEERING:

1. Resolution 2022-564

2022-2027 CIP Amendment Recreation Complex Improvements CIP No. YR-9A

The Engineering Department is recommending amendment of the 2022-2027 CIP for the above project. Due to the current economic climate and the added costs associated with supply-chain equipment and materials as well as labor cost increases, the scope of the Map, Plan & Report (MPR) that was approved for bonding by the Town Board on February 28, 2022 (Res-2022-202) must be revised as per the attached revised MPR, which outlines improvements at Mathewson / McCarthy Little League, North Amherst Recreation Center and the Central Amherst Little League complexes. Improvements shown within the original MPR for Paradise Park and the North French Soccer Complex will unfortunately need to be pushed off until 2023 due to funding limitations. Please note that the proposed amendment is budget neutral.

CIP No.	Project Description	2022 CIP Allocation	Amend To
YR-9A	**Recreation Complexes Concessions / Restroom Improvments** North French Soccer Complex, Paradise Park Restroom	$1,300,000 LA	$0
YR-9A	**Recreation Complex Improvments** Mathewson / McCarthy Little League, North Amherst Rec. Center, Central Amherst Little League	$0	$1,300,000 LA

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

6/6/2022
Consent

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

2. Resolution 2022-565

Fire Hydrant Installation Red Oak Drive Waterline Replacement

We are hereby requesting authorization to have four (4) additional fire hydrants installed at the above location.

The Erie County Water Authority and Erie County Department of Health require the installation of four (4) additional fire hydrants at the above locations during the course of construction to satisfy current design standards regarding hydrant spacing on a public potable water distribution system. The hydrants will be the property of the Town of Amherst. Under the Lease Management Agreement, a Resolution from the Town Board is required for Erie County Water Authority to approve the installation of the referenced hydrants. The Town is to pay the annual maintenance fee of $160.80ea for a total of $643.20.

May we have your approval for the installation of four (4) additional fire hydrants?

6/6/2022
Consent

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

3. Resolution 2022-566

Cryogenic Plant Service Extension Agreement Mohawk Cryo, Inc. CRS No. 3414

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Mohawk Cryo, LLC. The terms and conditions within TOA Project 2017.002G Cryogenic Plant 5 year Service Agreement will remain the same. This extension will be effective from June 16, 2022 through June 14, 2027.

Funds for this request are available in G9916-4960.

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

Thank you for considering this request.

6/6/2022
Consent

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

4. Resolution 2022-567

Auto Analyzer Contract Extension Skalar, Inc. CRS No. 3411

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Skalar, Inc. The terms and conditions within TOA Bid 2020012 Auto Analyzer will remain the same. This extension will be effective from June 08, 2022 through June 07, 2024.

Funds for this request are available in G9916-4860

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

Thank you for considering this request.

6/6/2022
Consent

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

5. Resolution 2022-568

Purchase of Bare Lead SubAv HUB Assembly TecSmith, Inc.

We are requesting Town Board approval to purchase a 50ft Bare Lead SubAv HUB Assembly from TecSmith, Inc. (quote attached). This is to replace the current HUB Assembly which has failed at our Sheridan Drive flowmeter location. The total cost for this purchase is $3,854.00.

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

Thank you for considering this request.

6/6/2022

Consent

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

6. Resolution 2022-569

WPCF De-IonizeWPCF De-Ionized Water System Service Contract Evoqua Water Technologies CRS No. 3409

The WPCF is requesting that the Town Board authorize the Supervisor to sign a service agreement with Evoqua Water Technologies. Evoqua is the sole source, factory authorized service provider for the WPCF's De-Ionized Water Production System, which is critical to the lab at the WPCF. The term of this contract will be from date of execution by the Town of Amherst through February 28, 2023.

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

Funds will be available in G9916-4860.

Thank you for considering this request.

6/6/2022
Consent

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

7. Resolution 2022-570

Lift Station Communication Hosting Agreement Extension Colacino Industries, Inc. CRS No. 3434

The Engineering Department, WPCF division, is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Colacino Industries, Inc. The terms and conditions within the current Lift Station hosting agreement will remain the same. This extension will be effective from July 10, 2022 through July 09, 2023.

Funds for this request are available in G9916-4110.

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

Thank you for considering this request.

6/6/2022
Consent

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

8. Resolution 2022-571

Aqua Diamond Opti-Fiber ClothsAqua Aerobics Systems, Inc. CRS No. 3412 Contract Extension

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Aqua Aerobics Systems, Inc. The terms and conditions within TOA Bid 2020016 Aqua Diamond Opti Fiber Filter Cloths will remain the same. This extension will be effective from July 20, 2022 through July 19, 2024.

Funds for this request are available in KP2026-1972 and G9916-2600.

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

Thank you for considering this request.

6/6/2022
Consent

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

9. Resolution 2022-572

Kingsgate Park CALL Improvements - Change Order No. 3 & Final CRS No. 3430

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which increases the overall contract by $5,088.16. This final quantities adjustment will cover the costs associated with additional landscape boulders, installing shelter fascia trim and anti-nesting bird-blocking and to also install the user-group supplied under counter concession storage cabinets.

Please also note that we are also requesting approval of a no-cost time extension of the substantial completion date of this contract to be extended by 35 days, through April 1, 2022. This item is contingent upon successful completion of the contract review process.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

6/6/2022
Consent

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

10. Resolution 2022-573

Amherst Street Light Purchase and Upgrade Amendment No. 1 CRS No. 3435

On July 6, 2020, the Town entered into a Project Development Agreement (PDA) with Wendel Energy Services, LLC to provide design and development services in connection with a street lighting improvement project. Fees for the Comprehensive Energy Audit are based on a percentage of estimated unburdened construction cost of the project. During course of the project, the construction estimate increased $139,890.00 to a total of $10,806,557. According to the PDA, the Project Development Fee is 3.75% of the unburdened construction cost. As such, an additional $5,245.89 is being requested by the attached Amendment No. 1.

The Engineering Department is therefore requesting the Town Board approve an additional expenditure of $5,245.89 as proposed by Wendel Energy Services, LLC as described in Amendment No. 1 to Project Development Letter Agreement. Funding is available from project account KP-2034-4971. This request is pending the successful completion of the contract review process. Thank you for considering this request.

6/6/2022
Consent

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

11. Resolution 2022-574

Award of Bid - NARC Football Fieldhouse - Mechanical Parise Mechanical, Inc.

On May 12, 2022, bids were received for the above referenced project. After review of the two (2) bids received (bid tabulation attached), we recommend award of this contract to Parise Mechanical, Inc., 1106 Sheridan Dr., Tonawanda, NY 14150, in the amount of $31,000.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

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

12. Resolution 2022-575

Award of Bid - NARC Football Fieldhouse - Electrical Goodwin Electric Corp.

On May 12, 2022, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corp., 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $124,300.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

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

13. Resolution 2022-576

Award of Bid - NARC Football Fieldhouse - Plumbing MKS Plumbing Corp

On May 12, 2022, bids were received for the above referenced project. After review of the four (4) bids received (bid tabulation attached), we recommend award of this contract to MKS Pluming Corp., 19 Ransier Drive, West Seneca, NY 14224, in the amount of $128,000.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

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

14. Resolution 2022-577

Award of Bid - NARC Football Fieldhouse - General Montante Construction

On May 12, 2022, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Montante Construction, 2760 Kenmore Avenue, Buffalo, NY 14150, in the amount of $1,083,900.00 to include the Base Bid. Funding for this contract shall be from account KP2101.4972. Additionally and in the interest of funding consolidation, we are also requesting that $7,500.00 be transferred from KP2101.4971 and into KP2101.4972.

Thank you for considering these requests.

6/6/2022
Consent

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

15. Resolution 2022-578

Award of Bid - Red Oak Drive Waterline Replacement 716 Site Contracting, Inc.

Bids were received on May 5, 2022 for the above referenced project. After review of the bids (tabulation attached), we recommend award be made to 716 Site Contracting, Inc., PO Box 120, N. Boston, NY 14110, based on their low base bid of $1,399,475.00 from project accounts KP2024.4972 and KP2119.4972.

As per the Town Comptroller's directive and in order to create adequate funding for the referenced project, please transfer the following funds which are available within the same bond.

Project	Current Account	Transfer To	Amount
Robinhill Waterline	KP2120.4972	KP2119.4972	$510,975.00
Red Oak Waterline	KP2024.4979	KP2024.4972	$ 10,000.00

Thank you for considering this request.

6/6/2022
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 2022-579

Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc - CRS #3408

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback with County of Erie contract with GEITER DONE OF WNY INC, 300 Greene Street, Buffalo, NY 14206 to purchase the services for the disposal of scrap tires.

The Erie County and Geiter Done of WNY Inc is Bid Reference # 222102-004 for services for the disposal of scrap tires. Contract term is 4/1/22 through 3/31/2024.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is subject to the Contract Routing System (CRS#3408) and the approval of the Town Attorney.

6/6/2022
Consent

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

2. Resolution 2022-580

Award of 2022 - 2023 Purchasing Maintenance Materials Additional Bids Sections 2, 5 and 7

The Highway Department respectfully requests that the Purchasing Maintenance Materials Bids, Sections 2, 5 and 7 be awarded to the lowest bidders within specifications as follows:

Section 2: Pipe, Various sizes, including concrete, metal, HDPE, Pipe Liner, Fittings, Couplers and Flexible Ferncos:

2-A CRS # 3403 K & S Contractors Supply Inc
2-B CRS # 3404 Lock City Supply Inc

Section 5: Concrete Building Materials:

5-C CRS # 3405 VCNA United Materials (Scratons)

Section 7: Sign Material (Alum, sheeting), stop signs, sign poles, 3M Products,

traffic control equipment (electrical systems) and traffic safety signs and cones and bars:

7-D CRS # 3406 Eastern Metal of Elmira Inc
7-E CRS # 3407 Traffic Systems Inc

Additional specifications and details are provided and attached per each section and bidder tab.

NOW THEREFORE BE IT RESOLVED, that the AMHERST TOWN BOARD authorizes the Amherst Town Supervisor to sign each contract listed above and approval of these contracts are contingent upon the successful completion of the Contract Routing System (CRS) and the Town Attorney approval.

6/6/2022
Consent

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

3. Resolution 2022-581

Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co CRS #3429

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie -Construction and Maintenance Materials contract with Pavilion Drainage Supply Co for guide railing, median barrier and concrete barriers.

The Erie County and Pavilion Drainage Supply Co is Bid Reference #222105-004, Sections 568, 587 and E606 for guide railing, median barriers and concrete barriers. Contract term is 4/1/2022 through 3/31/2023.

NOW THEREFORE BE FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is contingent upon the successful completion of the Contract Routing System (CRS #3429) and the Town Attorney approval.

6/6/2022
Consent

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

4. Resolution 2022-582

Highway CIP Budget Amendment

The Highway Department respectfully requests that the 2022 Capital Improvement Program be amended from $750,000 LD to $830,000 LD. The increase is for an additional $80,000 LD for the Project H-2, Highway Vehicles and Equipment.

The increase reflects two (2) additional vehicles (pick-ups trucks) to be added to the list of replacement vehicles and equipment for 2022.

Thank you for your time and consideration!

6/6/2022
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 2022-583

Architect/Facilities

Please create and appoint an Architect to the Facilities Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective June 21, 2022, at an annual salary of $113,457.18, Grade 1, Step K of the Exempt Non-Department Head Salary Schedule for Anne Dafchik.

Set a six (6) month residency waiver.
Contingent upon completing all pre-employment requirements.

6/6/2022
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

2. Resolution 2022-584

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective June 7, 2022, at an hourly rate of $17.06, Step A for Ian Mills.

Replacing an employee who transferred to another department.

6/6/2022
Consent

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

3. Resolution 2022-585

Cleaner - PT/Police Department

Please appoint a Cleaner - PT to the Police Department, Temporary, Effective June 7, 2022, $13.20 ph, Step 1 for James Eichinger.

Contingent upon completing all pre-employment requirements.

Replacing an employee who resigned.

6/6/2022
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 2022-586

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

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

WHEREAS, a household on Capen Boulevard had substantial work done to their home including a roof replacement, garage, driveway and installation of drain tile in basement; and

WHEREAS, the household needs rehabilitation work done to the bathroom; and

WHEREAS, Community Development is requesting permission to extend additional housing rehabilitation loan funds to this household not to exceed $55,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town of Amherst authorizes Community Development to exceed the $40,000 loan limit using CDBG funding for this household, not to exceed $55,000.

6/6/2022
Consent

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

2. Resolution 2022-587

To Authorize Community Development to Exceed the $40,000 Loan Limit for a Household on Eggert Road

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

WHEREAS, a household on Eggert Road had substantial work done to their home in 2006 including a roof replacement, window replacement, garage door replacement, new electrical service; and

WHEREAS, the household needs additional rehabilitation work done to their home which includes basement drain tile, window replacement and bathroom repair including new tile and flooring; and

WHEREAS, Community Development is requesting permission to extend additional housing rehabilitation loan funds to this household not to exceed a total amount of $77,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town Board authorizes Community Development to exceed the $40,000 loan limit using CDBG funding for this household, not to exceed $77,000.

6/6/2022
Consent

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

3. Resolution 2022-588

To Request the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) to Acquire Certain Properties on Behalf of the Town of Amherst

WHEREAS, in July 2011 in recognition of the growing problem of distressed, vacant, abandoned, and tax-delinquent properties, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes and Foreclosing Governmental Unit (FGU) to create a land bank to strategically acquire, improve, assemble, and sell these properties; and

WHEREAS, under this law, the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) was formed in May 2012 via an inter-municipal agreement among the county's four FGUs: Erie County and the Cities of Buffalo, Lackawanna, and Tonawanda; and

WHEREAS, BENLIC (the land bank) seeks to work collaboratively with the cities, towns, and villages within Erie County to address the growing problem of distressed, vacant, abandoned, and tax-delinquent properties; and

WHEREAS; the Town of Amherst**,** Erie County, has recognized the need to address the growing issue of distressed, vacant, abandoned, and tax-delinquent properties and desires

to partner with BENLIC to address the problem, now therefore be it

RESOLVED, that the Town of Amherst hereby officially requests that BENLIC acquire the properties identified herein:

135 Halwill Drive, Amherst, NY, SBL#68.140-1-22.00; and be it further

RESOLVED, that the Town of Amherst has completed the required Acquisition Applications for each property listed above and has attached the Acquisition Applications to this resolution; and be it further

RESOLVED, that the Town of Amherst agrees to reimburse Erie County for the costs associated with foreclosure of this property; and be it further

RESOLVED, that certified copies of this resolution will be sent to the Executive Director of the Buffalo Erie Niagara Land Improvement Corporation; the Commissioner of the Erie County Department of Environment and Planning; the Director of the City of Buffalo's Office of Strategic Planning; and the Mayors of the cities of Lackawanna and Tonawanda.

6/6/2022
Consent

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

Q. POLICE:

R. SENIOR SERVICES:

1. Resolution 2022-589

Presenter/Performer Commitment Form CRS #3374

We respectfully request Town Board permission to authorize the Supervisor to sign the Presenter/Performer Commitment Form between the Town of Amherst (Department of Senior Services) and the Alex Rene Big Band (Ashley Cadenhead).

6/6/2022
Consent

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

2. Resolution 2022-590

Presenter/Performer Commitment Form CRS #3375

We respectfully request Town Board permission to authorize the Supervisor to sign the Presenter/Performer Commitment Form between the Town of Amherst (Department of Senior Services) and Rick Polinsky/Barnstorm Band.

6/6/2022
Consent

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

3. Resolution 2022-591

Purchase of Coffee & Tea Products Agreement CRS #3428

Pending completion of the contract routing system: We respectfully request Town Board permission to authorize the Supervisor to sign the agreement between the Town of Amherst (Senior Services) and SJ McCullagh Inc, for the purchase of coffee & tea products.

6/6/2022
Consent

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

4. Resolution 2022-592

Class Instructor/Sub-Contractor Commitment Form CRS #3349

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

6/6/2022
Consent

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

5. Resolution 2022-593

Amendment CRS #3387 to Contract CRS #877

We respectfully request Town Board approval of the amendment to the contract with Jim Jowsey-Pirate Dreams (CRS #877) to reflect the additional budget line T2100-4002 pending CRS approval.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

6. Resolution 2022-594

Class Instructor/Sub-Contractor Form CRS #3348

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Senior Services) and Yoga & Fitness Instructor, Christina Phillips.

6/6/2022
Consent

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

7. Resolution 2022-595

Class Instructor/Sub-Contractor Commitment Form CRS #3347

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

6/6/2022
Consent

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

8. Resolution 2022-596

Class Instructor/Sub-Contractor Commitment Form CRS #3346

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

6/6/2022
Consent

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

S. YOUTH AND RECREATION:

1. Resolution 2022-597

Market Vendors - CRS #3378, #3386, #3388, #3393

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Wellness Genie, The Schnauzer Candle Company, Moneybags Dumplings LLC, and Tiny House Farms Microgreens for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
Consent

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

2. Resolution 2022-598

Market Vendor CRS #3394, #3396, #3401, #3402

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Black Barn Bakery, Nick's Spider Venom Inc., Fresh Catch Poke Co., and Kester's Farm for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment removes the possibility of alcohol sales from the contract of Fresh Catch Poke Co. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

3. Resolution 2022-599

Market Vendor - CRS #3380 & #3381

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Pour & Penchant and CBD Med Center for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
Consent

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

4. Resolution 2022-600

Market Vendors - CRS #3384, #3395, #3419

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and My Buffalo Candle Company, Dated Nutrition, LLC and Life Itself, Inc. for participation in the Farmers' Markets at Bassett Park for 2022, pending successful completion of the Contract Routing Process.

6/6/2022
Supervisor Kulpa made a motion to remove contract #3419, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Supervisor Kulpa made a motion to approve contracts #3384 and #3395, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

Supervisor Kulpa made a motion to approve contract #3419, seconded by Deputy Supervisor Berger and approved via Roll Call vote 4-1 (nay, Bucki).

RESULT:	**ROLL CALL VOTE (ADOPTED) [4 TO 1]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Lavin, Szukala
NAYS:	Bucki

5. Resolution 2022-601

Market Performer - CRS #3420

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Julian Burgio for a concert at the June 12, 2022 Farmers' Market at Bassett Park, pending successful completion of the contract routing process.

6/6/2022
Consent

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

6. Resolution 2022-602

Storage Room & Skate Rental Renovations CRS #3382

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Davis-Ulmer for sprinkler modifications to the downstairs storage room and the skate rental room at the Northtown Center.

6/6/2022
Consent

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

7. Resolution 2022-603

Summer Concert - ECWE CRS #3383

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Wind Ensemble for an Independence Day Concert at Bassett Park.

6/6/2022
Consent

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

8. Resolution 2022-604

User Agreement - WNY PRISM CRS #3392

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Research Foundation of SUNY/Buffalo State for the WNY PRISM boat stewarding program for 2022.

6/6/2022
Consent

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

9. Resolution 2022-605

Sole Source Designation - Enersys

WHEREAS, the Amherst Town Board standardized its ice resurfacing equipment to the Olympia brand via Resolution 2017-369, and

WHEREAS, the Youth & Recreation Department owns four Olympia Millenium E Ice Resurfacers, and

WHEREAS, batteries for these machines have been custom developed by Enersys, and

WHEREAS, it is not currently possible to interchange brands of batteries,

NOW THEREFORE, BE IT RESOLVED that the Amherst Town Board designates Enersys as the sole source provider of batteries for its Olympia ice resurfacers.

6/6/2022
Consent

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

XIV. UNFINISHED BUSINESS

1. Resolution 2022-266

Local Law Amending Chapter 151 - Property Maintenance

Public Hearing with respect to a Local Law amending Chapter 151 - Property Maintenance.

3/14/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 4-0.

3/28/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

4/11/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/25/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

5/9/2022
A motion to move it to Unfinished Business was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 4-0.

RESULT:	**TABLED (NO VOTE)**	**Next: 6/27/2022 7:00 PM**

XV. COMMUNICATIONS

1. Communication 2022-51

Request for Public Hearing - 1720, 1740 & 1760 Maple Road

Request from Sean Hopkins, Esq. for a public hearing to Amend the Comprehensive Plan for 1720, 1740 & 1760 Maple Road.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

2. Communication 2022-52

Request for Public Hearing - 2691 North Forest Road

Request from Sean Hopkins, Esq. for a public hearing to Reclassify 2691 North Forest Road from NCD-SA to NCD-GC.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

3. Communication 2022-53

Request for Public Hearing - 1811 & 1817 North Forest Road

Request from Jeffery Palumbo, Esq. for a public hearing to Amend the Comprehensive Plan for 1811 & 1817 North Forest Road.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

4. Communication 2022-54

Amherst Symphony Orchestra Fee Waiver

Request from The Amherst Symphony Orchestra seeking permission to place signs and waiver of sign permit fees.

Response from the Building Commissioner is attached.

6/6/2022
Consent

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

5. Communication 2022-55

Resident Communication Regarding Fair Woods Drive Parking Restriction

6/6/2022
Referred to Planning, Engineering & Traffic Safety.

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

6. Communication 2022-56

Yard Waste Concerns

Resident(s) express concerns and view of the yard waste issue the Town is experiencing.

6/6/2022
Referred to Highway, Refuse, Attorney & Modern Disposal.

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

7. Communication 2022-57

Cost Savings Idea

Resident shares cost savings idea.

6/6/2022
Referred to Highway, Refuse & Modern Disposal.

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

8. Communication 2022-58

Canandaigua Niagara Falls Trailway

Resident(s) comments on the use of the former Niagara Canandaigua Railway bed, also known as the Peanut Line.

6/6/2022
Referred to Planning, Engineering & Traffic Safety.

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

9. Communication 2022-59

Notice of Claim: Progressive A/S/O Viola Sterman Vs. Town of Amherst

6/6/2022
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 2022-60

Notice of Claim: Joyce M. Harling Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

11. Communication 2022-61

Notice of Claim: Travelers A/S/O James Bowen Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

12. Communication 2022-62

Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

XVI. SUSPENSION OF RULES

Supervisor Kulpa moved to open Suspension of Rules to bring forth 1 unlisted item. The motion was seconded by Deputy Supervisor Berger and unanimously approved 5-0. Suspension of Rules was opened at 9:21 PM.

There being no further business requiring Suspension of Rules, Supervisor Kulpa moved to close, seconded by Councilmember Bucki and unanimously approved 5-0. Suspension of Rules was closed at 9:21 PM.

1. Communication 2022-63

Appeal from Notice of Proposed Historic Designation of 725 LeBrun Road

Suspension to Town Board Agenda Item June 6, 2022

TO: **Amherst Town Board**

FROM: **Jacqualine Berger, Town Deputy Supervisor**

DATE: **June 6, 2022**

RE: **Appeal from Notice of Proposed Historic Designation of 725 LeBrun Road**

Request to add 725 LeBrun Road to the June 6 Agenda for discussion.

6/6/202
Deputy Supervisor Berger made a motion to schedule a public hearing for the June 27th Town Board meeting, seconded by Councilmember Lavin and unanimously approved 5-0.

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

XVII. PUBLIC IMPROVEMENT PERMITS

XVIII. 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 9:22 PM.

The following speaker addressed the Town Board:
Don Smith, N. Long St. - status of hybrid meetings

There were no further speakers from the public, therefore Supervisor Kulpa moved to close Public Expression, seconded by Councilmember Szukala and unanimously approved 5-0. Public Expression was closed at 9:25 PM.

XIX. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The Town Board meeting of June 6, 2022 was adjourned at 9:25 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25889 **RESOLUTION 2022-545** **ADOPTED**

Tudor Court Parking Restriction

A public hearing to install a parking restriction at the bulb of the Tudor Court cul-de-sac to ease the passage of school buses.

"Parking is hereby restricted around the cul-de-sac turnaround portion of Tudor Court between 7 a.m. and 4 p.m. on school days between the east property lines of 26 and 33 Tudor Court."

6/6/2022
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 7:08 PM.

Christopher Schregel, Traffic Safety Liaison, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the public hearing, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was closed at 7:11 PM.

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

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25890 **RESOLUTION 2022-546** **ADOPTED**

Fair Woods Drive Parking Restrictions

A public hearing to install parking restrictions along the recently extended portion of Fair Woods Drive within the Fair Woods Estates subdivision.

"Parking is hereby restricted on both the north and south sides of Fair Woods Drive from the Heim Road curb line to a point that is 30-feet east along the roadway centerline ~~the east property line of 108 Fair Woods Drive (Lot #12) for a distance of 156 feet along the roadway centerline~~."

~~and,~~

~~"Parking is hereby restricted between 11:00 AM to 5:00 PM on Fridays between the west property line of 102 Fair Woods Drive (Lot #11) to the east property line of 84 Fair Woods Drive (Lot #8) on both sides of Fair Woods Drive, for a distance of 262 feet."~~

and,

"That a 'No Standing Any Time' be established between a point 10-feet west of the raised center median to a point 10-feet east of the raised center median on Fair Woods Drive ~~the west property line of 78 Fair Woods Drive (Lot #7) to a point 140 feet easterly on the both the south and north sides of Fair Woods Drive including the center island~~."

6/6/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

Christopher Schregel, Traffic Safety Liaison, presented and provided an amended resolution shown above.

Phil Nanula, Owner of Essex Homes spoke.

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 7:29 PM.

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

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25945 **RESOLUTION 2022-547** **DECISION DATE**

Local Law Amending Chapter 4 - Administration of Government

Public Hearing with respect to a Local Law Amending Chapter 4 - Administration of Government.

6/6/2022
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 7:29 PM.

Stanley Sliwa, Town Attorney, presented.

The following speaker addressed the Town Board:
Don Smith, N. Long St. - restructuring and changing the way the department functions

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing and set a decision date for the June 27th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:40 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 6/27/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

LOCAL LAW NO.___ -2022

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 4 of the Code of the Town of Amherst, Administration of Government

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 4 of The Code Of The Town of Amherst, Administration of Government."

Section 2. Purpose

The purpose of this Local Law shall be to amend various sections of Chapter 4 of the Code of the Town of Amherst.

Section 3.

Chapter 4 of the Code of the Town of Amherst, specifically §4-13 is hereby amended as follows:

§ 4-13 Designation of departments.

The following are designated and shall function as central management departments:

A. ~~The Personnel Department.~~ The Finance Department

~~**A.**~~ **B.** ~~The Planning Department.~~ The Human Resources Department.

~~**B.**~~ **C.** ~~Department of Contract Compliance.~~ The Planning Department.

~~**C.**~~ **D.** ~~Department of Economic Development.~~ Department of Contract Compliance.

~~**D.**~~ **E.** Department of Economic Development.

~~Strikethrough~~ = Deleted
Underline = Added

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

Section 4.

Chapter 4 of the Code of the Town of Amherst is hereby amended to include a new section, specifically §4-14, as follows:

§4-14 ~~(Reserved)~~ Finance Department

A. Definitions and Word Usage.

(1) Word Usage. When used in this section, words used in the singular include plural and vice versa.

(2) Definitions. As used in this section, the following terms shall have the meanings indicated below:

DEPARTMENT.

The Town of Amherst Department of Finance which shall perform a major function of Town Government.

DEPUTY DIRECTOR.

The Deputy of the Department, as assigned by the Town Board, who shall act generally for and in the absence of the Director.

DIRECTOR.

The head of the Department of Finance shall be known as the Director of Finance.

B. Establishment.

(1) There is hereby establishing the Town of Amherst a Department of Finance. The principal executive offer and administrative head of such department shall be the Director, who shall be appointed by the T own Board for the term fixed by law at such salary as may from time to time be fixed by said Town Board.

(2) The Director shall be appointed on the basis of his/her administrative experience and qualifications for the duties of such office and such additional standards as may be required by the Town Board.

(3) The Director shall be the head of the Department with the power and authority to appoint and remove officers and employees under his /her jurisdiction in accordance with the Civil Service Law, any collective bargaining agreement, and any other applicable law, except for the appointment and removal of the Comptroller, who shall be appointed and removed by the Town Board only. The Town Board may appoint the Comptroller for a term set by law and at a salary to be fixed, from time to time, by the Town Board who shall generally act for and on behalf of Director and who shall perform such duties may be directed by the Director and is vested in and

~~Strikethrough~~ = Deleted
Underline = Added

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

imposed upon that office by the provision of this article, by New York State Law or by any other lawful authority.

(4) The Director shall have such powers as prescribed by law and as shall be necessary for the proper administration of the Department consistent with applicable provisions of law. Before entering upon the duties of his/her office, both the Director Comptroller shall execute and file with the Town Clerk an official undertaking, if the same is required by the Town Board, in such sum as prescribed by the Town Board and in such form as approved by the Town Attorney.

C. Organization.

The Director shall have such powers as shall be necessary for the proper administration of the Department consistent with applicable provisions of law. Until such time as the same may be either amended or modified, the Department shall be divided into the following divisions:

(1) Division of Audit and Control headed by the Comptroller.

(2) Division of Contract Compliance

D, Powers and duties.

(1) The functions, powers and duties of such divisions herein shall be under the administration, direction and control of the Director, and each of said divisions shall be supervised by an individual designated by the Director except for the Division of Audit and Control which shall be supervised by the Comptroller.

(2) The Director, with the approval of the Town Board after a public hearing, establish, consolidate or abolish any divisions in said Department. In Addition, he/she may establish, consolidate or abolish any bureau or subdivision now existing or hereafter created in any such division. The provisions of any local law to the contrary notwithstanding, the functions, powers and duties of such divisions shall be as follows:

A. Division of Audit and Control - Comptroller.

This Division administers, manages, supervises and implements all necessary and related procedures for the auditing and verification of all charges, claims, demands and account against the Town; audit the operations, accounts and fiscal affairs of every department of the Town pursuant to prevailing laws, rules or regulations, and audits all income financial transactions of the Town to assure sufficiency and accuracy of the same. In addition, this Division shall have the following powers and duties:

(1) It shall maintain fiscal/financial records and prepare financial reports as required.

~~Strikethrough~~ = Deleted
Underline = Added

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

(2) It shall process, audit and approval all disbursements of Town funds.

(3) It shall coordinate and assist the Supervisor and Director in the issuance of all Town indebtedness and be responsible for the investment of all idle funds.

(4) When so appointed by the Town Board, the Comptroller shall administer, manage, prepare and supervise procedures and programs for evaluation of department estimates of operating budgets of all departments and shall prepare and submit tentative budgets to the Town Clerk who shall then submit them to the Town Board; administer all budget funds and appropriation accounts; and prepare and coordinate projected budgetary forecasts for operating and capital improvement needs.

B. Division of Contract Compliance.

The Division of Contract Compliance shall have those powers and duties set forth under Chapter 4, specifically, §4-17.

Section 5.

Chapter 4 of the Code of the Town of Amherst, specifically §4-15, is hereby amended as follows:

§ 4-15 ~~**Personnel**~~ **Human Resources Department.**

A. The ~~Personne~~l Human Resources Department shall:

(1) Be responsible for coordinating the personnel activities of the Town.

(2) Assist in the preparation, negotiation, execution and administration of contractual agreements between the Town and employee organizations.

(3) Provide advisory services to management and supervisory staffs of the various Town departments regarding such matters as staffing needs, position classification, job evaluation, disciplinary problems, training and employee relations.

(4) Maintain personnel roster records and employee files, classification and salary plans and other personnel records and documents.

(5) Assume responsibilities for the Town in regard to various personnel fringe benefits, such as retirement, health insurance, workmen's compensation and unemployment insurance claims.

B. The ~~Personnel~~ Director of Human Resources shall serve as head of the ~~Personnel~~ Human Resources Department.

~~Strikethrough~~ = Deleted
Underline = Added

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

Section 6.

Chapter 4 of the Code of the Town of Amherst, specifically §4-17, is hereby amended as follows:

§4-17 ~~Department~~ Division of Contract Compliance and Administration.

A. The ~~Department~~ Division of Contract Compliance and Administration shall be part of the Finance Department and shall have the following duties and functions:

(1) Advise all successful bidders for the purchase contract which was initiated by the Department of Contract Compliance and Administration that they have been awarded the bid and obtaining written contract for said successful bidder;

(2) Approve all pending contracts for compliance with General Municipal Law §§103, 104, as part of the contract routing process;

(3) Comply with all rules, regulations, statutes and ordinances that have been or may be established for said purchases;

(4) Maintain and establish the Town's procurement policy and assure compliance therewith;

(5) Maintain and establish the Town's contract administration policy and assure compliance therewith;

(6) Oversee, train and supervise the purchasing of all materials, supplies, equipment and any purchasing contracts for the Town;

(7) Oversee, train and educate the staff of all Town departments how to inspect and coordinate the inspection of all deliveries of purchased to ensure quality, quantity and conformity to contract;

(8) Confer with Department Heads and their representatives on the purchasing needs of their area of responsibility;

(9) Confer with Department Heads and their representatives on the need for contracts and assist in administering them;

(10) Direct the bidding procedures and ensure legal compliance;

(11) Direct the RFP process and assure legal compliance;

(12) Train the staff of all Town departments on the bidding and RFP process;

(13) Review bids and quotes and awards contracts of sale to vendors after approved by the Town Board;

~~Strikethrough~~ = Deleted
Underline = Added

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

(14) Administer all contracts after approval by the Town Board with the assistance of the originating Department Head.

(15) Analyze purchasing procedures and work systems to determine opportunities for cost reduction and increased effectiveness and efficiencies to ensure compliance with GML §§ 103 and 104;

(16) Design procurement policies for acquisition of items which are routinely ordered;

(17) Subject to development of a complete centralized procurement and contract management system; assist in establishing and maintaining computer based records for inventory control and pricing. This will require the relevant departments/individuals to cooperate with properly inputting or transferring the data needed into a designated centralized database where the data can be captured and used to create reports. The relevant departments/individuals will be charged with continuously updating the data stored therein;

(18) Prepare a variety of records and reports related to work as requested;

(19) Formulate and/or oversee procedures for dispensing of surplus, obsolete or unused materials, supplies, and equipment after the relevant department has complied with Town's Disposition Policy.

(20) Perform such other duties and functions associated with the management of contracts where the Town of Amherst is a signatory.

B. ~~The Finance Director, or his/her designee, shall perform, the duties and powers set forth above.~~ The Finance Director shall serve as head of the ~~Department~~ Division of Contract Compliance and Administration, unless the Deputy Director is appointed with the approval of the Town Board, and shall serve as set forth by law at a salary to be fixed by the Town Board. Until a Deputy Director is appointed, the Finance Director or his/her designee shall perform the duties and powers set forth above.

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

~~Strikethrough~~ = Deleted
Underline = Added

Section 7. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 and 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth, Town Clerk
Town of Amherst
County of Erie, New York

Attachment: draft LL ch 4 Admin of Govt (RES-2022-547 : Local Law Amending Chapter 4 - Administration of Government)

~~Strikethrough~~ = Deleted
Underline = Added

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25891 **RESOLUTION 2022-548** **DECISION DATE**

4252 - 4258 Ridge Lea Road Rezoning

Request to rezone 4252 - 4258 Ridge Lea Road from CTR-8 to RD & GI.

6/6/2022
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 7:40 PM.

Attorney James Boglioli, Benderson Development, presented.

The following speakers addressed the Town Board and spoke in opposition:
Gerri DiCosmo, 378 Meyer, Joe Voytovich, 35 Bucyrus, Jane Cox, 4584 Harlem, Sheila Goldberg, 306 Meyer and Don Smith, N. Long.

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the public hearing and set a decision date for the June 27th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 8:16 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 6/27/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

Town of Amherst, NY
Office of the Assessor
Emily A. Murphy Assessor

5583 Main Street
Williamsville, New York 14221
Phone: (716) 631-7038
www.amherst.ny.us
dmarrano@amherst.ny.us

Memorandum

February 15, 2022

To: Francina Spoth, Town Clerk
Re: Petition – 4252-4258 Ridge Lea Road

The protest petition for 4252-4258 Ridge Lea Road has **not** been signed by the required property owners as stated in Town Law §265 (1) paragraph's (a) (b) or (c). The Super Majority calculations are based on three tests:

(a) The owners of 20% or more of the area of land included in such proposed change; or
(b) The owners of 20% or more of the area of land immediately adjacent to that land included in such proposed change, extending 100 feet therefrom; or
(c) The owners of 20% or more of the area of land directly opposite thereto, extending 100 feet from the street frontage of such opposite land.

Should you have questions, please feel free to contact me.

Emily Murphy
Assessor

Attachment: 4252-4258 Ridge Lea - protest petition and response (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

TOWN OF AMHERST

TOWN CLERK'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7021
FAX (716) 631-7152
www.amherst.ny.us

Francina J. Spoth
Town Clerk

Timothy Koller
Deputy Town Clerk

February 14, 2022

MEMO TO: Emily Murphy, Town Assessor

FROM: Francina Spoth, Town Clerk FS

RE: Petition

The attached petition, in connection with the parcel located at 4252 – 4256 Ridge Lea Raod was received in my office. Will you kindly check if the protest has been signed by the owners of 20% or more, either of the area of the land included in such proposed change, or of the immediately adjacent extending 100 ft. therefrom, or of that directly opposite thereto, extending 100 ft. from the street frontage of such opposite land, as provided by Town Law §265 (1) paragraph's (a) (b) or (c).

Attachment
cc: Town Board
Town Attorney

Attachment: 4252-4258 Ridge Lea - protest petition and response (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Protest Petition

We the undersigned homeowners directly adjacent to the Benderson Property 4252-4256 Ridge Lea Rd. Strongly Oppose Rezoning from Commercial Mixed Use-Suburban Center land use to Industrial-Office land use

Print Name.	Signature.	Address
Geri DiCasmo	Geri DiCasmo	378 Meyer Rd Amherst 14221
William Klees	William Klees	378 Meyer Rd Amherst 1422
Anthony Casey	Anthony Casey	390 Meyer Rd Amherst NY 14226
KENNETH C HOLT	Kenneth C Holt	370 Meyer Rd. Amherst 142
Melvin Taylor		354 Meyer Rd. Amherst NY 142
Russell Morley		379 Meyer

FEB14'22 PM

Attachment: 4252-4258 Ridge Lea - protest petition and response (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Dir

Town Board Agenda of June 6, 2022

May 27, 2022

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

Subject: Request to rezone 12.54 ± acres of land from CTR-8 to RD & GI, Z-2021-07; property located at 4252-4258 Ridge Lea Road (portion, BCD), Benderson Development Company LLC, Petitioner.

Honorable Members:

The subject rezoning is a 12.54 ± acre irregularly shaped piece of the parcel located southwest of the I-290 along the east side of North Bailey Avenue. The site is connected to the former UB-Ridge Lea campus complex to the east, and north of residential lots along Meyer Road.

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

The purpose of this request is to rezone 12.54 ± acres of land to the Research & Development (RD) and General Industrial (GI) zoning districts. The proposed rezoning will allow for a new 108,000± square foot warehouse building. The proposed warehouse will connect to an existing southerly 21,736 square foot building, which will be utilized for the compounding and blending of soap products for the car wash industry. This will include a 1,500 square foot building addition, including new parking, utilities, drainage and landscaping.

In 2009 the Town Board approved a rezoning from OB to RD, and then subsequently approved a rezoning from RD to CTR-8 in 2020. In 2022, the Town Board heard and approved a request to amend Figure 6 and 6A of the Bicentennial Comprehensive Plan for 14.18 ± acres of land from "Commercial-Mixed Use" to "Industrial Office."

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

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

The proposed project scope is consistent with the Bicentennial Comprehensive Plan. On January 18, 2022 the Town Board voted to amend the Comprehensive Plan to designate the project site as "Industrial-Office." Since the Plan was amended, the proposed zoning designations and subsequent scope of work meets the goals and objectives of the Comprehensive Plan. Industrial uses described in Chapter 3, Section 3.3.4 of the Comprehensive Plan exhibit characteristics such as direct truck access to major thoroughfares, location away from residential neighborhoods, and large tracts of land to allow for ancillary development. While the proposed zoning fails to meet the objective of proximity to residential uses, the Comprehensive Plan in the following paragraph describes the need for physical design considerations to mitigate potential conflicts. These considerations which can include additional landscaping and buffering to screen truck parking and storage of materials of proposed use from the abutting single-family residential homes.

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 proposed rezoning and land use is consistent with the existing uses on the property and adjoining properties to the north west which includes a construction yard, warehousing and offices all within a mixed-use zoning district. The proposed use and zoning district contrasts with nine abutting residentially zoned lands to the south, currently developed for singly family dwellings. The petitioner's project includes commitments for perpetual increased setbacks and landscape buffering along the abutting residentially zoned properties that will mitigate for potential conflicts in differing land uses. Given, the context of the surrounding development including a regional shopping center, other warehousing and distribution uses, and commercial/ retail development, the proposed zoning will be compatible and appropriately scaled for the area as a whole.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location. An important consideration in the rezoning is the parcel's location and its expeditious access to major thoroughfares and the Interstate 290. This former campus and office park can easily access highways without traveling through neighborhoods. This is a Type I action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Honorable Town Board

Rezone land from CTR-8 to RD & GI; property located at 4252-4258 Ridge Lea Road (portion, BCD) Agenda of June 6, 2022

RECOMMENDATION

The Planning Board in their meeting of April 21, 2022 recommended that the Town Board find that the requirements of SEQR are complete 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.

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 cam prepare a determination of environmental significance pursuant to SEQR, and prepare resolution for the Town Board's consideration.

Very truly yours,

DANIEL C. HOWARD, AICP
Planning Director

DH/TV/ac
Att.
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_TB_letter.doc.docx

cc: Stanley Sliwa, Town Attorney

Planning Board Approval April 21, 2022
Ayes 5, Noes 0, Abstain 1 (Chmiel)

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-07

APR27'22 AM10:02 JD

PETITIONER

Benderson Development Company LLC
570 Delaware Avenue
Buffalo, NY 14202

PROPERTY LOCATION

4252-4256 Ridge Lea Road (portion, BCD)

WHEREAS the Town of Amherst Planning Board on Thursday, April 21, 2022 held a public hearing on the proposed rezoning of 12.5± acres of land from CTR-8 to RD and 0.5 acres of land from CTR-8 to GI, 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 proposal is consistent with the Conceptual Land Use Plan which shows "Industrial-Office" use 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 with the character of the neighborhood.

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

E. The proposed change does tend to improve the balance of uses, and 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.

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

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

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

TOWN OF AMHERST
PLANNING BOARD
ZONING RESOLUTION
Z-2021-07

APR27'22 AM10:02 RCVD

PETITIONER

Benderson Development Company LLC

PROPERTY LOCATION

4252-4256 Ridge Lea Road (portion, BCD)

1. That the vehicle use area be no closer than 82 feet from the north property line of the properties addressed 350 through 390 Meyer Road and the east property line of the property addressed 390 Meyer Road.

2. That the petitioner install a berm a minimum of 4 feet in height and having a minimum 6 foot high solid wood fence on top of the berm that is a minimum of 50 feet from the bottom of the berm to the north property line of the properties addressed 350 through 390 Meyer Road.

3. That the petitioner preserve the existing vegetation south of the berm indicated in condition number 2.

4. That any proposed building be a minimum of 150 feet from the north property line of the properties addressed 350 through 390 Meyer Road.

5. That no parking lot lights be more than 18 feet in height above finished grade south of the building wall as extended to the east and west property boundaries, and that all site lighting shall use dark sky compliant fixtures.

6. That there be no exterior public address system.

7. That emergency exists be alarm activated.

8. That any future access to Meyer Road be restricted to and for emergency vehicles and personnel only.

The foregoing resolution was adopted by the Town of Amherst Planning Board, April 21, 2022; moved by Penberthy; seconded by Gill; ayes 5, noes 0; abstain (1) Chmiel; absent (1) Gilmour.

For Robert J. Gilmour, Chair

4-27-22
Date

TV/ac
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_resolution_042122.doc
Cc: Town Clerk
Commissioner of Building
Highway Superintendent
Town Engineer
Traffic/Safety Coordinator
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
MAR 24 2022
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: Z-2021-07 Acreage 14.81± Fee $ 4515.60

Address Verified by Assessor's Office _____
VERIFIED BY DATE

Materials Accepted by Town Clerk & Fee Paid _____
ACCEPTED BY DATE

Materials Checked by Building Dept._____
RECEIVED BY DATE

Materials Received by Planning Dept. TV 3/24/22
RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	$1,250	_____
2 – 20 ACRES $1,250 + $250/acres or fraction thereof over 2 acres		_____
20 – 30 ACRES $5,700 + $150/acre or fraction thereof over 20 acres		_____
OVER 30 ACRES $6,900 +$75/acre or fraction thereof over 30 acres		_____
Request for Relief of/Change to Conditions of Zoning Approval	$ 1,200	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	$ 15.00	_____
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-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: Benderson Development Company, LLC

Address: 570 Delaware Avenue

Buffalo, New York 14202

City State Zip Code

Phone: 716-878-9626 Fax: 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-8.0 District

To: RD & GI District

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

4224 - 4256 Ridge Lea Road

SBL #: 54.02-1-51, 54.02-1-43, 54.02-1-44.2, 54.02-1-44.1, 54.15-1-4.1, 54.15-1-8.1

4. **Area of land to be rezoned** (in acres): 14.81

5. **Owner of Land**:

Name: 93 NYRPT, LLC

Address: 570 Delaware Avenue, Buffalo, NY 14202

Telephone: 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

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

7. **Petitioner's interest in property**

_____ Option to purchase

_____ Owner

X
_____ Other (explain) Affiliated Company

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)

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

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

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See attached letter

B. Rationale for rezoning request:

1. Why was this site chosen?

See attached letter

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

See attached letter

3. How will this rezoning impact surrounding properties?

See attached letter

4. How will this rezoning impact the school system?

See attached letter

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

E. Proposed Non-Residential Floor Area

13. **Development Schedule:**

Start

Finish

Stages (# of)

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

N/A

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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.

See attached letter

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

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

See attached letter

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

See attached letter

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

1. Sanitary Sewer See attached letter
2. Storm Sewer/Drainage See attached letter
3. Water See attached letter
4. Other

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

See attached letter

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

See attached letter

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

See attached letter

17. The petitioner encloses herewith the sum of $_____ 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 23 day of March, 20 22

Notary Public, Erie County, New York Courtney L Adamo

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

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

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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.

P/CurrPlan/Applications2007/Rezoning & Comp Plan Amend App.
10/08

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

March 10, 2022

RECEIVED
MAR 14 2022
TOWN OF AMHERST
PLANNING DEPT.

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

RE: Proposed Rezoning of 4252 – 4256 North Bailey Ave
BDP# 5077

Dear Mr. Kulpa and Members of the Town Board:

In connection with the above-referenced property, please accept this letter and the enclosed revised application materials in support of our request to rezone the parcel located at 4252 – 4256 North Bailey Ave (portion of "Amherst Commerce Center") from Center 8 District ("CTR-8") to Research and Development District ("RD") and General Industrial ("GI") as demonstrated by the plan attached hereto as **Exhibit A.**

Undated Information on the Project:

On February 21st we met with residential neighbors of the proposed project. As a result of that meeting, we are submitting revised application materials. The revised materials reflect the following as we agreed to with the neighbors:

- **Improved Buffer** (see the landscaping plan attached as **Exhibit B)**
  - The proposed buffer between the residential neighbors and the proposed parking lot has been increased from 60' to between 82' to 85'.
  - Installation of a 4' high berm with an 8' high solid wood fence located on top of the berm, with the berm to be located 50' from the residential property line.
  - Installation of dense landscaping on the berm, utilizing both evergreen and deciduous trees.
  - Leaving intact the bushes and trees already existing on the residential side of the berm, as well as filling the existing gaps with new plantings.

- **Greater distance between the residential property line and the proposed building**
  - The building as been pushed 25' further away from the residential property line.

- **Reduced Lighting**
  - Parking lot lights shall not exceed 18' in height and will use dark sky compliant fixturs to prevent light spillage onto adjacent properties. Please see the photometric plan attached as **Exhibit C**, which shows no light spillage onto any of the adjacent properties.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

- **Building Construction – use of sound blocking materials**
  - The proposed building elevations are attached as **Exhibit D**. The building is a mix of split-faced CMU, decorative elements including EIFS trim and glass and aluminum windows at the entrance to the warehouse.

- **Other Conditions agreed to with the Neighbors**
  - Emergency exits will be alarm activated.
  - There will be no exterior public address system.

A. Description of the Character of the Proposed Development

Delta Sonic Carwash Systems, Inc. (hereinafter "Delta Sonic") currently has operations in three states: New York, Pennsylvania and Illinois. As part of these operations, Delta Sonic fabricates parts for the car wash facilities, as well as stores and ships products to all of the car wash facilities. Delta Sonic maintains warehouse space throughout Western New York to meet this need. Delta Sonic is proposing to consolidate all its warehouse and distribution facilities on a single property in Amherst. As part of this proposal, Delta Sonic is proposing to construct a new 108,000 s.f. warehouse building, as well as utilize the existing 21,736 s.f. warehouse building which currently exists on the property. An interior layout of the proposed warehouse facility is attached as **Exhibit E**. Delta Sonic would be moving the following operations to the new Amherst campus:

- **Warehousing**: and distribution of operational supplies such as uniforms, small wears equipment, lights, napkins, towels, small equipment, coffee machines, ice machines, etc.

- **Equipment Manufacturing**: Fabrication of Car Wash operational equipment. Bulk steel, pumps, motors, electronic sensors, etc. are brought into the facility and used to make equipment for the car wash tunnel, auto detailing operations, signage, etc. Sometimes new equipment designs, and layouts are set up for mechanical R&D purposes.

- **Print Shop**: Design and printing of advertising signage for company operations

- **Equipment Storage and distribution**: Operational equipment such as food service furniture, reach-in cooler, millwork, detail vacuums, cooler/freezer racking, registers, computers, new fuel dispensers, hoses, etc.

- **Soap Blending Facility**: This use will be undertaken in the existing 21,736 s.f. building, which is located behind the proposed new building. Off the entire 131,236 s.f. warehouse facility, approximately 8,000 to 10,000 s.f. is dedicated to the storage of soap and other carwash cleaning products (less than 8% of the facility) with the entire blending facility, inclusive of that area, being about 15,000 s.f. (less than 12% of the entire facility). Packaged bulk manufactured soaps and car cleaning products are brought to the facility and either diluted with water or mixed with scents and colors to then be shipped out to the Delta Sonic carwashes. There is no venting to the

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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outside, so there will be no smells, dust or anything else leaving the building. Everything is completely undertaken within the fully enclosed building. The Data Safety Sheets for the products stored in connection with the Soap Blending Facility are attached as **Exhibit F**.

On average, there are 3-4 trucks a day at this facility. A trip generation letter prepared by SRF Associates is attached as **Exhibit G**. Moreover, the front of the building is set over 155' from the residences on Meyer Road and in that space is a parking lot and an 85' landscaped buffer. The back of the building faces the 290, with the loading away from the residents and facing the 290. There is no chemical manufacturing, smokestacks or anything else associated with a chemical manufacturing facility. In fact, the front of the building (as demonstrated by the renderings provided) looks like an office building, which is what the neighbors will see if they look over the fence and through the landscaping.

Delta Sonic will be making a significant investment in its new Amherst Campus. In addition to relocating jobs form the surrounding area to this property, Delta Sonic will be creating new job opportunities as Delta Sonic continues to expand its business. Delta Sonic is currently under construction with new car wash facilities on Niagara Falls Blvd. in Amherst, as well as recently opened new facilities in Lancaster, NY and Oswego, Il.. In addition, we have numerous new projects being proposed, as well as expansions to existing facilities. This will result in continued growth and opportunity at the new Amherst campus.

B. Rationale for the Rezoning Request

1. Why was the site chosen?

The site is owned by the Benderson family who also owns and operated Delta Sonic. The site was previously located in the RD zoning district. It is currently improved with three existing 65,161 s.f. buildings with uses that are consistent with those permitted in the in the RD zoning district. Further, the site has suitable available land for the addition of the 108,000 s.f. building with sufficient property to buffer the development. In addition, Delta Sonic utilizes the Thruway (I-90) to distribute its products and materials and the site has easy access to the I-290, and therefore easy access to the I-90.

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

The land is currently being used for uses permitted by the RD zoning. This area of the site is not suitable for the increased density permitted buy the current zoning. Further, it would require removal of the existing buildings and infrastructure.

3. How will this rezoning impact the surrounding properties?

The proposed rezoning will not have a negative impact on the surrounding properties. In fact, all the abutting properties, except the residential properties located along Meyer Road are owned

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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and operated by Benderson Development. Further, the proposed zoning district is consistent with the prior zoning district for the property, therefore resulting in no negative impacts. Further, the proposed Delta Sonic campus will integrate and be consistent with the future development of the remainder of the property and will provided for a more significant buffer between the proposed use and the adjacent residential uses that the current zoning allows along with providing a good transition between the existing residential homes and the higher density allowed in the Center-8 District.

As discussed herein, the proposed RD and GI represents a suitable blend of uses between the existing development of Amherst Commerce Center and the possible redevelopment opportunities available as part of the CTR-8 zoning for the remainder of the property. The proposed project is located adjacent to three existing buildings in the southeast section of the property and will be incorporated into the overall design of this area of the property while also providing appropriate buffers to the adjacent residential properties that are much greater than the buffers required within the CTR-8 district. The Project Site is located directly to the west of Interstate 290 and north/east of existing residential homes that have been rezoned into the CTR 8 district as part of the Town of Amherst's redevelopment plan of this area.

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.

On December 20, 2021, the Town Board approved an Amendment to the Bicentennial Comprehensive Plan with respect to the zoning being requested for this property. The requested zoning is consistent with that amendment.

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.*"

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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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."

Further, Comprehensive Plans section 3.3 at Tables 1 and 2 provide that the for the existing land use, industrial accounts for 1.0% (Table 1) and that the plan seeks to have industrial-office land use account for 3.2%. This project helps achieve that goal.

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.

On December 20, 2021, the Town Board approved an Amendment to the Bicentennial Comprehensive Plan with respect to the zoning being requested for this property. The requested zoning is consistent with that amendment.

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 and manufacturing uses in the area, while adding a state-of-the-art building and increasing employment opportunities in Amherst.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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b) To prevent overcrowding of the land.

The project does not result in the overcrowding of land. Under the current zoning significantly more density would be permitted. Further, adequate land is available to buffer the residential uses on Meyer Road.

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

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 (3 of which already exist) 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.

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.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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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.

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. There are existing residential uses along Meyer Road that have recently been rezoned. The project and its zoning are compatible with the CTR-8 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.

This is a unique request as it seeks to return the property to the prior zoning. The proposed use – a Delta Sonic warehouse and manufacturing campus is very suitable for the proposed property. There is significant property for the development and for appropriate buffers. Further, the road network is in place and provide quick access to the Thruway system. Finally, the proposed uses will integrate well into the future development of the abutting properties under the CTR-8 zoning.

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

As noted above, the proposed change and project will improve the balance of uses and meets a specific Town demand. Comprehensive Plans section 3.3 at Tables 1 and 2 provide that the for the

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existing land use, industrial accounts for 1.0% (Table 1) and that the plan seeks to have industrial-office land use account for 3.2%. This project helps achieve that goal.

Conclusion

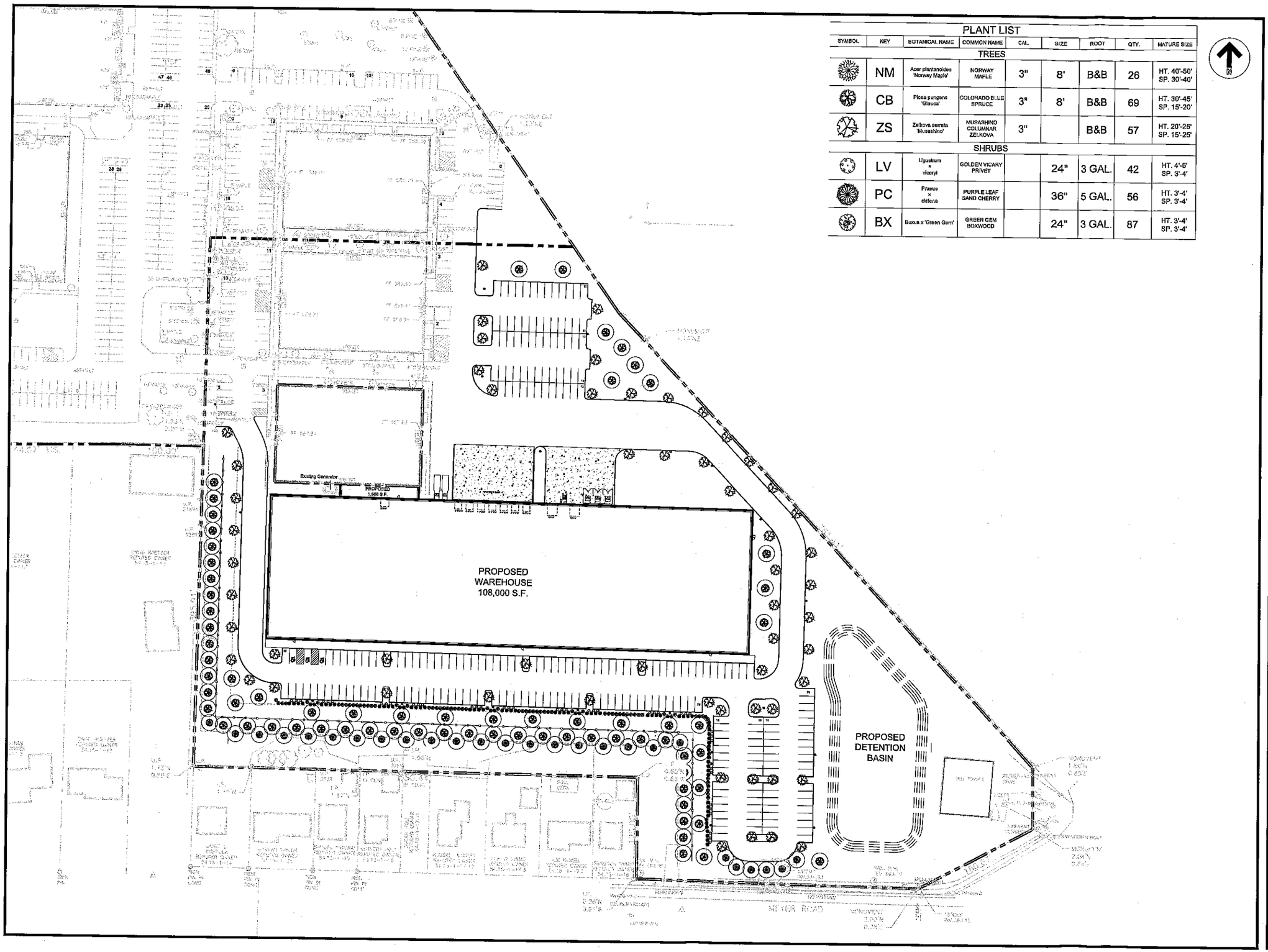
We look forward to working with the Town on this project. We believe this project represents a great development opportunity for this area that is consistent with the previous development of the property. If there are any questions regarding this letter or the enclosed documentation, please feel free 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-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



PLANT LIST

SYMBOL	KEY	BOTANICAL NAME	COMMON NAME	CAL.	SIZE	ROOT	QTY.	MATURE SIZE
TREES								
	NM	Acer platanoides 'Norway Maple'	NORWAY MAPLE	3"	8'	B&B	26	HT. 40'-50' SP. 30'-40'
	CB	Picea pungens 'Glauca'	COLORADO BLUE SPRUCE	3"	8'	B&B	69	HT. 30'-45' SP. 15'-20'
	ZS	Zelkova serrata 'Musashino'	MUSASHINO COLUMNAR ZELKOVA	3"		B&B	57	HT. 20'-25' SP. 15'-25'
SHRUBS								
	LV	Ligustrum x vicaryi	GOLDEN VICARY PRIVET		24"	3 GAL.	42	HT. 4'-6' SP. 3'-4'
	PC	Prunus x cistena	PURPLE LEAF SAND CHERRY		36"	5 GAL.	56	HT. 3'-4' SP. 3'-4'
	BX	Buxus x 'Green Gem'	GREEN GEM BOXWOOD		24"	3 GAL.	87	HT. 3'-4' SP. 3'-4'

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.

SHOP DRAWING 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.

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

PROPERTY NUMBER: # 5077

AREA: --

AMHERST COMMERCE CENTER
4224 - 4256 Ridge Lead Rd,
Amherst, NY

PROPOSED WAREHOUSE

CONSULTANT

JAMES ALLEN RUMSEY ARCHITECT
PREPARED FOR
BENDERSON DEVELOPMENT
570 DELAWARE AVE., BUFFALO, NY 14202
(716) 886-0211

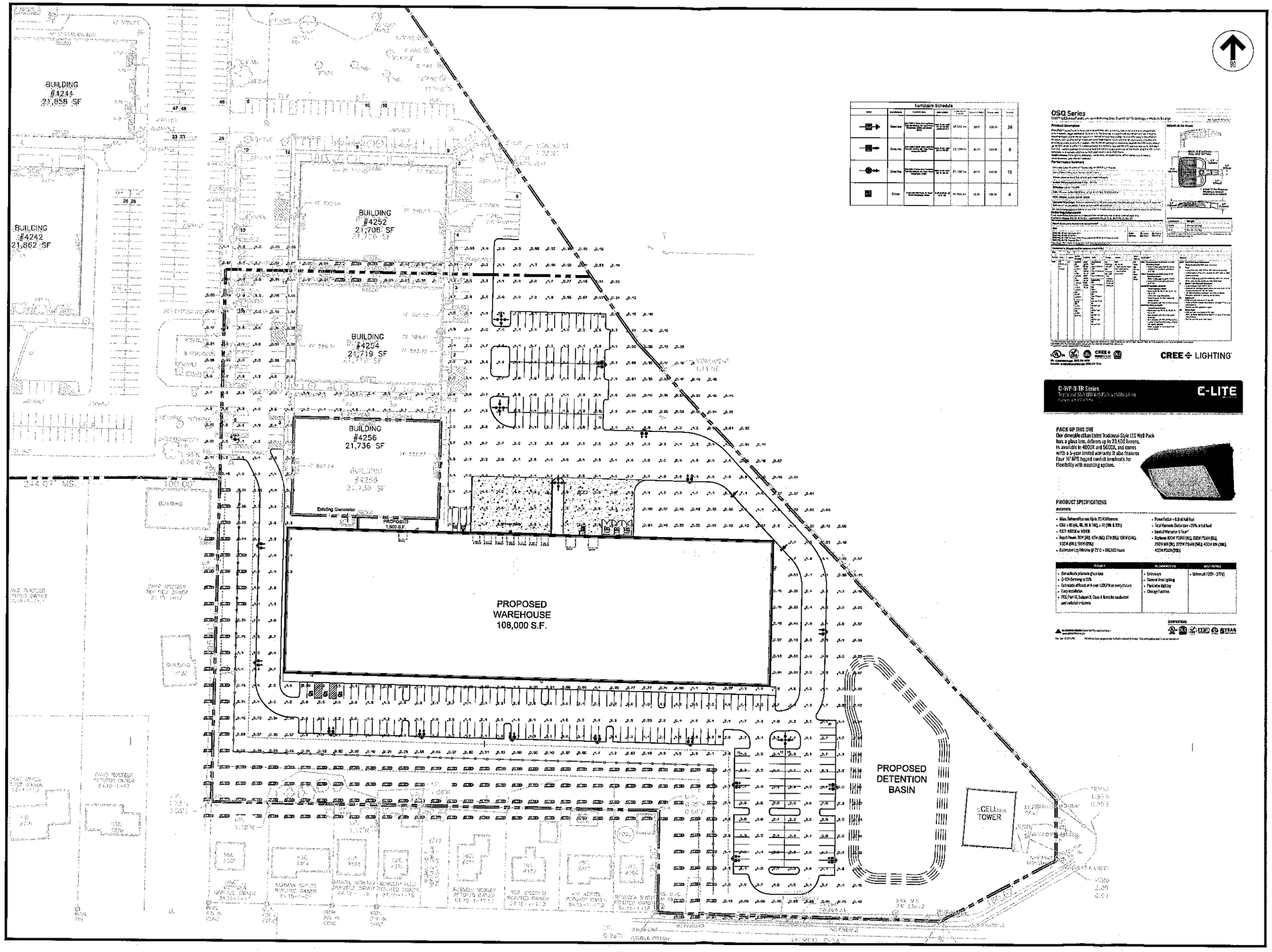
SEAL

REGISTERED ARCHITECT JAMES ALLEN RUMSEY STATE OF NEW YORK

TITLE:
LANDSCAPING PLAN

SCALE: 1:50
DRAWN BY: DMZ
CHECKED BY: MAO
DATE: 02.28.2022
DRAWING NO.: LP-2

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



DRAWING REVISIONS:

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PROPERTY NUMBER: # 5077

AREA: - -

AMHERST COMMERCE CENTER
4224 - 4256 Ridge Lead Rd,
Amherst, NY

PROPOSED REZONE PLAN

CONSULTANT

JAMES ALLEN RUMSEY
ARCHITECT
PREPARED FOX

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

SEAL

TITLE:

LIGHTING PLAN

SCALE: 1:50

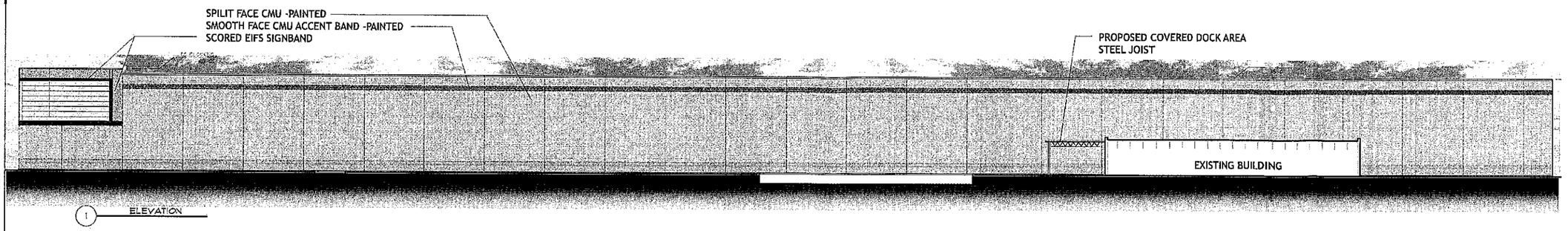
DRAWN BY: DMZ

CHECKED BY: MAO

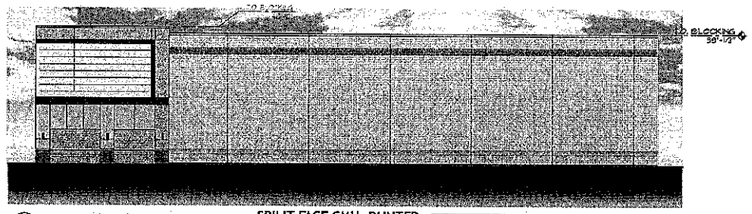
DATE: 02.28.2022

DRAWING NO.: LP-1

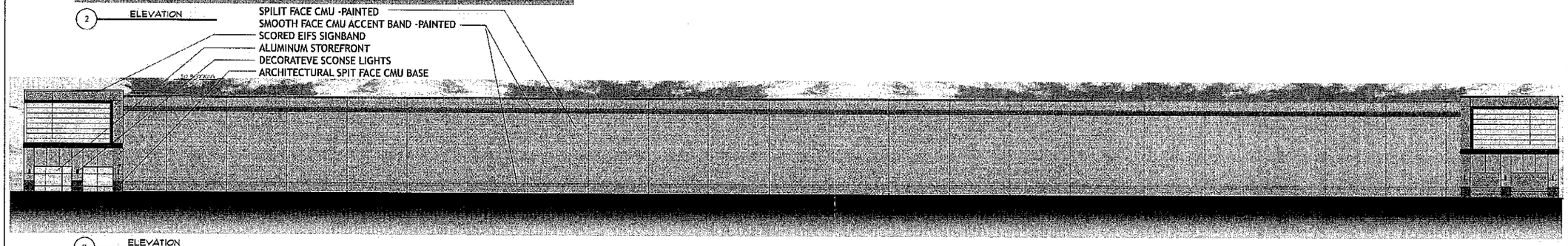
Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



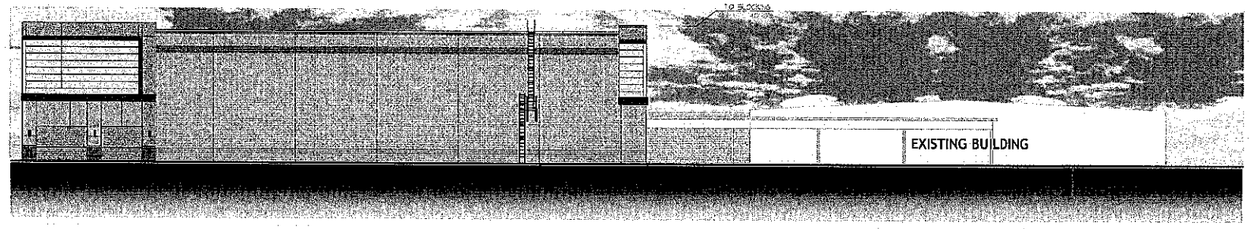
1 ELEVATION



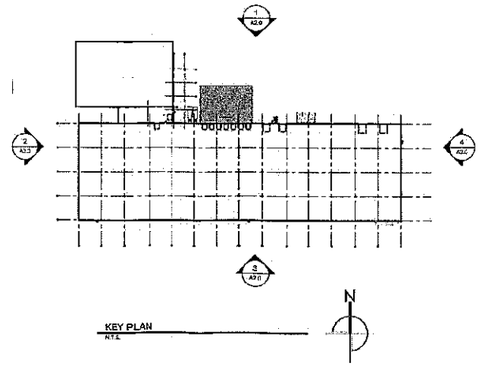
2 ELEVATION



3 ELEVATION



4 ELEVATION



DRAWING REVISIONS
NO. DATE BY REMARKS

SPECIAL INFORMATION:
THIS DRAWING PREPARED FOR TENANT IMPROVEMENTS TO AN EXISTING BUILDING OR BUILDING CONSTRUCTED BY OTHERS. IT IS UNDERSTOOD THAT ANY WARRANTY INFORMATION CONCERNING EQUIPMENT INSTALLED MUST BE FORWARDED TO THE OWNER AND THAT ANY AND ALL CONTRACTORS SHALL GUARANTEE THEIR WORK FOR A PERIOD OF ONE YEAR FROM THE DATE OF OWNERS ACCEPTANCE.

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JAMES ALLEN RUMSEY ARCHITECT
PREPARED FOR
BENDERSON DEVELOPMENT
570 DELAWARE AVE. BUFFALO, NY 14202
BUFFALO, NY 14202
(716) 886-0211

PROJECT NUMBER: 5077
AREA:

AMHERST COMMERCE CENTER
4224 - 4256 RIDGE LEA ROAD
AMHERST, NY

WAREHOUSE SHELL

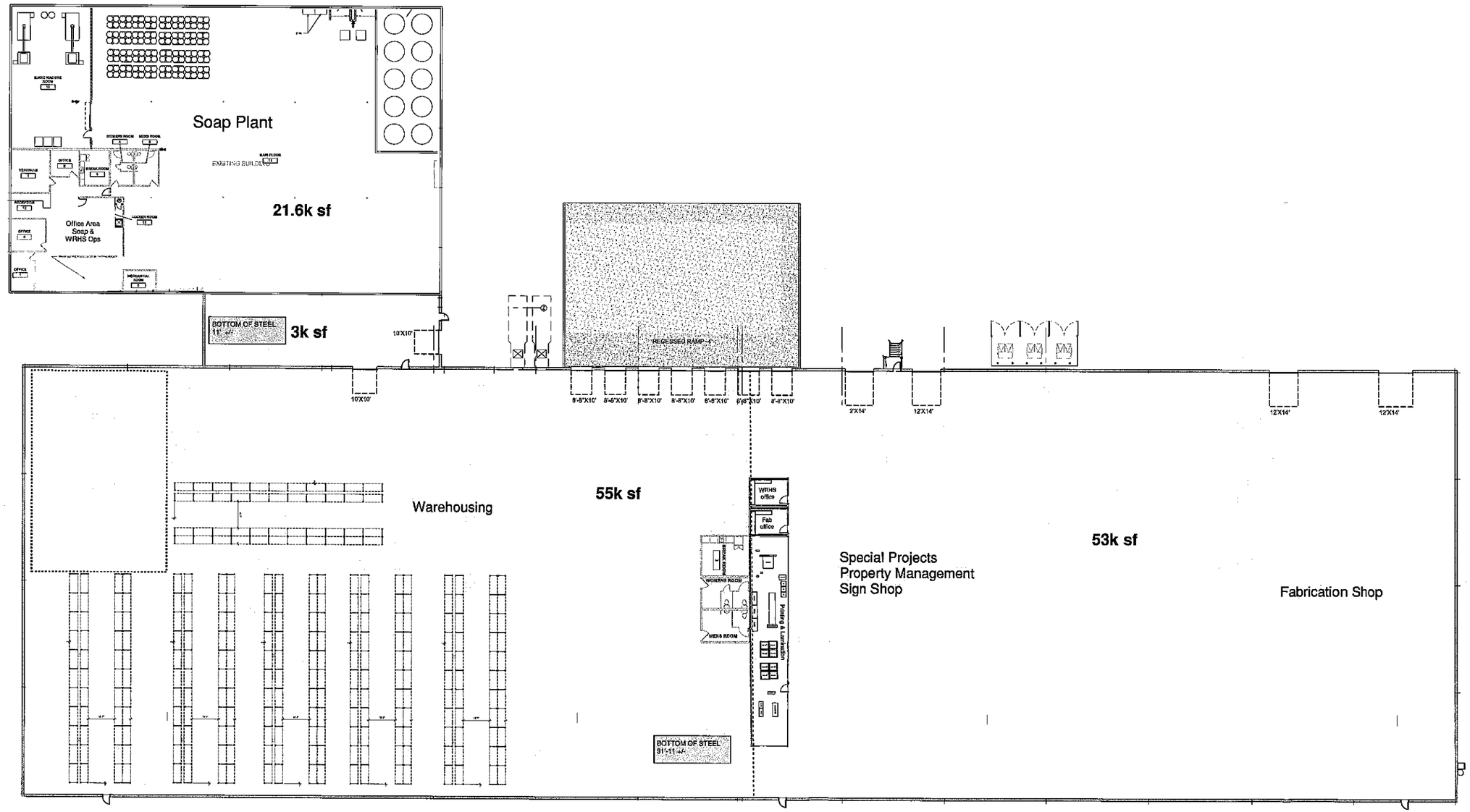
SEAL:

TITLE
EXTERIOR ELEVATIONS

DRAWN BY: CAR
CHECKED BY: JAR
DATE: 1.30.21

DRAWING NO. A2.0

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



DELTA SONIC CAR WASH
570 Delaware Avenue
Buffalo, New York 14202
716.541.2100

Special Information:

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SEAL
James A Rumsey
ARCHITECT

Drawing Revisions:

No.	DATE	REMARKS
1		

Property No: 1990

Status:

Area: - SF

Property: Delta Sonic Car Wash
Warehouse & Soap Plant

Tenant:

Floor Plan

Title:

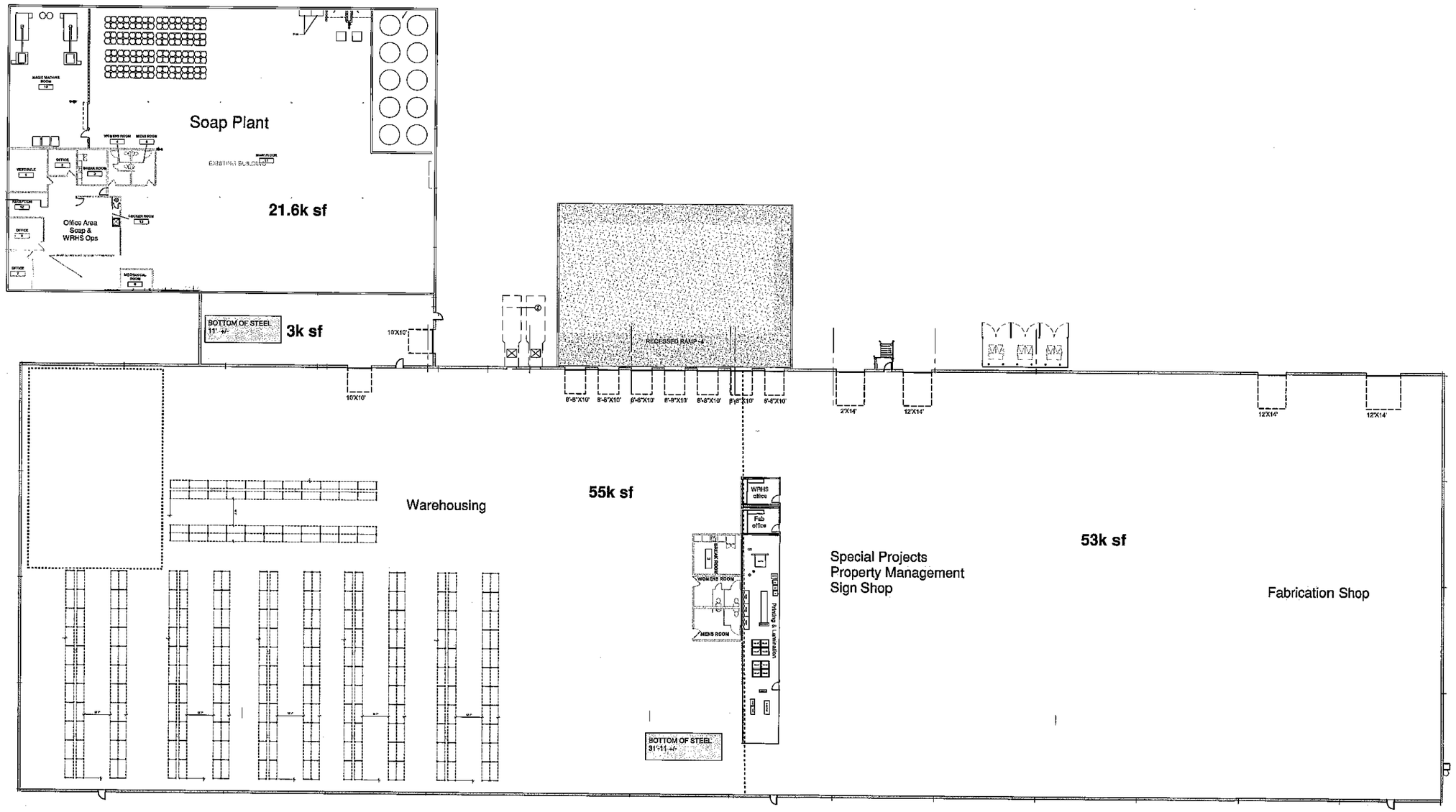
Drawn By:

Checked By: —

Date:

Drawing No.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



DELTA SONIC CAR WASH
870 Delaware Avenue
Buffalo, New York 14202
716.541.2100

Special Information:

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Floor Plan

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

January 18, 2022

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

RE: Proposed Modification to the Comprehensive Plan and Rezoning of 4252-4258 Ridge Lea Road
BDP# 5077

Dear Supervisor Kulpa and Members of the Town Board:

In connection with the above-referenced project, enclosed please find the Data Safety Sheets for the products stored in connection with the Soap Blending Facility. If there are any questions regarding this letter, please feel free to contact me at (716) 878-9626 or jamesboglioli@benderson.com.

Thank you,
BENDERSON DEVELOPMENT COMPANY, LLC

James A. Boglioli

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

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

SAFETY DATA SHEET

Issue Date 26-May-2016 **Revision Date** 26-May-2016 **Version** 1

1. IDENTIFICATION

Product identifier

Product Name Delta Magic

Other means of identification

Product Code DELTAMAGIC
Synonyms None

Recommended use of the chemical and restrictions on use

Recommended Use Industrial vehicle wash. Restricted to professional users.
Uses advised against Consumer use

Details of the supplier of the safety data sheet

Manufacturer Address
Delta Sonic 570 Delaware, Buffalo, New York 14202

Emergency telephone number

Company Phone Number (716) 843-5477
Emergency Telephone Chemtrec 1-800-424-9300

2. HAZARDS IDENTIFICATION

Classification

OSHA Regulatory Status
This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

Acute toxicity - Oral	Category 4
Skin corrosion/irritation	Category 1 Sub-category B
Serious eye damage/eye irritation	Category 1
Specific target organ toxicity (single exposure)	Category 3

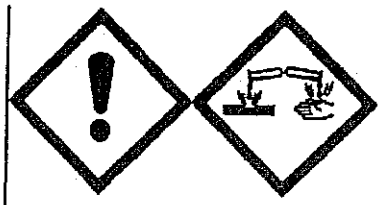
Label elements

Emergency Overview

Danger

Hazard statements
May cause respiratory irritation
Harmful if swallowed
Causes severe skin burns and eye damage

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



Appearance White crystalline powder | Physical state powder | Odor Mild, butyl odor

Precautionary Statements - Prevention
Wash face, hands and any exposed skin thoroughly after handling
Do not eat, drink or smoke when using this product
Do not breathe dusts or mists
Wear protective gloves/protective clothing/eye protection/face protection

Precautionary Statements - Response
Immediately call a POISON CENTER or doctor
Specific treatment (see Section 4 on this SDS)
IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing
Immediately call a POISON CENTER or doctor
IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water/ shower
Wash contaminated clothing before reuse
IF INHALED: Remove person to fresh air and keep comfortable for breathing
Immediately call a POISON CENTER or doctor
IF SWALLOWED: Call a POISON CENTER or doctor if you feel unwell
Rinse mouth
Do NOT induce vomiting

Precautionary Statements - Storage
Store locked up

Precautionary Statements - Disposal
Dispose of contents/container to an approved waste disposal plant

Hazards not otherwise classified (HNOC)
Not applicable

Other Information
Not applicable

Unknown acute toxicity 0% of the mixture consists of ingredient(s) of unknown toxicity

3. COMPOSITION/INFORMATION ON INGREDIENTS

Substance

Chemical Name	CAS No.	Weight-%	Trade Secret
Sodium Tripolyphosphate	7758-29-4	40-80	*
Sodium metasilicate	6834-92-0	7-18	*
Sodium carbonate	497-19-8	<20	*
Nonylphenol polyethylene glycol ether	127087-87-0	5-15	*
2-Butoxyethanol	111-76-2	3-12	*

*The exact percentage (concentration) of composition has been withheld as a trade secret.

4. FIRST AID MEASURES

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Description of first aid measures

Eye contact	Immediately flush with plenty of water. After initial flushing, remove any contact lenses and continue flushing for at least 20 minutes. Immediate medical attention is required.
Skin contact	Wash off immediately with soap and plenty of water while removing all contaminated clothes and shoes. Get immediate medical advice/attention.
Inhalation	Remove from exposure, lie down. Call a physician or poison control center immediately. If breathing is difficult, give oxygen. If not breathing, give artificial respiration.
Ingestion	Do NOT induce vomiting. Clean mouth with water and drink afterwards plenty of water. Never give anything by mouth to an unconscious person. If vomiting occurs spontaneously, keep head below hips to prevent aspiration.

Most important symptoms and effects, both acute and delayed

Symptoms	Symptoms: Alkaline. Causes burns. Irritating to respiratory system. May cause permanent damage to eyes.

Indication of any immediate medical attention and special treatment needed

Note to physicians	Note to physician: This material contains Ethylene glycol monobutyl ether Due to structural analogy and clinical data, this material may have a mechanism of intoxication similar to ethylene glycol. On that basis, treatment similar to ethylene glycol intoxication may be of benefit. In cases where several ounces (60 - 100 ml) have been ingested, consider the use of ethanol and hemodialysis in the treatment. Consult standard literature for details of treatment. If ethanol is used, a therapeutically effective blood concentration in the range of 100 - 150 mg/dl may be achieved by a rapid loading dose followed by a continuous intravenous infusion. Consult standard literature for details of treatment. 4-Methyl pyrazole (Antizol®) is an effective blocker of alcohol dehydrogenase and should be used in the treatment of ethylene glycol (EG), di- or triethylene glycol (DEG, TEG), ethylene glycol butyl ether (EGBE), or methanol intoxication if available. Fomepizole protocol (Brent, J. et al., New England Journal of Medicine, Feb. 8, 2001, 344:6, p. 424-9): loading dose 15 mg/kg intravenously, follow by bolus dose of 10 mg/kg every 12 hours; after 48 hours, increase bolus dose to 15 mg/kg every 12 hours. Continue fomepizole until serum methanol, EG, DEG, TEG or EGBE are undetectable. The signs and symptoms of poisoning include anion gap metabolic acidosis, CNS depression, renal tubular injury, and possible late stage cranial nerve involvement. Respiratory symptoms, including pulmonary edema, may be delayed. Persons receiving significant exposure should be observed 24-48 hours for signs of respiratory distress. Maintain adequate ventilation and oxygenation of the patient. In severe poisoning, respiratory support with mechanical ventilation and positive end expiratory pressure may be required. If lavage is performed, suggest endotracheal and/or esophageal control. Danger from lung aspiration must be weighed against toxicity when considering emptying the stomach. Treatment of exposure should be directed at the control of symptoms and the clinical condition of the patient. Repeated excessive exposure may aggravate preexisting blood disease (anemia). This material also contains Sodium Tripolyphosphate; ingestion of large quantities of phosphate salts (over 1.0 grams for an adult) may cause an osmotic catharsis resulting in diarrhea and probable abdominal cramps. Larger doses such as 4-8 grams will almost certainly cause these effects in everyone. In healthy individuals most of the ingested salt will be excreted in the feces with the diarrhea and, thus, not cause any systemic toxicity. Doses greater than 10 grams hypothetically may cause systemic toxicity. Treatment should take into consideration both anionic and cation portion of the molecule.

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media

Use Water fog or fine spray. Dry chemical fire extinguishers. Carbon dioxide fire extinguishers. Foam. Alcohol resistant foams (ATC type) are preferred. General purpose synthetic foams (including AFFF) or protein foams may function, but will be less effective.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Unsuitable extinguishing media Do not use a solid water stream as it may scatter and spread fire.

Specific hazards arising from the chemical

Specific hazards arising from the chemical: During a fire, smoke may contain the original material in addition to combustion products of varying composition which may be toxic and/or irritating. Combustion products may include and are not limited to: Carbon monoxide. Carbon dioxide.

Hazardous combustion products Sodium Oxide. Oxides of Phosphorus.

Explosion data

Sensitivity to Mechanical Impact None.

Sensitivity to Static Discharge No information available.

Protective equipment and precautions for firefighters

Protective equipment and precautions for firefighters: Wear positive-pressure self-contained breathing apparatus (SCBA) and protective fire-fighting clothing (includes fire-fighting helmet, coat, trousers, boots, and gloves). Avoid contact with this material during fire-fighting operations. If contact is likely, change to full chemical resistant fire-fighting clothing with self-contained breathing apparatus. If this is not available, wear full chemical resistant clothing with self-contained breathing apparatus and fight fire from a remote location. For protective equipment in post-fire or non-fire clean-up situations, refer to the relevant sections.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal precautions	Keep unnecessary personnel away. Wear appropriate personal protective equipment. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Local authorities should be advised if significant spillages cannot be contained. Heavier than water. See Section 8 of the SDS for Personal Protective Equipment. Avoid creating dust.

Environmental precautions

Environmental precautions	Do not allow into any sewer, on the ground or into any body of water. Prevent spreading of vapors through sewers, ventilation systems and confined areas.

Methods and material for containment and cleaning up

Methods for containment	Methods for containment: Contain spilled material if possible. Small spills: If liquid; Absorb with materials such as: Non-combustible material. Clay. Zorb-all®. Large spills: Dike area to contain spill. Collect in suitable and properly labeled containers. See Section 13, Disposal Considerations, for additional information. If dry material. Sweep up and remove to properly labeled containers. Use non-sparking equipment.
Methods for cleaning up	Pick up and transfer to properly labeled containers.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on safe handling	Advise on safe handling: Do not swallow. Avoid contact with eyes, skin, and clothing. Use with adequate ventilation. Wash thoroughly after handling. Keep away from heat, sparks and flame. See Section 8, EXPOSURE CONTROLS AND PERSONAL PROTECTION.

Conditions for safe storage, including any incompatibilities

Storage Conditions	Store in corrosive resistant containers. Stainless steel and Plastic containers are recommended. Storage: Store in the following material(s): Polyethylene, Carbon steel. Stainless steel. Phenolic lined steel drums. Do not store in: Aluminum. Copper. Galvanized iron. Galvanized steel. See Section 10 for more specific information.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Incompatible materials

Strong oxidizing agents. Strong bases. Acids. Aqueous solutions will react with aluminum, zinc, tin and their alloys evolving hydrogen gas which can form an explosive mixture with air. Can react violently if in contact with acids. Can react with sugar residues to form carbon monoxide.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Control parameters

Exposure Guidelines

Specific exposure limits have not been established or are not applicable unless listed below.

Chemical Name	ACGIH TLV	OSHA PEL	NIOSH IDLH
2-Butoxyethanol 111-76-2	TWA: 20 ppm	TWA: 50 ppm TWA: 240 mg/m^3 (vacated) TWA: 25 ppm (vacated) TWA: 120 mg/m^3 (vacated) S* S*	IDLH: 700 ppm TWA: 5 ppm TWA: 24 mg/m^3

Appropriate engineering controls

Engineering Controls

Engineering controls: Good general ventilation (typically 10 air changes per hour) should be used. Ventilation rates should be matched to conditions. If applicable, use process enclosures, local exhaust ventilation, or other engineering controls to maintain airborne levels below recommended exposure limits. If exposure limits have not been established, maintain airborne levels to an acceptable level. Eye wash facilities and emergency shower must be available when handling this product.

Individual protection measures, such as personal protective equipment

Eye/face protection

Chemical resistant goggles must be worn. If splashing is likely, wear tight fitting goggles and face shield.

Skin and body protection

Wear protective gloves and protective clothing. Skin and body protection: Personal protective equipment for the body should be selected based on the task being performed and the risks involved and should be approved by a specialist before handling this product. HANDS: Chemical-resistant, impervious gloves complying with an approved standard should be worn at all times when handling chemical products if a risk assessment indicates this is necessary. Considering the parameters specified by the glove manufacturer, check during use that the gloves are still retaining their protective properties. It should be noted that the time to breakthrough for any glove material may be different for different glove manufacturers. In the case of mixtures, consisting of several substances, the protection time of the gloves cannot be accurately estimated.

Respiratory protection

If exposure limits are exceeded or irritation is experienced, NIOSH/MSHA approved respiratory protection should be worn. Positive-pressure supplied air respirators may be required for high airborne contaminant concentrations. Respiratory protection must be provided in accordance with current local regulations.

General Hygiene Considerations

Handle in accordance with good industrial hygiene and safety practice.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical state	powder		
Appearance	White crystalline powder	**Odor**	Mild, butyl odor
Color	white	**Odor threshold**	No information available

Property	Values	Remarks • Method
pH	Alkaline pH 11-12	

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Melting point / freezing point	No information available	
Boiling point / boiling range	No information available	
Flash point	No test data for finished product 2-Butoxyethanol = 67 Closed Cup	
Evaporation rate	No test data for finished product 2-Butoxyethanol = 0.06	(n-butyl acetate = 1)
Flammability (solid, gas)	No information available	
Flammability Limit in Air		
Upper flammability limit:	No information available	
Lower flammability limit:	No information available	
Vapor pressure	No information available	
Vapor density	No information available	
Relative density	No information available	
Water solubility	Complete	
Solubility in other solvents	No information available	
Partition coefficient	No information available	
Autoignition temperature	No test data for finished product 2-Butoxyethanol = 230 C	
Decomposition temperature	No information available	
Kinematic viscosity	No information available	
Dynamic viscosity	No information available	
Explosive properties	No information available	
Oxidizing properties	No information available	

Other Information

Softening point	No information available
Molecular weight	No information available
VOC Content (%)	No information available
Density	No information available
Bulk density	No information available

10. STABILITY AND REACTIVITY

Reactivity:
Sodium Metasilicate: When arc welding vessels containing aqueous solutions of this material, take care to control any explosion risk from hydrogen evolved by electrolysis. Aqueous solutions will react with aluminum, zinc, tin and their alloys evolving hydrogen gas which can form an explosive mixture with air. Can react violently if in contact with acids. Can react with sugar residues to form carbon monoxide. Sodium Carbonate: Decomposes by reaction with strong acids

Chemical stability
Sodium Metasilicate is hygroscopic. All other ingredients are stable under normal conditions.
Possibility of Hazardous Reactions
Hazardous polymerization does not occur. Sodium Metasilicate is hygroscopic.
Conditions to avoid
Dusting conditions. Extreme heat, extreme humidity. Moisture. 2-Butoxyethanol can oxidize at elevated temperatures.
Incompatible materials
Strong oxidizing agents. Strong bases. Acids. Aqueous solutions will react with aluminum, zinc, tin and their alloys evolving hydrogen gas which can form an explosive mixture with air. Can react violently if in contact with acids. Can react with sugar residues to form carbon monoxide.
Hazardous Decomposition Products
Hydrogen. 2-Butoxyethanol: Decomposition products can include and are not limited to: Aldehydes. Ketones. Organic acids.

11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Product Information

Product information. Inhalation is the most significant route of exposure in occupational and other settings. Dermal exposure is not usually a concern because product is poorly absorbed through intact skin. Product is not intended for ingestion.

Inhalation

Dust/mist is severely irritating to the respiratory tract.

Eye contact

Eye contact: Material will cause chemical burns. May cause permanent damage if eye is not immediately irrigated.

Skin contact

The component Sodium Metasilicate will cause chemical burns.

Ingestion

Material will cause burns due to its alkalinity.

Chemical Name	Oral LD50	Dermal LD50	Inhalation LC50
Sodium Tripolyphosphate 7758-29-4	= 3120 mg/kg (Rat)	> 7940 mg/kg (Rabbit)	-
Sodium metasilicate 6834-92-0	= 1153 mg/kg (Rat)	-	-
Sodium carbonate 497-19-8	= 4090 mg/kg (Rat)	-	= 2300 mg/m^3 (Rat) 2 h
Nonylphenol polyethylene glycol ether 127087-87-0	= 1310 mg/kg (Rat)	-	-
2-Butoxyethanol 111-76-2	= 470 mg/kg (Rat)	= 99 mg/kg (Rabbit)	= 450 ppm (Rat) 4 h

Information on toxicological effects

Symptoms

No information available.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

Sensitization
Classification criteria not met.

Germ cell mutagenicity
Animal testing did not show any mutagenic effects.

Carcinogenicity
The table below indicates whether each agency has listed any ingredient as a carcinogen.

Chemical Name	ACGIH	IARC	NTP	OSHA
2-Butoxyethanol 111-76-2	A3	Group 3	-	-

Reproductive toxicity
No information available.

STOT - single exposure
Sodium Metasilicate - Irritating to respiratory system.

STOT - repeated exposure
2-Butoxyethanol: In animals, effects have been reported on the following organs: blood (hemolysis) and secondary effects on the kidney and liver. Human red blood cells have been shown to be significantly less sensitive to hemolysis than those of rodents and rabbits. Nonylphenol Polyethylene Glycol Ether: For this family of materials: In animals, effects have been reported on the following organs: Kidney. Liver.

Aspiration hazard
Not considered an aspiration hazard.

Numerical measures of toxicity - Product Information

The following values are calculated based on chapter 3.1 of the GHS document .

ATEmix (oral)	1,688.00
ATEmix (dermal)	6,010.00
ATEmix (inhalation-dust/mist)	6.50
ATEmix (inhalation-vapor)	4,500.00

12. ECOLOGICAL INFORMATION

Ecotoxicity

70 % of the mixture consists of components(s) of unknown hazards to the aquatic environment

Chemical Name	Algae/aquatic plants	Fish	Crustacea

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Sodium Tripolyphosphate 7758-29-4	-	1650: 48 h Leuciscus idus mg/L LC50	-
2-Butoxyethanol 111-76-2	-	1490: 96 h Lepomis macrochirus mg/L LC50 static 2950: 96 h Lepomis macrochirus mg/L LC50	1698 - 1940: 24 h Daphnia magna mg/L EC50 1000: 48 h Daphnia magna mg/L EC50
Sodium carbonate 497-19-8	242: 120 h Nitzschia mg/L EC50	310 - 1220: 96 h Pimephales promelas mg/L LC50 static 300: 96 h Lepomis macrochirus mg/L LC50 static	265: 48 h Daphnia magna mg/L EC50
Sodium metasilicate 6834-92-0	-	210: 96 h Brachydanio rerio mg/L LC50 210: 96 h Brachydanio rerio mg/L LC50 semi-static	216: 96 h Daphnia magna mg/L EC50

Persistence and degradability

Sodium Metasilicate, Pentahydrate: Inorganic. Soluble silicates, upon dilution, rapidly depolymerize into molecular species indistinguishable from natural dissolved silica. Sodium Carbonate: Photodegradation: hydrolyzes Test substance: Water carbonic acid/bicarbonate/carbonate acid/base equilibrium as a function of pH. Ethylene Glycol monobutyl ether: Biodegradability: Material is readily biodegradable. Passes OECD test(s) for ready biodegradability. Material is ultimately biodegradable (reaches > 70% mineralization in OECD test(s) for inherent biodegradability).10-day Window: Pass Biodegradation: 90.4 % Exposure time: 28 d Method: OECD Test Guideline 301B or Equivalent Theoretical Oxygen Demand: 2.30 mg/mg. Nonylphenol Polyethylene Glycol Ether: Biodegradability: For this family of materials: Based on stringent OECD test guidelines, this material cannot be considered as readily biodegradable; however, these results do not necessarily mean that the material is not biodegradable under environmental conditions.10-day Window: Not applicable Biodegradation: < 60 % Exposure time: 28 d Method: OECD Test Guideline 301B or Equivalent Theoretical Oxygen Demand: 2.15 - 2.25 mg/mg Chemical Oxygen Demand: 2.09 - 2.25 mg/mg.

Bioaccumulation

Nonylphenol PEG: Partition coefficient: n-octanol/water(log Pow): 2.1 - 3.4 Calculated. Bioconcentration factor (BCF): 5.9 - 48 Fish. Estimated. Ethylene Glycol Monobutyl Ether: Bioaccumulation: Bioconcentration potential is low (BCF < 100 or Log Pow < 3). Partition coefficient: n-octanol/water(log Pow): 0.81 Measured Bioconcentration factor (BCF): 3.2.

Chemical Name	Partition coefficient
2-Butoxyethanol 111-76-2	0.81

Other adverse effects No information available

13. DISPOSAL CONSIDERATIONS

Waste treatment methods

Disposal of wastes

Disposal: Disposal methods: DO NOT DUMP INTO ANY SEWERS, ON THE GROUND, OR INTO ANY BODYOF WATER. All disposal practices must be in compliance with all Federal, State/Provincial and local laws and regulations. Regulations may vary in different locations. Waste characterizations and compliance with applicable laws are the responsibility solely of the waste generator. AS YOUR SUPPLIER, WE HAVE NO CONTROL OVER THE MANAGEMENT PRACTICES OR MANUFACTURING PROCESSES OF PARTIES HANDLING OR USING THIS MATERIAL. THE INFORMATION PRESENTED HERE PERTAINS ONLY TO THE PRODUCT AS SHIPPED IN ITS INTENDED CONDITION AS DESCRIBED IN MSDS SECTION: Composition Information. FORUNUSED & UNCONTAMINATED PRODUCT, the preferred options include sending to a licensed, permitted: Incinerator or other thermal destruction device.

Contaminated packaging

Contaminated packaging: Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

Chemical Name	California Hazardous Waste Status
Sodium carbonate 497-19-8	Corrosive

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

14. TRANSPORT INFORMATION

DOT Not regulated

15. REGULATORY INFORMATION

International Inventories

TSCA	Complies
DSL/NDSL	Complies
EINECS/ELINCS	Complies
ENCS	Complies
IECSC	Complies
KECL	Complies
PICCS	Complies
AICS	Complies

Legend:

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory
DSL/NDSL - Canadian Domestic Substances List/Non-Domestic Substances List
EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances
ENCS - Japan Existing and New Chemical Substances
IECSC - China Inventory of Existing Chemical Substances
KECL - Korean Existing and Evaluated Chemical Substances
PICCS - Philippines Inventory of Chemicals and Chemical Substances
AICS - Australian Inventory of Chemical Substances

US Federal Regulations

SARA 313

Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product contains a chemical or chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372
Ethylene Glycol Monobutyl Ether

SARA 311/312 Hazard Categories

Acute health hazard	Sodium Tripolyphosphate - Yes Sodium Carbonate - Yes Sodium Metasilicate - Yes Nonylphenol polyethylene glycol ether - Yes Ethylene Glycol Monobutyl Ether - Yes
Chronic Health Hazard	2-Butoxyethanol - Yes
Fire hazard	2-Butoxyethanol - Yes
Sudden release of pressure hazard	No
Reactive Hazard	No

CWA (Clean Water Act)

This product does not contain any substances regulated as pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

CERCLA

This material, as supplied, does not contain any substances regulated as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302) or the Superfund Amendments and Reauthorization Act (SARA) (40 CFR 355). There may be specific reporting requirements at the local, regional, or state level pertaining to releases of this material

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US State Regulations

California Proposition 65

This product does not contain any Proposition 65 chemicals

U.S. State Right-to-Know Regulations

U.S. EPA Label Information

EPA Pesticide Registration Number Not applicable

16. OTHER INFORMATION, INCLUDING DATE OF PREPARATION OF THE LAST REVISION

NFPA	Health hazards	2	Flammability	1	Instability	0	Physical and Chemical Properties -
HMIS	Health hazards	2	Flammability	1	Physical hazards	0	Personal protection X

Issue Date 26-May-2016
Revision Date 26-May-2016
Revision Note
No information available

Disclaimer

The information provided in this Material Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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Material Safety Data Sheet
May be used to comply with OSHA's Hazard Communication Standard, 29 CFR 1910.1200. Standard must be consulted for specific requirements.

U.S. Department of Labor
Occupational Safety and Health Administration
(Non-Mandatory Form)
Form Approved
OMB No. 1218-0072

IDENTITY (As Used on Label and List)
product name: SONIC DRYING AGENT

Note: Blank spaces are not permitted. If any item is not applicable, or no information is available, the space must be marked to indicate that.

Section I

Manufacturer's Name: DELTA SONIC INC.	Emergency Telephone Number: 1-800-333-0242
Address (Number, Street, City, State, and ZIP Code): 570 DELAWARE AVE.	Telephone Number for Information: 1-716-882-9385
BUFFALO, N.Y. 14202	Date Prepared: 1-3-91
	Signature of Preparer (optional)

Section II — Hazardous Ingredients/Identity Information

Hazardous Components (Specific Chemical Identity; Common Name(s))	OSHA PEL	ACGIH TLV	Other Limits Recommended	% (optional)
BUTOXYETHANOL E.B.	50 P.P.M.	25 P.P.M.	LESS THAN 3%	
MINERAL SEAL OIL	5 mg/m³		LESS THAN 20%	

Section III — Physical/Chemical Characteristics

Boiling Point	212° F	Specific Gravity (H_2O = 1)	0.96
Vapor Pressure (mm Hg.)	N/A	Melting Point	N/A
Vapor Density (AIR = 1)	N/A	Evaporation Rate (Butyl Acetate = 1)	N/A

Solubility in Water: EMULSIFIED

Appearance and Odor: AMBER OILY MATERIAL OF MILD ODOR

Section IV — Fire and Explosion Hazard Data

Flash Point (Method Used): NONE TO BOIL	Flammable Limits: N/A	LEL	UEL

Extinguishing Media: DRY CHEMICAL/WATER SPRAY/WATER FOG/ FOAM/SAND/EARTH

Special Fire Fighting Procedures: FIRE FIGHTER MUST BE EQUIPPED TO PREVENT BREATHING OF VAPORS OR PRODUCTS OF COMBUSTION. WEAR APPROVED SELFCONTAINED BREATHING APPARATUS AND PROTECTIVE CLOTHING.

Unusual Fire and Explosion Hazards: NONE

(Reproduce locally)

OSHA 174 Sept '94

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

product name: Sonic Drying Agent

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Section V — Reactivity Data

Stability	Unstable		Conditions to Avoid
	Stable	X	

Incompatibility (Materials to Avoid)
STRONG OXIDIZERS SUCH AS HYDROGEN PEROXIDE OR BROMINE

Hazardous Decomposition or Byproducts
AS WITH ANY ORGANIC MATERIAL, COMBUSTION WILL PRODUCE CO_2 AND/OR CO

Hazardous Polymerization	May Occur		Conditions to Avoid
	Will Not Occur	X	

Section VI — Health Hazard Data

Route(s) of Entry: Inhalation? YES Skin? YES Ingestion? ?

Health Hazards (Acute and Chronic)
REDENING OR IRRITATION OF SKIN OR EYES, POSSIBLE DERMITITIS

Carcinogenicity: NO NTP? NO IARC Monographs? NO OSHA Regulated? NO

Signs and Symptoms of Exposure
REDENING OF SKIN OR EYES

Medical Conditions Generally Aggravated by Exposure SKIN OR BREATING DISORDERS

Emergency and First Aid Procedures
FLUSH THOROUGHLY WITH WATER, GET MEDICAL ATTENTION IR IRRITATION PERSISTS

Section VII — Precautions for Safe Handling and Use

Steps to Be Taken In Case Material Is Released or Spilled
FLUSH WITH WATER OR ABSORB WITH SAND OR CAT LITTER; SWEEP UP AND DISPOSE OF IN ACCORDANCE WITH FEDERAL, STATE, LOCAL REGULATIONS

Waste Disposal Method
BIODEGRADEABLE; CAN BE FLUSHED INTO SANITARY SEWERS IF ALLOWED BY LAW. IF NOT, COLLECT AND DISPOSE OF ACCORDINGTO REGULATIONS

Precautions to Be Taken in Handling and Storing
STORE BETWEEN 45 and 120°F.

Other Precautions
IF FROZEN OR SEPERATED, THAW AND WARM AND RE- MIX THOURGLY.

Section VIII — Control Measures

Respiratory Protection (Specify Type)
NOT NORMALLY NEEDED - IF NECESSARY NIOSH/OSHA CHEMICAL CARTRIDGE

Ventilation	Local Exhaust: IF NEEDED	Special	
	Mechanical (General): N/A	Other	
Protective Gloves: YES		Eye Protection: SPLASH SHIELD OR GLASSES	

Other Protective Clothing or Equipment: RUBBER APRON RECOMENDED

Work/Hygienic Practices: NORMAL GOOD WORK HABITS

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Revised: 4/20/2006

MATERIAL SAFETY DATA SHEET

Qual Chem

PRODUCT IDENTIFICATION

SECTION 1

PRODUCT NAME: HydroPel

SUPPLIERS NAME: Qual Chem LLC
SUPPLIERS ADDRESS: 86 Merz, Akron, OH 44333
PHONE: 800-616-CHEM (2436)

HMIS

HEALTH	1
FIRE	1
REACTIVITY	0
PROTECTION	B

HAZARDOUS INGREDIENTS

SECTION 2

CHEMICAL NAME	CAS No.	HAZARD	PERCENTAGE	TWA-TLV	CAR
Glycol Ether, monobutyl	111-76-2	Combustible	1-10	50 PPM	NO
Quaternary Surfactant	16789-77-3	Irritant	5-10	N/A	NO
Hydrotreated Middle Distillate	64742-46-7	N/A	10-20	N/A	NO

PHYSICAL DATA

SECTION 3

BOILING POINT	N/A	SPECIFIC GRAVITY	0.97
VAPOR PRESSURE	N/A	VAPOR DENSITY	N/A
%VOLATILE	~65	PH	NA
SOLUBILITY IN WATER	~100	EVAPORATION RATES	N/A
PHYSICAL DESCRIPTION	CLEAR LIQUID	FREEZING POINT	N/A

FIRE & EXPLOSION HAZARD

SECTION 4

FLASH POINT	>200F
FLAMMABLE LIMITS	N/A
EXTINGUISHING MEDIA	WATER, CO_2, FOAM, OR DRY CHEMICAL
SPECIAL FIRE FIGHTING PROCEDURES	N/A
UNUSUAL FIRE & EXPLOSION HAZARDS	N/A

REACTIVITY DATA

SECTION 5

STABILITY	STABLE	COMPATIBILTY	N/A
HAZARDOUS DECOMPOSITION	CO_2		
HAZARDOUS POLYMERIZATION	N/A		

STORAGE & HANDLING

SECTION 6

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORAGE: KEEP OUT OF REACH OF CHILDREN. FOR USE BY TRAINED PROFESSIONALS ONLY. KEEP CONTAINER CLOSED DURING STORAGE. FOR INDUSTRIAL USE ONLY.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Revised: 4/20/2006

HEALTH & FIRST AID

SECTION 7
EFFECTS OF OVEREXPOSURE

PRIMARY ROUTE OF ENTRY

EYES: EYE IRRITANT.

SKIN: MILD IRRITANT. WILL CAUSE SKIN TO BE DRY.

INHALATION: MAY BE IRRITATING TO THE MUCOUS MEMBRANES TO THE NOSE, THROAT, LUNGS. CHOKING, COUGHING OR HEADACHE MAY OCCUR.

INGESTION: IRRITATION TO THE MOUTH, THROAT AND GASTROINTESTINAL SYSTEM. LARGE AMOUNTS MAY CAUSE VOMITING AND DIARRHEA.

FIRST AID PROCEDURES

SKIN: REMOVE CONTAMINATED CLOTHING. FLUSH AFFECTED AREA WITH WATER. SEEK MEDICAL ATTENTION IF IRRITATION PERSISTS.

EYES: FLUSH EYES WITH LARGE QUANTITIES OF WATER. SEEK MEDICAL ATTENTION IF IRRITATION PERSISTS.

INHALATION: GET FRESH AIR. SEEK MEDICAL ATTENTION IF IRRITATION PERSISTS.

INGESTION: DO NOT INDUCE VOMITING. IF PERSON IS CONSCIOUS, DRINK LARGE QUANTITIES OF WATER. CONSULT A PHYSICIAN.

SPECIAL PROTECTION DATA

SECTION 8

RESPIRATORY PROTECTION: USE WITH ADEQUATE VENTILATION.

VENTILATION: PROVIDE LOCAL EXHAUST TO KEEP TLV OF SECTION 2 INGREDIENTS BELOW ACCEPTABLE LIMI

PROECTIVE GLOVES: WATERPROOF

EYE PROTECTION: SAFETY GLASSES

OTHER PROTECTIVE EQUIPMENT: AS NEEDED TO PROTECT.

SPILL OR LEAK PROCEDURE

SECTION 9

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED: SWEEP UP OR OTHERWISE ABSORB AND HOLD FOR DISPOSAL.

WASTE DISPOSAL METHOD: ANY METHOD IN ACCORDANCE WITH APPLICABLE LAWS

THE INORMATION IN THIS MSDS WAS OBTAINED FROM SOURCES WHICH WE BELIEVE TO BE RELIABLE. HOWEVER, THE INFORMATION IS PROVIDED WITHOUT ANY WARRANTY, EXPRESS OR EMPLIED, REGARDING ITS CORRECTNESS.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

SAFETY DATA SHEET

Issue Date 24-May-2016 **Revision Date** 25-May-2016 **Version** 1

1. IDENTIFICATION

Product Identifier

Product Name Quad Prep

Other means of identification

Product Code QUADPREP
UN/ID no. 3266
Synonyms None

Recommended use of the chemical and restrictions on use

Recommended Use Industrial cleaner. Custom car/truck wash.
Uses advised against Consumer use

Details of the supplier of the safety data sheet

Manufacturer Address
Delta Sonic 570 Delaware, Buffalo, New York 14202

Emergency telephone number

Company Phone Number (716) 843-5477
Emergency Telephone Chemtrec 1-800-424-9300

2. HAZARDS IDENTIFICATION

Classification

OSHA Regulatory Status
This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

Acute toxicity - Oral	Category 4
Skin corrosion/irritation	Category 1 Sub-category B
Serious eye damage/eye irritation	Category 1
Specific target organ toxicity (repeated exposure)	Category 2

Label elements

Emergency Overview

Danger

Hazard statements
Harmful if swallowed
Causes severe skin burns and eye damage

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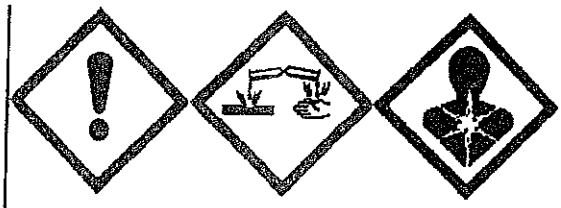

Appearance Thick soapy liquid | Physical state liquid | Odor Mild, butyl odor

Precautionary Statements - Prevention
Wash face, hands and any exposed skin thoroughly after handling
Do not eat, drink or smoke when using this product
Do not breathe dusts or mists
Wear protective gloves/protective clothing/eye protection/face protection

Precautionary Statements - Response
Immediately call a POISON CENTER or doctor
Specific treatment (see .Section 4 on this SDS)
IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing
Immediately call a POISON CENTER or doctor
IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water/ shower
Wash contaminated clothing before reuse
IF INHALED: Remove person to fresh air and keep comfortable for breathing
Immediately call a POISON CENTER or doctor
IF SWALLOWED: Call a POISON CENTER or doctor if you feel unwell
Rinse mouth
Do NOT induce vomiting

Precautionary Statements - Storage
Store locked up

Precautionary Statements - Disposal
Dispose of contents/container to an approved waste disposal plant

Hazards not otherwise classified (HNOC)
Not applicable

Other Information
Toxic to aquatic life with long lasting effects

Unknown acute toxicity 13% of the mixture consists of ingredient(s) of unknown toxicity

3. COMPOSITION/INFORMATION ON INGREDIENTS

Substance

Chemical Name	CAS No.	Weight-%	Trade Secret
Tetrasodium Ethylenediaminetetraacetate	64-02-8	5-25	*
Disodium Cocoampho Dipropionate	68604-71-7	5-25	*
2-Butoxyethanol	111-76-2	2-17	*
Sodium metasilicate	6834-92-0	3-14	*
Nonylphenol polyethylene glycol ether	127087-87-0	2-14	*
Potassium hydroxide	1310-58-3	<10	*

*The exact percentage (concentration) of composition has been withheld as a trade secret.

4. FIRST AID MEASURES

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Description of first aid measures

General advice	In case of accident or unwellness, seek medical advice immediately (show directions for use or safety data sheet if possible).
Eye contact	Immediately flush with plenty of water. After initial flushing, remove any contact lenses and continue flushing for at least 15 minutes.
Skin contact	Skin Contact: For minor skin contact, avoid spreading material on unaffected skin. In case of contact with substance, immediately flush skin with running water for at least 20 minutes. Remove and isolate contaminated clothing.
Inhalation	Remove from exposure, lie down. Call a physician or poison control center immediately. If breathing is difficult, give oxygen. If not breathing, give artificial respiration.
Ingestion	Rinse mouth. Call a physician or poison control center immediately. Do NOT induce vomiting. Never give anything by mouth to an unconscious person.

Most important symptoms and effects, both acute and delayed

Symptoms	Symptoms: Aside from the information found under Description of first aid measures (above) and Indication of immediate medical attention and special treatment needed (below), any additional important symptoms and effects are described in Section 11: Toxicology Information.

Indication of any immediate medical attention and special treatment needed

Note to physicians	All treatments should be based on observed signs and symptoms of distress in the patient. Consideration should be given to the possibility that overexposure to materials other that this product may have occurred. Note to physician: (2-Butoxyethanol): Due to structural analogy and clinical data, this material may have a mechanism of intoxication similar to ethylene glycol. On that basis, treatment similar to ethylene glycol intoxication may be of benefit. In cases where several ounces (60 - 100 ml) have been ingested, consider the use of ethanol and hemodialysis in the treatment. Consult standard literature for details of treatment. If ethanol is used, a therapeutically effective blood concentration in the range of 100 - 150 mg/dl may be achieved by a rapid loading dose followed by a continuous intravenous infusion. Consult standard literature for details of treatment. 4-Methyl pyrazole (Antizol®) is an effective blocker of alcohol dehydrogenase and should be used in the treatment of ethylene glycol (EG), di- or triethylene glycol (DEG, TEG), ethylene glycol butyl ether (EGBE), or methanol intoxication if available. Fomepizole protocol (Brent, J. et al., New England Journal of Medicine, Feb. 8, 2001, 344:6, p. 424-9): loading dose 15 mg/kg intravenously, follow by bolus dose of 10 mg/kg every 12 hours; after 48 hours, increase bolus dose to 15 mg/kg every 12 hours. Continue fomepizole until serum methanol, EG, DEG, TEG or EGBE are undetectable. The signs and symptoms of poisoning include anion gap metabolic acidosis, CNS depression, renal tubular injury, and possible late stage cranial nerve involvement. Respiratory symptoms, including pulmonary edema, may be delayed. Persons receiving significant exposure should be observed 24-48 hours for signs of respiratory distress. Maintain adequate ventilation and oxygenation of the patient. In severe poisoning, respiratory support with mechanical ventilation and positive end expiratory pressure may be required. If lavage is performed, suggest endotracheal and/or esophageal control. Danger from lung aspiration must be weighed against toxicity when considering emptying the stomach. Treatment of exposure should be directed at the control of symptoms and the clinical condition of the patient. Repeated excessive exposure may aggravate preexisting blood disease (anemia).

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media

Water spray (fog). Carbon dioxide (CO2). Foam. Extinguishing powder. Alcohol resistant foam.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Unsuitable extinguishing media CAUTION: Use of water spray when fighting fire may be inefficient.

Specific hazards arising from the chemical
Containers may explode when heated. Vapors may travel to areas away from work site before igniting/flashing back to vapor source. Material may burn however it does not sustain combustion as determined by a test method specified in 49 CFR 173 Appendix H ro Part 173 Method for Sustained Combustibility. (Disodium Cocoampho Dipropionate).

Explosion data
Sensitivity to Mechanical Impact None.
Sensitivity to Static Discharge None.

Protective equipment and precautions for firefighters
As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal precautions	Personal precautions: No action shall be taken involving any personal risk or without suitable training. Evacuate surrounding areas. Keep unnecessary and unprotected personnel from entering. Do not touch or walk through spilled material. Do not breathe vapor or mist. Provide adequate ventilation. Wear appropriate respirator when ventilation is inadequate. Put on appropriate personal protective equipment (see Section 8).

Environmental precautions

Environmental precautions	Do not allow into any sewer, on the ground or into any body of water. Local authorities should be advised if significant spillages cannot be contained.

Methods and material for containment and cleaning up

Methods for containment	Soak up condensate with inert absorbent material and collect in ventilated waste container for disposal.
Methods for cleaning up	Soak up with inert absorbent material (e.g. sand, silica gel, acid binder, universal binder, sawdust). Sweep up and shovel into suitable containers for disposal. Take precautionary measures against static discharges. Take up mechanically, placing in appropriate containers for disposal.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on safe handling	Avoid contact with skin, eyes or clothing. Do not breathe dust/fume/gas/mist/vapors/spray. In case of insufficient ventilation, wear suitable respiratory equipment. Emergency eyewash and shower should be readily available.

Conditions for safe storage, including any incompatibilities

Storage Conditions	Keep container tightly closed in a dry and well-ventilated place. Store in corrosive resistant containers. Stainless steel and Plastic containers are recommended. Keep in properly labeled containers. Store locked up.
Incompatible materials	Oxidizing agent. Amphoteric metals. Light metals. Strong acids. Strong bases. Strong reducing agents. Avoid prolonged contact with alkali sensitive metals such as Aluminum, Brass, Bronze, Copper, Lead, Tin and Zinc due to flammable hydrogen gas generation. Potassium Hydroxide: Organic chemicals, nitrocarbons, halocarbons and metals or alloys mentioned above. Oxidizing agents. Acids. Phosphorus. Aluminum. Zinc. Tin. Initiates or catalyzes violent polymerization of acetaldehyde, acrolein or acrylonitrile.

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8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Control parameters

Exposure Guidelines Specific exposure limits have not been established or are not applicable unless listed below.

Chemical Name	ACGIH TLV	OSHA PEL	NIOSH IDLH
2-Butoxyethanol 111-76-2	TWA: 20 ppm	TWA: 50 ppm TWA: 240 mg/m^3 (vacated) TWA: 25 ppm (vacated) TWA: 120 mg/m^3 (vacated) S* S*	IDLH: 700 ppm TWA: 5 ppm TWA: 24 mg/m^3
Potassium hydroxide 1310-58-3	Ceiling: 2 mg/m^3	(vacated) Ceiling: 2 mg/m^3	Ceiling: 2 mg/m^3

Appropriate engineering controls

Engineering Controls Engineering controls: Use local exhaust ventilation, or other engineering controls to maintain airborne levels below exposure limit requirements or guidelines. If there are no applicable exposure limit requirements or guidelines, general ventilation should be sufficient for most operations. Local exhaust ventilation may be necessary for some operations. Eyewash stations. Showers.

Individual protection measures, such as personal protective equipment

Eye/face protection Chemical resistant goggles must be worn. If splashing is likely, wear tight fitting goggles and face shield. Make emergency eyewash stations, safety/quick-drench showers, and washing facilities available in work area. Avoid contact with eyes.

Skin and body protection Wear protective gloves and protective clothing. Skin: Wear protective clothing to minimize skin contact. When potential for contact with wet material exists, wear Tychem or similar chemical protective suit. When potential for contact with material exists, wear disposable coveralls suitable for dust/mist exposure, such as Tyvek.

Respiratory protection If exposure limits are exceeded or irritation is experienced, NIOSH/MSHA approved respiratory protection should be worn. Positive-pressure supplied air respirators may be required for high airborne contaminant concentrations. Respiratory protection must be provided in accordance with current local regulations.

General Hygiene Considerations Handle in accordance with good industrial hygiene and safety practice.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical state	liquid
Appearance	Thick soapy liquid
Color	No information available
Odor	Mild, butyl odor
Odor threshold	No information available

Property	Values	Remarks • Method
pH	Alkaline pH 11 - 12	
Melting point / freezing point	No information available	
Boiling point / boiling range	No information available	
Flash point	No information available	
Evaporation rate	No information available	
Flammability (solid, gas)	No information available	
Flammability Limit in Air		
Upper flammability limit:	No information available	
Lower flammability limit:	No information available	
Vapor pressure	No information available	

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Vapor density	No information available
Relative density	No information available
Water solubility	No information available
Solubility in other solvents	No information available
Partition coefficient	No information available
Autoignition temperature	No information available
Decomposition temperature	No information available
Kinematic viscosity	No information available
Dynamic viscosity	No information available
Explosive properties	No information available
Oxidizing properties	No information available

Other Information

Softening point	No information available
Molecular weight	No information available
VOC Content (%)	No information available
Density	No information available
Bulk density	No information available

10. STABILITY AND REACTIVITY

Reactivity
No data available

Chemical stability
Stable under recommended storage conditions.

Possibility of Hazardous Reactions
Hazardous reactions: Sodium Metasilicate - Contact with acids will cause evolution of heat. Carbon monoxide gas may form upon contact with reducing sugars, food and beverage products in enclosed spaces. When wet, may react with alkali sensitive metals to form flammable hydrogen gas.

Conditions to avoid
2-Butoxyethanol can oxidize at elevated temperatures. Generation of gas during decomposition can cause pressure in closed systems. Exposure to elevated heat can cause thermal decomposition.

Incompatible materials
Oxidizing agent. Amphoteric metals. Light metals. Strong acids. Strong bases. Strong reducing agents. Avoid prolonged contact with alkali sensitive metals such as Aluminum, Brass, Bronze, Copper, Lead, Tin and Zinc due to flammable hydrogen gas generation. Potassium Hydroxide: Organic chemicals, nitrocarbons, halocarbons and metals or alloys mentioned above. Oxidizing agents. Acids. Phosphorus. Aluminum. Zinc. Tin. Initiates or catalyzes violent polymerization of acetaldehyde, acrolein or acrylonitrile.

Hazardous Decomposition Products
Disodium Cocoampho Dipropionate: On combustion - NOx, Carbon Oxides. 2-Butoxyethanol - Decomposition products can include and are not limited to: Aldehydes. Ketones. Organic acids. Potassium Hydroxide: Flammable hydrogen gas may be generated when KOH and certain metals react.

11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure

Product Information	Alkaline. Causes burns. Irritating to respiratory system.
Inhalation	May cause irritation of respiratory tract. By analogy with sodium hydroxide, inhalation of solution mist is expected to cause mild irritation at 2 mg/m^3. More severe burns and tissue damage in the upper respiratory tract can occur at higher concentrations. Pneumonitis can result from severe exposures. Sodium Metasilicate: May cause irritation of the respiratory tract with coughing, choking, pain and possibly burns of the mucous membranes. Upon contact with moist mucous membranes, sodium metasilicate is highly alkaline and may cause corrosive damage. 2-Butoxyethanol: Brief contact may cause slight skin irritation with local redness. Repeated exposure may cause irritation, even a burn. May cause more severe response on covered skin (under clothing, gloves). All other ingredients either case redness and irritation or information is not available.

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Eye contact

Potassium Hydroxide: Major potential hazard – Liquid in the eye can cause severe destruction and blindness. These effects can occur rapidly affecting all parts of the eye. Mist or dust can cause irritation with high concentrations causing destructive burns. Sodium Metasilicate: Causes serious eye damage. May cause severe irritation, pain and corneal burns (possibly leading to blindness). The full extent of the injury may not be immediately apparent. 2-Butoxyethanol: May cause severe eye irritation. May cause moderate corneal injury. Effects may be slow to heal. Vapor may cause eye irritation experienced as mild discomfort and redness. All other ingredients: No information available.

Skin contact

Potassium Hydroxide: Major potential hazard - contact with the skin can cause severe burns with deep ulcerations. Contact with solution or mist can cause multiple burns with temporary loss of hair at burn site. Solutions may not cause immediate pain or irritation upon skin contact. Prolonged or repeated contact with dilute solutions may cause drying and cracking of skin and possible skin damage. Sodium Metasilicate: Causes severe skin burns. May cause redness, irritation, burning sensation, swelling, blister formation, first, second, or third degree burns. 2-Butoxyethanol: Brief contact may cause slight skin irritation with local redness. Repeated exposure may cause irritation, even a burn. May cause more severe response on covered skin (under clothing, gloves). All other ingredients: no information available.

Ingestion

Ingestion of potassium hydroxide can cause severe burning and pain in lips, mouth, tongue, throat and stomach. Severe scarring of the throat can occur after swallowing. Death can result from ingestion of larger amounts. Sodium Metasilicate: Harmful if swallowed. May cause immediate pain and severe burns of the upper and lower gastrointestinal tract with vomiting, nausea, and diarrhea.

Chemical Name	Oral LD50	Dermal LD50	Inhalation LC50
Tetrasodium Ethylenediaminetetraacetate 64-02-8	= 1658 mg/kg (Rat) = 10 g/kg (Rat)	-	-
2-Butoxyethanol 111-76-2	= 470 mg/kg (Rat)	= 99 mg/kg (Rabbit)	= 450 ppm (Rat) 4 h
Sodium metasilicate 6834-92-0	= 1153 mg/kg (Rat)	-	-
Nonylphenol polyethylene glycol ether 127087-87-0	= 1310 mg/kg (Rat)	-	-
Potassium hydroxide 1310-58-3	= 284 mg/kg (Rat)	-	-

Information on toxicological effects

Symptoms

All symptoms of acute toxicity are due to high alkalinity.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

Sensitization

Classification criteria not met.

Germ cell mutagenicity

No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic. None known.

Carcinogenicity

The table below indicates whether each agency has listed any ingredient as a carcinogen.

Chemical Name	ACGIH	IARC	NTP	OSHA
2-Butoxyethanol 111-76-2	A3	Group 3	-	-

Reproductive toxicity

With 2-Butoxyethanol, laboratory animal studies, effects have been seen only at a dose that produced significant toxicity to the parent animals.

STOT - single exposure

Disodium Cocoampho Dipropionate: Routes of exposure: Ingestion, Skin contact, Inhalation (vapor) Target Organs: Central nervous system, optic nerve Toxicology Assessment: The substance or mixture is classified as specific target organ toxicant, single exposure, category 1. According to the classification criteria for mixtures. Sodium Metasilicate: Category 3 - Respiratory tract irritation.

STOT - repeated exposure

2-Butoxyethanol: In animals, effects have been reported on the following organs: blood (hemolysis) and secondary effects on the kidney and liver. Human red blood cells have

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been shown to be significantly less sensitive to hemolysis than those of rodents and rabbits. Nonylphenol Polyethylene Glycol Ether: For this family of materials: In animals, effects have been reported on the following organs: Kidney. Liver.

Aspiration hazard Based on physical properties, not likely to be an aspiration hazard.

Numerical measures of toxicity - Product Information

The following values are calculated based on chapter 3.1 of the GHS document .

ATEmix (oral)	1,302.00
ATEmix (dermal)	8,700.00
ATEmix (inhalation-dust/mist)	11.86
ATEmix (inhalation-vapor)	3,559.00

12. ECOLOGICAL INFORMATION

Ecotoxicity

The table below indicates whether this product is an aquatic toxin

Chemical Name	Algae/aquatic plants	Fish	Crustacea
Tetrasodium Ethylenediaminetetraacetate 64-02-8	1.01: 72 h Desmodesmus subspicatus mg/L EC50	41: 96 h Lepomis macrochirus mg/L LC50 static 59.8: 96 h Pimephales promelas mg/L LC50 static	610: 24 h Daphnia magna mg/L EC50
2-Butoxyethanol 111-76-2	-	1490: 96 h Lepomis macrochirus mg/L LC50 static 2950: 96 h Lepomis macrochirus mg/L LC50	1698 - 1940: 24 h Daphnia magna mg/L EC50 1000: 48 h Daphnia magna mg/L EC50
Sodium metasilicate 6834-92-0	-	210: 96 h Brachydanio rerio mg/L LC50 210: 96 h Brachydanio rerio mg/L LC50 semi-static	216: 96 h Daphnia magna mg/L EC50
Potassium hydroxide 1310-58-3	-	80: 96 h Gambusia affinis mg/L LC50 static	-

Persistence and degradability

EDTA TETRASODIUM: Assessment biodegradation and elimination (H2O)Experience has shown that the product is difficult to eliminate in effluent treatment plants. Was found to be potentially biodegradeable. Ethylenediaminetetraacetic Acid Tetrasodium Salt Was found to be potentially biodegradeable. Not readily biodegradable (by OECD criteria). Disodium Cocoampho Dipropionate: Inherently biodegradable. 2-butoxyethanol: Biodegradability: Material is readily biodegradable. Passes OECD test(s) for ready biodegradability. Material is ultimately biodegradable (reaches > 70% mineralization in OECD test(s) for inherent biodegradability).10-day Window: Pass Biodegradation: 90.4 % Exposure time: 28 d Method: OECD Test Guideline 301B or Equivalent. Sodium Metasilicate: This material is inorganic and not subject to biodegradation. This material is believed to persist in the environment. Potassium Hydroxide: Not biodegradable (Biodegradability term pertains to an organic material capable of decomposition as a result of attack by microorganisms). However, potassium hydroxide will be neutralized by acidity present in natural environment. Nonylphenol polyethylene glycol ether: Biodegradability: For this family of materials: Based on stringent OECD test guidelines, this material cannot be considered as readily biodegradable; however, these results do not necessarily mean that the material is not biodegradable under environmental conditions.10-day Window: Not applicable Biodegradation: < 60 % Exposure time: 28 d Method: OECD Test Guideline 301B or Equivalent Theoretical Oxygen Demand: 2.15 - 2.25 mg/mg Chemical Oxygen Demand: 2.09 - 2.25 mg/mg Bioaccumulative potential Partition coefficient: n-octanol/water(log Pow): 2.1 - 3.4 Calculated. Bioconcentration factor (BCF): 5.9 - 48 Fish. Estimated.

Bioaccumulation

2-butoxyethanol: Bioaccumulation: Bioconcentration potential is low (BCF < 100 or Log Pow < 3). Partition coefficient: n-octanol/water(log Pow): 0.81 Measured Bioconcentration factor (BCF): 3.2. Nonylphenol polyethylene glycol ether: Partition coefficient: n-octanol/water(log Pow): 2.1 - 3.4 Calculated.Bioconcentration factor (BCF): 5.9 - 48 Fish. Estimated. The remaining ingredients either do not meet the criteria or does not have information.

Chemical Name	Partition coefficient
2-Butoxyethanol 111-76-2	0.81
Potassium hydroxide 1310-58-3	0.65 0.83

Other adverse effects No information available

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

13. DISPOSAL CONSIDERATIONS

Waste treatment methods

Disposal of wastes

Disposal of wastes: Disposal methods: DO NOT DUMP INTO ANY SEWERS, ON THE GROUND, OR INTO ANY BODYOF WATER. All disposal practices must be in compliance with all Federal, State/Provincial and local laws and regulations. Regulations may vary in different locations. Waste characterizations and compliance with applicable laws are the responsibility solely of the waste generator. AS YOUR SUPPLIER, WE HAVE NO CONTROL OVER THE MANAGEMENT PRACTICES OR MANUFACTURING PROCESSES OF PARTIES HANDLING OR USING THIS MATERIAL. THE INFORMATION PRESENTED HERE PERTAINS ONLY TO THE PRODUCT AS SHIPPED IN ITS INTENDED CONDITION AS DESCRIBED IN MSDS SECTION: Composition Information. FOR UNUSED & UNCONTAMINATED PRODUCT, the preferred options include sending to a licensed, permitted: incinerator or other thermal destruction device. Waste water treatment system.

Contaminated packaging

Contaminated packaging: Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

Chemical Name	California Hazardous Waste Status
Potassium hydroxide 1310-58-3	Toxic Corrosive

14. TRANSPORT INFORMATION

DOT

UN/ID no.	Regulated 3266
Proper shipping name	Corrosive Liquid, Basic, Inorganic, n.o.s. (contains Sodium Metasilicate, Pentahydrate and Potassium Hydroxide)
Hazard Class	8
Packing Group	PGII

15. REGULATORY INFORMATION

International Inventories

TSCA	Complies
DSL/NDSL	Complies
EINECS/ELINCS	Complies
ENCS	Does not comply
IECSC	Complies
KECL	Complies
PICCS	Complies
AICS	Complies

Legend:

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory

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DSL/NDSL - Canadian Domestic Substances List/Non-Domestic Substances List
EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances
ENCS - Japan Existing and New Chemical Substances
IECSC - China Inventory of Existing Chemical Substances
KECL - Korean Existing and Evaluated Chemical Substances
PICCS - Philippines Inventory of Chemicals and Chemical Substances
AICS - Australian Inventory of Chemical Substances

US Federal Regulations

SARA 313

Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product contains a chemical or chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372

SARA 311/312 Hazard Categories

Acute health hazard	2-Butoxyethanol - Yes EDTA Tetrasodium - Yes Disodium Cocoampho Dipropionate - Yes Nonylphenol Polyethylene Glycol Ether - Yes
Chronic Health Hazard	2-Butoxyethanol - Yes
Fire hazard	2-Butoxyethanol - Yes Disodium Cocoampho Dipropionate - Yes
Sudden release of pressure hazard	No
Reactive Hazard	No

CWA (Clean Water Act)

This product does not contain any substances regulated as pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

Chemical Name	CWA - Reportable Quantities	CWA - Toxic Pollutants	CWA - Priority Pollutants	CWA - Hazardous Substances
Potassium hydroxide 1310-58-3	1000 lb	-	-	X

CERCLA

This material, as supplied, does not contain any substances regulated as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302) or the Superfund Amendments and Reauthorization Act (SARA) (40 CFR 355). There may be specific reporting requirements at the local, regional, or state level pertaining to releases of this material

Chemical Name	Hazardous Substances RQs	CERCLA/SARA RQ	Reportable Quantity (RQ)
Potassium hydroxide 1310-58-3	1000 lb	-	RQ 1000 lb final RQ RQ 454 kg final RQ

US State Regulations

California Proposition 65

This product does not contain any Proposition 65 chemicals

U.S. State Right-to-Know Regulations

U.S. EPA Label Information

EPA Pesticide Registration Number Not applicable

16. OTHER INFORMATION, INCLUDING DATE OF PREPARATION OF THE LAST REVISION

NFPA	**Health hazards** 3	**Flammability** 1	**Instability** 0	**Physical and Chemical Properties** -
HMIS	**Health hazards** 3	**Flammability** 1	**Physical hazards** 0	**Personal protection** X

Issue Date 24-May-2016
Revision Date 25-May-2016
Revision Note
No information available
Disclaimer

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

The information provided in this Material Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

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Qual Chem
JOIN THE GREEN TEAM

Safety Data Sheet

Issue Date: 04-Feb-2015 **Revision Date:** 19-Feb-2015 **Version** 1

1. IDENTIFICATION

Product Identifier
Product Name NanoNauba Blue

Other means of identification
SDS # QC-098B

Recommended use of the chemical and restrictions on use
Recommended Use Cleaning agent.

Details of the supplier of the safety data sheet
Supplier Address
Qual Chem LLC
86 Merz Blvd
Akron, OH 44333

Emergency Telephone Number
Company Phone Number 1-800-616-CHEM (2436)
Emergency Telephone (24 hr) INFOTRAC 1-352-323-3500 (International)
1-800-535-5053 (North America)

2. HAZARDS IDENTIFICATION

Appearance Clear, dark brown/ yellow liquid **Physical State** Liquid

Classification

Skin sensitization	Category 1

Hazards Not Otherwise Classified (HNOC)
Causes mild skin irritation

Signal Word
Warning

Hazard Statements
May cause an allergic skin reaction

Precautionary Statements - Prevention
Avoid breathing dust/fume/gas/mist/vapors/spray
Contaminated work clothing should not be allowed out of the workplace
Wear protective gloves

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Precautionary Statements - Response
IF ON SKIN: Wash with plenty of soap and water
Wash contaminated clothing before reuse
If skin irritation or rash occurs: Get medical advice/attention

Precautionary Statements - Disposal
Dispose of contents/container to an approved waste disposal plant

Other Hazards
Harmful to aquatic life with long lasting effects

3. COMPOSITION/INFORMATION ON INGREDIENTS

Chemical Name	CAS No	Weight-%
Proprietary solvent	Proprietary	<5
Proprietary surfactant	Proprietary	<5
Proprietary solvent	Proprietary	<5
Proprietary solvent	Proprietary	<1

If Chemical Name/CAS No is "proprietary" and/or Weight-% is listed as a range, the specific chemical identity and/or percentage of composition has been withheld as a trade secret.

4. FIRST-AID MEASURES

First Aid Measures

Eye Contact Rinse thoroughly with plenty of water for at least 15 minutes, lifting lower and upper eyelids. Consult a physician.

Skin Contact Wash with plenty of soap and water. Wash contaminated clothing before reuse. If skin irritation or rash occurs: Get medical advice/attention.

Inhalation Remove to fresh air.

Ingestion Clean mouth with water and drink afterwards plenty of water.

Most important symptoms and effects

Symptoms Causes mild skin irritation. May cause an allergic skin reaction.

Indication of any immediate medical attention and special treatment needed

Notes to Physician Treat symptomatically.

5. FIRE-FIGHTING MEASURES

Suitable Extinguishing Media
Use extinguishing measures that are appropriate to local circumstances and the surrounding environment.

Unsuitable Extinguishing Media Not determined.

Specific Hazards Arising from the Chemical
Not determined.

Protective equipment and precautions for firefighters
As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal Precautions	Use personal protective equipment as required.
Environmental Precautions	See Section 12 for additional Ecological Information.

Methods and material for containment and cleaning up

Methods for Containment	Prevent further leakage or spillage if safe to do so.
Methods for Clean-Up	Keep in suitable, closed containers for disposal.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on Safe Handling	Handle in accordance with good industrial hygiene and safety practice. Avoid breathing dust/fume/gas/mist/vapors/spray. Contaminated work clothing should not be allowed out of the workplace. Wear protective gloves.

Conditions for safe storage, including any incompatibilities

Storage Conditions	Keep containers tightly closed in a dry, cool and well-ventilated place.
Incompatible Materials	None known based on information supplied.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Exposure Guidelines

Chemical Name	ACGIH TLV	OSHA PEL	NIOSH IDLH
Proprietary solvent	TWA: 20 ppm	TWA: 50 ppm TWA: 240 mg/m³ (vacated) TWA: 25 ppm (vacated) TWA: 120 mg/m³ (vacated) S* S*	IDLH: 700 ppm TWA: 5 ppm TWA: 24 mg/m³
Proprietary solvent	-	TWA: 15 mg/m³ mist, total particulate TWA: 5 mg/m³ mist, respirable fraction (vacated) TWA: 10 mg/m³ mist, total particulate (vacated) TWA: 5 mg/m³ mist, respirable fraction	-

Appropriate engineering controls

Engineering Controls	Apply technical measures to comply with the occupational exposure limits.

Individual protection measures, such as personal protective equipment

Eye/Face Protection	Avoid contact with eyes.
Skin and Body Protection	Wear suitable protective clothing.
Respiratory Protection	Ensure adequate ventilation, especially in confined areas.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

General Hygiene Considerations Handle in accordance with good industrial hygiene and safety practice.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical State	Liquid		
Appearance	Clear, dark brown/ yellow liquid	**Odor**	Not determined
Color	Clear, dark brown/ yellow	**Odor Threshold**	Not determined

Property	Values	Remarks • Method
pH	Not determined	
Melting Point/Freezing Point	Not determined	
Boiling Point/Boiling Range	Not determined	
Flash Point	Not determined	
Evaporation Rate	Not determined	
Flammability (Solid, Gas)	Not determined	
Upper Flammability Limits	Not determined	
Lower Flammability Limit	Not determined	
Vapor Pressure	Not determined	
Vapor Density	Not determined	
Specific Gravity	Not determined	
Water Solubility	Not determined	
Solubility in other solvents	Not determined	
Partition Coefficient	Not determined	
Auto-ignition Temperature	Not determined	
Decomposition Temperature	Not determined	
Kinematic Viscosity	Not determined	
Dynamic Viscosity	Not determined	
Explosive Properties	Not determined	
Oxidizing Properties	Not determined	

10. STABILITY AND REACTIVITY

Reactivity
Not reactive under normal conditions.

Chemical Stability
Stable under recommended storage conditions.

Possibility of Hazardous Reactions
None under normal processing.

Conditions to Avoid
Keep out of reach of children.

Incompatible Materials
None known based on information supplied.

Hazardous Decomposition Products
None known based on information supplied.

11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure

Product Information

Eye Contact Avoid contact with eyes.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Skin Contact Causes mild skin irritation.

Inhalation Do not inhale.

Ingestion Do not ingest.

Component Information

Chemical Name	Oral LD50	Dermal LD50	Inhalation LC50
Proprietary solvent	= 470 mg/kg (Rat)	= 2270 mg/kg (Rat) = 220 mg/kg (Rabbit)	= 2.21 mg/L (Rat) 4 h = 450 ppm (Rat) 4 h
Proprietary solvent	> 5000 mg/kg (Rat)	> 2000 mg/kg (Rabbit)	> 5.2 mg/L (Rat) 4 h
Proprietary surfactant	= 4900 mg/kg (Rat)	-	-
Proprietary solvent	= 20000 mg/kg (Rat)	= 20800 mg/kg (Rabbit)	-
Proprietary solvent	> 17 g/kg (Rat)	> 2 g/kg (Rabbit)	-
Proprietary surfactant	= 3 g/kg (Rat)	> 10 g/kg (Rabbit)	> 42 g/m³ (Rat) 1 h
Proprietary solvent	= 12300 µL/kg (Rat)	-	-
Proprietary solvent	= 12600 mg/kg (Rat)	> 10 g/kg (Rabbit)	> 570 mg/m³ (Rat) 1 h

Information on physical, chemical and toxicological effects

Symptoms Please see section 4 of this SDS for symptoms.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

Sensitization May cause an allergic skin reaction.

Carcinogenicity Group 3 IARC components are "not classifiable as human carcinogens".

Chemical Name	ACGIH	IARC	NTP	OSHA
Proprietary solvent	A3	Group 3		

Legend

ACGIH (American Conference of Governmental Industrial Hygienists)
A3 - Animal Carcinogen
IARC (International Agency for Research on Cancer)
Group 3 IARC components are "not classifiable as human carcinogens"

Numerical measures of toxicity

Not determined

12. ECOLOGICAL INFORMATION

Ecotoxicity

Harmful to aquatic life with long lasting effects.

Component Information

Chemical Name	Algae/aquatic plants	Fish	Toxicity to microorganisms	Crustacea
Proprietary solvent		1490: 96 h Lepomis macrochirus mg/L LC50 static 2950: 96 h Lepomis macrochirus mg/L LC50		1698 - 1940: 24 h Daphnia magna mg/L EC50 1000: 48 h Daphnia magna mg/L EC50

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Chemical Name	Algae/aquatic plants	Fish	Toxicity to microorganisms	Crustacea
Proprietary solvent		45: 96 h Pimephales promelas mg/L LC50 flow-through 2.2: 96 h Lepomis macrochirus mg/L LC50 static 2.4: 96 h Oncorhynchus mykiss mg/L LC50 static		
Proprietary surfactant	1.0 - 10.0: 72 h Desmodesmus subspicatus mg/L EC50 0.55: 96 h Desmodesmus subspicatus mg/L EC50	1.0 - 10.0: 96 h Brachydanio rerio mg/L LC50 2: 96 h Brachydanio rerio mg/L LC50 semi-static		6.5: 48 h Daphnia magna mg/L EC50
Proprietary solvent	19000: 96 h Pseudokirchneriella subcapitata mg/L EC50	51600: 96 h Oncorhynchus mykiss mg/L LC50 static 41 - 47: 96 h Oncorhynchus mykiss mL/L LC50 static 51400: 96 h Pimephales promelas mg/L LC50 static 710: 96 h Pimephales promelas mg/L LC50		10000: 24 h Daphnia magna mg/L EC50 1000: 48 h Daphnia magna mg/L EC50 Static
Proprietary surfactant		5560 - 6080: 96 h Lepomis macrochirus mg/L LC50 flow-through 12946: 96 h Lepomis macrochirus mg/L LC50 static 6020 - 7070: 96 h Pimephales promelas mg/L LC50 static 7050: 96 h Pimephales promelas mg/L LC50 semi-static 6420 - 6700: 96 h Pimephales promelas mg/L LC50 static 4747 - 7824: 96 h Oncorhynchus mykiss mg/L LC50 flow-through		1000: 48 h Daphnia magna mg/L EC50 340.7 - 469.2: 48 h Daphnia magna mg/L EC50 Static
Proprietary solvent		51 - 57: 96 h Oncorhynchus mykiss mL/L LC50 static		

Persistence/Degradability
Not determined.

Bioaccumulation
Not determined.

Mobility

Chemical Name	Partition Coefficient
Proprietary solvent	0.81
Proprietary solvent	-1.76

Other Adverse Effects
Not determined

13. DISPOSAL CONSIDERATIONS

Waste Treatment Methods

Disposal of Wastes Disposal should be in accordance with applicable regional, national and local laws and regulations.

Contaminated Packaging Disposal should be in accordance with applicable regional, national and local laws and regulations.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

14. TRANSPORT INFORMATION

Note Please see current shipping paper for most up to date shipping information, including exemptions and special circumstances.

DOT Not regulated

IATA Not regulated

IMDG

Marine Pollutant This material may meet the definition of a marine pollutant

15. REGULATORY INFORMATION

International Inventories

Chemical Name	TSCA	DSL	NDSL	EINECS	ELINCS	ENCS	IECSC	KECL	PICCS	AICS
Proprietary solvent	Present	X		Present		Present	X	Present	X	X
Proprietary surfactant	Present	X		Present		Present	X	Present	X	X
Proprietary solvent	Present	X		Present		Present	X	Present	X	X
Proprietary solvent	Present	X		Present		Present	X	Present	X	X

Legend:

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory

DSL/NDSL - Canadian Domestic Substances List/Non-Domestic Substances List

EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances

ENCS - Japan Existing and New Chemical Substances

IECSC - China Inventory of Existing Chemical Substances

KECL - Korean Existing and Evaluated Chemical Substances

PICCS - Philippines Inventory of Chemicals and Chemical Substances

AICS - Australian Inventory of Chemical Substances

US Federal Regulations

CERCLA

This material, as supplied, does not contain any substances regulated as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302) or the Superfund Amendments and Reauthorization Act (SARA) (40 CFR 355).

SARA 313

Chemical Name	CAS No	Weight-%	SARA 313 - Threshold Values %
Proprietary solvent -		<5	1.0

CWA (Clean Water Act)

This product does not contain any substances regulated as pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

US State Regulations

California Proposition 65

This product does not contain any Proposition 65 chemicals.

U.S. State Right-to-Know Regulations

Chemical Name	New Jersey	Massachusetts	Pennsylvania
Proprietary solvent	X	X	X

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Chemical Name	New Jersey	Massachusetts	Pennsylvania
Proprietary solvent	X		X
Proprietary solvent	X	X	X

16. OTHER INFORMATION

NFPA

Health Hazards	Flammability	Instability	Special Hazards
Not determined	Not determined	Not determined	Not determined

HMIS

Health Hazards	Flammability	Physical Hazards	Personal Protection
Not determined	Not determined	Not determined	Not determined

Issue Date: 04-Feb-2015
Revision Date: 19-Feb-2015
Revision Note: New format

Disclaimer

The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

SAFETY DATA SHEET

Issue Date 27-May-2016 **Revision Date** 27-May-2016 **Version** 1

1. IDENTIFICATION

Product Identifier

Product Name Pre - Soak A

Other means of identification

Product Code PRESOAKA

Synonyms None

Recommended use of the chemical and restrictions on use

Recommended Use Industrial cleaner, Industrial vehicle wash.
Uses advised against Consumer use

Details of the supplier of the safety data sheet

Manufacturer Address
Delta Sonic 570 Delaware, Buffalo, New York 14202

Emergency telephone number

Company Phone Number (716) 843-5477
Emergency Telephone Chemtrec 1-800-424-9300

2. HAZARDS IDENTIFICATION

Classification

OSHA Regulatory Status
This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

Acute toxicity - Oral	Category 4
Acute toxicity - Dermal	Category 4
Acute toxicity - Inhalation (Vapors)	Category 4
Skin corrosion/irritation	Category 2
Serious eye damage/eye irritation	Category 1

Label elements

Emergency Overview

Danger

Hazard statements
Harmful if swallowed
Causes skin irritation
Causes serious eye damage

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Appearance Soapy liquid | Physical state liquid | Odor Mild, butyl odor

Precautionary Statements - Prevention
Obtain special instructions before use
Do not get in eyes, on skin, or on clothing
Wash face, hands and any exposed skin thoroughly after handling
Wear protective gloves/eye protection/face protection
Avoid release to the environment
Do not eat, drink or smoke when using this product
Wear eye protection/ face protection

Precautionary Statements - Response
Call a POISON CENTER or doctor/physician if you feel unwell
IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing
If eye irritation persists: Get medical advice/attention
IF ON SKIN: Wash with plenty of water and soap
If skin irritation occurs: Get medical advice/attention
Take off contaminated clothing and wash it before reuse
IF INHALED: If breathing is difficult, remove victim to fresh air and keep at rest in a position comfortable for breathing
Call a POISON CENTER or doctor if you feel unwell
IF SWALLOWED: Immediately call a POISON CENTER or doctor

Precautionary Statements - Storage
Store locked up
Store in accordance with local regulations

Precautionary Statements - Disposal
Dispose of contents/container to an approved waste disposal plant

Hazards not otherwise classified (HNOC)
Not applicable

Other Information
May be harmful if swallowed

Unknown acute toxicity 0% of the mixture consists of ingredient(s) of unknown toxicity

3. COMPOSITION/INFORMATION ON INGREDIENTS

Substance

Chemical Name	CAS No.	Weight-%	Trade Secret
Citric Acid	77-92-9	10-30	*
Alcohol ethoxylates	68439-46-3	18-27	*
2-Butoxyethanol	111-76-2	<18	*
Tetra-Alkyl Ammonium Compound	Proprietary	10 - 20%	*

*The exact percentage (concentration) of composition has been withheld as a trade secret.

4. FIRST AID MEASURES

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Description of first aid measures

General advice

General advice: First Aid responders should pay attention to self-protection and use the recommended protective clothing (chemical resistant gloves, splash protection). If potential for exposure exists refer to Section 8 for specific personal protective equipment.

Eye contact

Eye contact: Immediately flush eyes with water; remove contact lenses, if present, after the first 5 minutes, then continue flushing eyes for at least 15 minutes. Obtain medical attention without delay, preferably from an ophthalmologist. Suitable emergency eye wash facility should be immediately available.

Skin contact

Wash off immediately with soap and plenty of water while removing all contaminated clothes and shoes. Consult a physician if necessary. Wash clothing separately before reuse.

Inhalation

Remove from exposure, lie down. Call a physician or poison control center immediately. If breathing is difficult, give oxygen. If not breathing, give artificial respiration.

Ingestion

Do NOT induce vomiting. Call a physician or poison control center immediately. Clean mouth with water. Never give anything by mouth to an unconscious person. If swallowed, stomach should be umped out under addition of Dimeeticon antifoam agent. (Variquat K-1215).

Most important symptoms and effects, both acute and delayed

Symptoms

Gastrointestinal complaints.

Indication of any immediate medical attention and special treatment needed

Note to physicians

Note to physician: (2-Butoxyethanol): Due to structural analogy and clinical data, this material may have a mechanism of intoxication similar to ethylene glycol. On that basis, treatment similar to ethylene glycol intoxication may be of benefit. In cases where several ounces (60 - 100 ml) have been ingested, consider the use of ethanol and hemodialysis in the treatment. Consult standard literature for details of treatment. If ethanol is used, a therapeutically effective blood concentration in the range of 100 - 150 mg/dl may be achieved by a rapid loading dose followed by a continuous intravenous infusion. Consult standard literature for details of treatment. 4-Methyl pyrazole (Antizol®) is an effective blocker of alcohol dehydrogenase and should be used in the treatment of ethylene glycol (EG), di- or triethylene glycol (DEG, TEG), ethylene glycol butyl ether (EGBE), or methanol intoxication if available. Fomepizole protocol (Brent, J. et al., New England Journal of Medicine, Feb. 8, 2001, 344:6, p. 424-9): loading dose 15 mg/kg intravenously, follow by bolus dose of 10 mg/kg every 12 hours; after 48 hours, increase bolus dose to 15 mg/kg every 12 hours. Continue fomepizole until serum methanol, EG, DEG, TEG or EGBE are undetectable. The signs and symptoms of poisoning include anion gap metabolic acidosis, CNS depression, renal tubular injury, and possible late stage cranial nerve involvement. Respiratory symptoms, including pulmonary edema, may be delayed. Persons receiving significant exposure should be observed 24-48 hours for signs of respiratory distress. Maintain adequate ventilation and oxygenation of the patient. In severe poisoning, respiratory support with mechanical ventilation and positive end expiratory pressure may be required. If lavage is performed, suggest endotracheal and/or esophageal control. Danger from lung aspiration must be weighed against toxicity when considering emptying the stomach. Treatment of exposure should be directed at the control of symptoms and the clinical condition of the patient. Repeated excessive exposure may aggravate preexisting blood disease (anemia).

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media

Dry chemical, CO2, alcohol-resistant foam or water spray.

Unsuitable extinguishing media CAUTION: Use of water spray when fighting fire may be inefficient.

Specific hazards arising from the chemical

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Specific hazards arising from the chemical: During a fire, smoke may contain the original material in addition to combustion products of varying composition which may be toxic and/or irritating. Combustion products may include and are not limited to: Carbon monoxide. Carbon dioxide.

Explosion data

Sensitivity to Mechanical Impact None.

Sensitivity to Static Discharge No information available.

Protective equipment and precautions for firefighters

Protective equipment and precautions for firefighters: Wear positive-pressure self-contained breathing apparatus (SCBA) and protective fire-fighting clothing (includes fire-fighting helmet, coat, trousers, boots, and gloves). Avoid contact with this material during fire-fighting operations. If contact is likely, change to full chemical resistant fire-fighting clothing with self-contained breathing apparatus. If this is not available, wear full chemical resistant clothing with self-contained breathing apparatus and fight fire from a remote location. For protective equipment in post-fire or non-fire clean-up situations, refer to the relevant sections.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal precautions	Personal precautions: Remove all ignition sources. Keep unnecessary and unprotected persons away. Isolate hazard area and deny entry. Stop spill/leak if no risk involved. Consider evacuation of personnel located downwind if material is leaking. Do not get in eyes, on skin or on clothing. Do not breathe dust, fume, gas, mist, vapors, or spray. Do not ingest. Wear appropriate personal protective equipment recommended in Section 8, Exposure Controls / Personal Protection, of the SDS.

Environmental precautions

Environmental precautions	Prevent further leakage or spillage if safe to do so. Prevent entry into waterways, sewers, basements or confined areas. Local authorities should be advised if significant spillages cannot be contained.

Methods and material for containment and cleaning up

Methods for containment	Soak up with inert absorbent material and dispose of as hazardous waste. Keep in suitable, closed containers for disposal. Dike far ahead of liquid spill for later disposal.
Methods for cleaning up	Soak up with inert absorbent material. Prevent product from entering drains. Take up mechanically, placing in appropriate containers for disposal.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on safe handling	Use personal protective equipment as required. Wash contaminated clothing before reuse. Keep away from heat/sparks/open flames/hot surfaces. - No smoking.

Conditions for safe storage, including any incompatibilities

Storage Conditions	Keep container tightly closed in a dry and well-ventilated place. Keep in properly labeled containers. Keep out of the reach of children. Protect from sunlight. Store locked up. Store in accordance with local regulations.
Incompatible materials	Strong oxidizers, potassium tartrate, alkali and alkaline earth carbonates and bicarbonates, acetates, sulfites, and metal nitrates (potentially explosive reaction). Citric acid corrodes copper, zinc, aluminum and their alloys. Strong acids. Reactive metals (Sodium, Calcium Zinc, etc.) Materials reactive with Hydroxyl compounds.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Control parameters

Exposure Guidelines Specific exposure limits have not been established or are not applicable unless listed below.

Chemical Name	ACGIH TLV	OSHA PEL	NIOSH IDLH
2-Butoxyethanol 111-76-2	TWA: 20 ppm	TWA: 50 ppm TWA: 240 mg/m^3 (vacated) TWA: 25 ppm (vacated) TWA: 120 mg/m^3 (vacated) S* S*	IDLH: 700 ppm TWA: 5 ppm TWA: 24 mg/m^3
Citric Acid, Anhydrous 77-92-9	TWA: 10 mg/m3	TWA 15 mg/m3	

Appropriate engineering controls

Engineering Controls Engineering controls: Good general ventilation (typically 10 air changes per hour) should be used. Ventilation rates should be matched to conditions. If applicable, use process enclosures, local exhaust ventilation, or other engineering controls to maintain airborne levels below recommended exposure limits. If exposure limits have not been established, maintain airborne levels to an acceptable level. Eye wash facilities and emergency shower must be available when handling this product.

Individual protection measures, such as personal protective equipment

Eye/face protection Chemical resistant goggles must be worn. If splashing is likely, wear tight fitting goggles and face shield.

Skin and body protection Rubber boots, Hand protection: Use gloves chemically resistant to this material. Examples of preferred glove barrier materials include: Butyl rubber. Ethyl vinyl alcohol laminate ("EVAL"). Examples of acceptable glove barrier materials include: Natural rubber ("latex"). Neoprene. Nitrile/butadiene rubber ("nitrile" or "NBR"). Polyvinyl chloride ("PVC" or "vinyl"). NOTICE: The selection of a specific glove for a particular application and duration of use in a workplace should also take into account all relevant workplace factors such as, but not limited to: Other chemicals which may be handled, physical requirements (cut/puncture protection, dexterity, thermal protection), potential body reactions to glove materials, as well as the instructions/specifications provided by the glove supplier. Other protection: Use protective clothing chemically resistant to this material. Selection of specific items such as face shield, boots, apron, or full body suit will depend on the task.

Respiratory protection Respiratory protection should be worn when there is a potential to exceed the exposure limit requirements or guidelines. If there are no applicable exposure limit requirements or guidelines, wear respiratory protection when adverse effects, such as respiratory irritation or discomfort have been experienced, or where indicated by your risk assessment process. For most conditions no respiratory protection should be needed; however, if discomfort is experienced, use an approved air-purifying respirator. The following should be effective types of air-purifying respirators: Organic vapor cartridge.

General Hygiene Considerations Do not eat, drink or smoke when using this product. Take off all contaminated clothing and wash it before reuse. Handle in accordance with good industrial hygiene and safety practice. Regular cleaning of equipment, work area and clothing is recommended.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical state	liquid		
Appearance	Soapy liquid	**Odor**	Mild, butyl odor
Color	No information available	**Odor threshold**	No information available

Property	Values	Remarks • Method
pH	No information available	

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Melting point / freezing point	No information available
Boiling point / boiling range	No information available
Flash point	No information available
Evaporation rate	No information available
Flammability (solid, gas)	No information available
Flammability Limit in Air	
Upper flammability limit:	No information available
Lower flammability limit:	No information available
Vapor pressure	No information available
Vapor density	No information available
Relative density	No information available
Water solubility	No information available
Solubility in other solvents	No information available
Partition coefficient	No information available
Autoignition temperature	No information available
Decomposition temperature	No information available
Kinematic viscosity	No information available
Dynamic viscosity	No information available
Explosive properties	No information available
Oxidizing properties	No information available

Other Information

Softening point	No information available
Molecular weight	No information available
VOC Content (%)	No information available
Density	No information available
Bulk density	No information available

10. STABILITY AND REACTIVITY

Reactivity
No data available

Chemical stability
Stable under recommended storage conditions.

Possibility of Hazardous Reactions
None under normal processing.

Conditions to avoid
Direct sunlight. Extremely high or low temperatures. Heat. Sparks. Overheating. Open flames. Incompatible maerials.

Incompatible materials
Strong oxidizers, potassium tartrate, alkali and alkaline earth carbonates and bicarbonates, acetates, sulfites, and metal nitrates (potentially explosive reaction). Citric acid corrodes copper, zinc, aluminum and their alloys. Strong acids. Reactive metals (Sodium, Calcium Zinc, etc.) Materials reactive with Hydroxyl compounds.

Hazardous Decomposition Products
2-Butoxyethanol: Decomposition products can include and are not limited to: Aldehydes. Ketones. Organic acids. Thermal oxidative decomposition of citric acid can produce acrid, irritating smoke and carbon monoxide, carbon dioxide.

11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure

Product Information	No data available
Inhalation	May cause irritation of respiratory tract.
Eye contact	Risk of serious damage to eyes. Avoid contact with eyes.
Skin contact	Prolonged contact may cause redness and irritation. Repeated or prolonged skin contact may cause allergic reactions with susceptible persons.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Ingestion

May cause irritation. Ingestion: Low acute oral toxicity. Ingestion of large quantities may cause abdominal pain, abdominal cramps, nausea, vomiting, diarrhea.

Chemical Name	Oral LD50	Dermal LD50	Inhalation LC50
Citric Acid 77-92-9	= 3 g/kg (Rat) = 3000 mg/kg (Rat)	-	-
Alcohol ethoxylated 68439-46-3	= 1378 mg/kg (Rat) = 1400 mg/kg (Rat)	> 2 g/kg (Rabbit)	-
2-Butoxyethanol 111-76-2	= 470 mg/kg (Rat)	= 99 mg/kg (Rabbit)	= 450 ppm (Rat) 4 h
Tetra-Alkyl Ammonium Compound	= 580 mg/kg (Rat)	-	-

Information on toxicological effects

Symptoms

May cause an allergic skin reaction.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

Sensitization
Classification criteria not met.

Germ cell mutagenicity
Animal testing did not show any mutagenic effects.

Carcinogenicity
The table below indicates whether each agency has listed any ingredient as a carcinogen.

Chemical Name	ACGIH	IARC	NTP	OSHA
2-Butoxyethanol 111-76-2	A3	Group 3	-	-

Reproductive toxicity
2-Butoxyethanol: n laboratory animal studies, effects on reproduction have been seen only at doses that produced significant toxicity to the parent animals.

STOT - single exposure
No known effects under normal use conditions.

STOT - repeated exposure
STOT- Repeated exposure: 2-Butoxyethanol: In animals, effects have been reported on the following organs: blood (hemolysis) and secondary effects on the kidney and liver. Human red blood cells have been shown to be significantly less sensitive to hemolysis than those of rodents and rabbits. Nonylphenol Polyethylene Glycol Ether: For this family of materials: In animals, effects have been reported on the following organs: Kidney. Liver.

Aspiration hazard
Not considered an aspiration hazard.

Numerical measures of toxicity - Product Information

The following values are calculated based on chapter 3.1 of the GHS document .

ATEmix (oral)	2,230.00
ATEmix (dermal)	5,382.00
ATEmix (inhalation-dust/mist)	15.00
ATEmix (inhalation-vapor)	4,500.00

12. ECOLOGICAL INFORMATION

Ecotoxicity

29 % of the mixture consists of components(s) of unknown hazards to the aquatic environment

Chemical Name	Algae/aquatic plants	Fish	Crustacea
Citric Acid 77-92-9	-	1516: 96 h Lepomis macrochirus mg/L LC50 static	120: 72 h Daphnia magna mg/L EC50
2-Butoxyethanol 111-76-2	-	1490: 96 h Lepomis macrochirus mg/L LC50 static 2950: 96 h Lepomis macrochirus mg/L LC50	1698 - 1940: 24 h Daphnia magna mg/L EC50 1000: 48 h Daphnia magna mg/L EC50

Persistence and degradability

Persistence and degradability: 2-Butoxyethanol: Biodegrability: Readily biodegradable. Passes OECD test(s) for ready biodegradability. Material is ultimately biodegradable (reaches > 70% mineralization in OECD test(s) for inherent biodegradability).10-day Window: Pass. Alcohols, Ethoxylated: Readily biodegradable, as defined by OECD, substance that degrades > 60- 70% within a 10 day window over 28 days.

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Bioaccumulation

Bioaccumulation: 2-Butoxyethanol: Bioconcentration potential is low (BCF < 100 or Log Pow < 3). Partition coefficient: n-octanol/water(log Pow): 0.81 Measured Bioconcentration factor (BCF): 3.2.

Chemical Name	Partition coefficient
Citric Acid 77-92-9	-1.72
2-Butoxyethanol 111-76-2	0.81

Other adverse effects No information available

13. DISPOSAL CONSIDERATIONS

Waste treatment methods

Disposal of wastes

Disposal of wastes: Disposal methods: DO NOT DUMP INTO ANY SEWERS, ON THE GROUND, OR INTO ANY BODYOF WATER. All disposal practices must be in compliance with all Federal, State/Provincial and local laws and regulations. Regulations may vary in different locations. Waste characterizations and compliance with applicable laws are the responsibility solely of the waste generator. AS YOUR SUPPLIER, WE HAVE NO CONTROL OVER THE MANAGEMENT PRACTICES OR MANUFACTURING PROCESSES OF PARTIES HANDLING OR USING THIS MATERIAL. THE INFORMATION PRESENTED HERE PERTAINS ONLY TO THE PRODUCT AS SHIPPED IN ITS INTENDED CONDITION AS DESCRIBED IN MSDS SECTION: Composition Information. FOR UNUSED & UNCONTAMINATED PRODUCT, the preferred options include sending to a licensed, permitted: Incinerator or other thermal destruction device. Waste water treatment system.

Contaminated packaging Do not reuse container.

14. TRANSPORT INFORMATION

Non Regulated

15. REGULATORY INFORMATION

International Inventories

TSCA	Complies
DSL/NDSL	Complies
EINECS/ELINCS	Does not comply
ENCS	Does not comply
IECSC	Complies

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KECL	Complies
PICCS	Complies
AICS	Complies

Legend:
TSCA - United States Toxic Substances Control Act Section 8(b) Inventory
DSL/NDSL - Canadian Domestic Substances List/Non-Domestic Substances List
EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances
ENCS - Japan Existing and New Chemical Substances
IECSC - China Inventory of Existing Chemical Substances
KECL - Korean Existing and Evaluated Chemical Substances
PICCS - Philippines Inventory of Chemicals and Chemical Substances
AICS - Australian Inventory of Chemical Substances

US Federal Regulations

SARA 313
Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product contains a chemical or chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372

SARA 311/312 Hazard Categories

Acute health hazard	2-Butoxyethanol - Yes
Chronic Health Hazard	2-Butoxyethanol - Yes
Fire hazard	2-Butoxyethanol - Yes
Sudden release of pressure hazard	No
Reactive Hazard	No

CWA (Clean Water Act)
This product does not contain any substances regulated as pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

CERCLA
This material, as supplied, does not contain any substances regulated as hazardous substances under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302) or the Superfund Amendments and Reauthorization Act (SARA) (40 CFR 355). There may be specific reporting requirements at the local, regional, or state level pertaining to releases of this material

US State Regulations

California Proposition 65
This product does not contain any Proposition 65 chemicals

U.S. State Right-to-Know Regulations

U.S. EPA Label Information
EPA Pesticide Registration Number Not applicable

16. OTHER INFORMATION, INCLUDING DATE OF PREPARATION OF THE LAST REVISION

NFPA	**Health hazards** 2	**Flammability** 1	**Instability** 0	**Physical and Chemical Properties** -
HMIS	**Health hazards** 2	**Flammability** 1	**Physical hazards** 0	**Personal protection** X

Issue Date 27-May-2016
Revision Date 27-May-2016
Revision Note
No information available

Disclaimer
The information provided in this Material Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The

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Information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

SRF ASSOCIATES
Transportation Planning / Engineering / Design

3495 Winton Place
Building E, Suite 110
Rochester, NY 14623

(585) 272-4660
www.srfa.net

Mr. Matt Oates, P.E.
Director, Engineering
Benderson Development Company, LLC
570 Delaware Avenue
Buffalo, New York 14202

February 14, 2022

RE: Proposed Warehouse Development Amherst Commerce Center, Town of Amherst, NY
Trip Generation and Distribution Assessment

Dear Mr. Oates:

This technical letter provides a trip generation and distribution assessment related to the proposed Amherst Commerce Center Warehouse project located at 4224-4256 Ridge Lea Road in the Town of Amherst, NY for informational purposes and to understand the possible traffic impacts resulting from the proposed project. Additionally, this letter discusses the thresholds for completing a Traffic Impact Study (TIS). All figures and supporting materials are included in the attachments.

PROJECT DESCRIPTION

The proposed project consists of constructing a ±108,000 square feet (SF) warehouse, converting an existing building (±21,736 SF) to warehouse, and constructing a ±1,500 SF connection between the two buildings.

The proposed project will utilize existing access connections onto North Bailey Avenue. The concept site plan is included in the attachments.

TRIP GENERATION

Data contained in the Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition) was used to project the volume of the traffic generated by the proposed project. Data published by the ITE is the nationally accepted standard for generating trips for new uses. Given the functional characteristics of the nearby corridors, surrounding land uses, and the land use proposed for the site, the peak hours selected for analysis are the weekday commuting AM and PM peak periods. These peak periods typically range from 7:00-9:00 AM and 4:00-6:00 PM, respectively, depending on local conditions. The combination of site traffic and adjacent street traffic produces the greatest demand during these peak periods.

Table 1 shows the total site generated trips for the peak hours of study.

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TABLE 1: SITE GENERATED TRIPS

DESCRIPTION	ITE LUC	SIZE	AM PEAK HOUR		PM PEAK HOUR	
			ENTER	EXIT	ENTER	EXIT
Building 1 – Warehouse	150	±108,000 SF	28	9	11	28
Building 2 – Warehouse	150	±21,736 SF	20	6	8	21
Total Site Generated Trips			**48**	**15**	**19**	**49**

Notes:
1. ITE LUC = ITE Land Use Code.

The proposed project is projected to generate 48 entering/15 exiting vehicle trips during the AM peak hour and 19 entering/49 exiting vehicle trips during the PM peak hour.

TRIP DISTRIBUTION

The cumulative effect of site-generated traffic on the transportation network is dependent on the origins and destinations of that traffic and the location of the driveways serving the site. The proposed arrival/departure distribution of traffic generated by the proposed project is considered a function of several parameters, including:

- Site access locations and proximity and access to I-290
- Hourly traffic patterns using most recent available Annual Average Daily Traffic (AADT) data obtained from the New York State Department of Transportation (NYSDOT)

Figure 1 shows the anticipated trip distribution pattern percentages for the traffic from the proposed project. **Figure 2** illustrates the peak hour site generated traffic based on those percentages. The roads anticipated to be used by the additional trips generated by the proposed project are listed in **Table 2**.

Functional classification of highways within the study area is determined by the NYSDOT and the Federal Highway Administration (FHWA). Definitions of the functional classifications shown in Table 2 are provided after the table.

TABLE 2: EXISTING HIGHWAY SYSTEM

ROADWAY	CLASS[1]	AGENCY[2]	SPEED LIMIT[3]	TRAVEL LANES[4]	TRAVEL PATTERN/ DIRECTION	EST. AADT & SOURCE[5]
North Bailey Avenue	16	Town	35	2	Two-way/ North-South	15,752- NYSDOT (2018)

Notes:
1. State Functional Classification of Roadway.
2. Jurisdictional Agency of Roadway.
3. Posted or Statewide Limit in Miles per Hour (mph).
4. Number of travel lanes. Excludes turning/auxiliary lanes developed at intersections.
5. Estimated AADT in Vehicles per Day (vpd). AADT Source (Year).

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Urban Minor Arterial (Class 16)

An urban minor arterial provide service for trips of moderate length, serve geographic areas that are smaller than higher arterial roadways, and offer connectivity to higher arterial systems. These roadways distribute traffic to smaller geographic areas and provide more land access without disrupting neighborhood access.

THRESHOLDS FOR THE REQUIREMENT OF A TRAFFIC IMPACT STUDY

Many reviewing agencies, including the New York State Department of Transportation, use a guideline in determining whether a project warrants the preparation of a TIS. The applicable guideline is that if a proposed project is projected to add 100 or more site generated vehicles per hour (vph) to an adjacent intersection during either peak study period, then that intersection should be studied for potential traffic impacts.

Based upon the ITE trip generation projections and the resulting traffic assignment estimates shown in **Figure 2**, 40 or fewer site generated peak hour trips are added to a single adjacent intersection during the peak hours studied.

CONCLUSIONS AND RECOMMENDATIONS

Given the projected site generated traffic; the projected site traffic distribution; the thresholds for completing a TIS; and the roadway characteristics previously described, a full TIS report is not warranted.

If you have any questions or require additional information, please do not hesitate to contact our office.

Sincerely,
SRF Associates, D.P.C.

David Kruse, AICP, PTP
Senior Transportation Planner

Attachments

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

ATTACHMENT

February 14, 2022

Letter to
Mr. Matt Oates, P.E.
Benderson Development Company, LLC

Proposed Amherst Commerce Center Warehouse
4224-4256 Ridge Lea Road

Trip Generation and Distribution Assessment

Town of Amherst
Erie County, New York

SRF ASSOCIATES

3495 Winton Place
Building E, Suite 110
Rochester, NY 14623

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

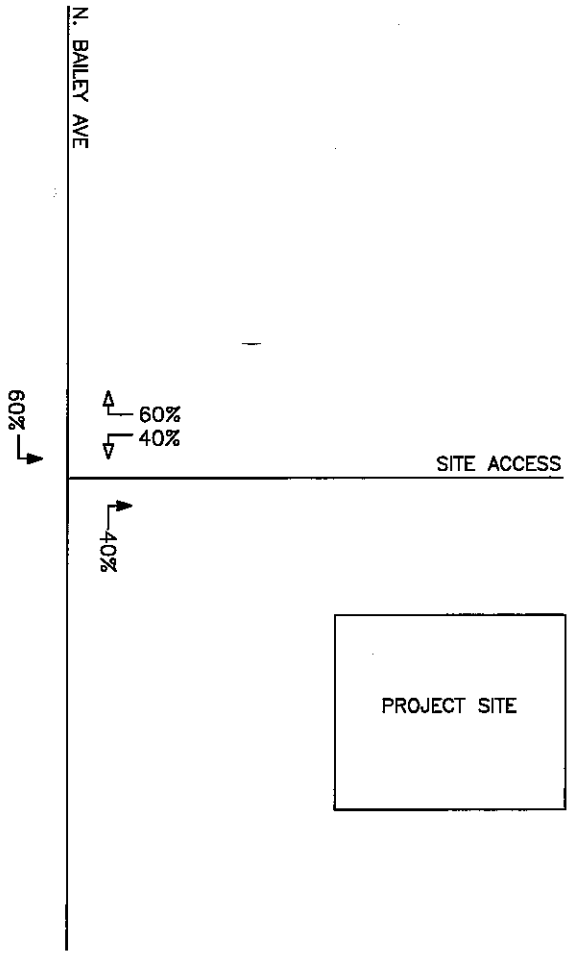

FIGURE 1

TRIP DISTRIBUTION

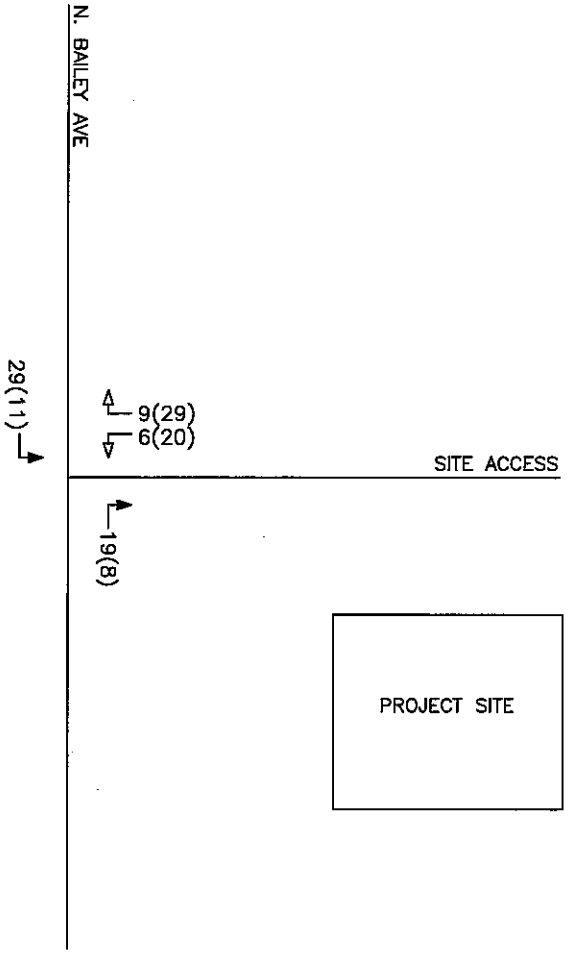

FIGURE 2

TOTAL SITE GENERATED TRIPS

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N
NOT TO SCALE

PROPOSED AMHERST COMMERCE CENTER WAREHOUSE

TOWN OF AMHERST, NY

KEY

00(00) = AM(PM)

ENTERING TRIP

EXITING TRIP

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

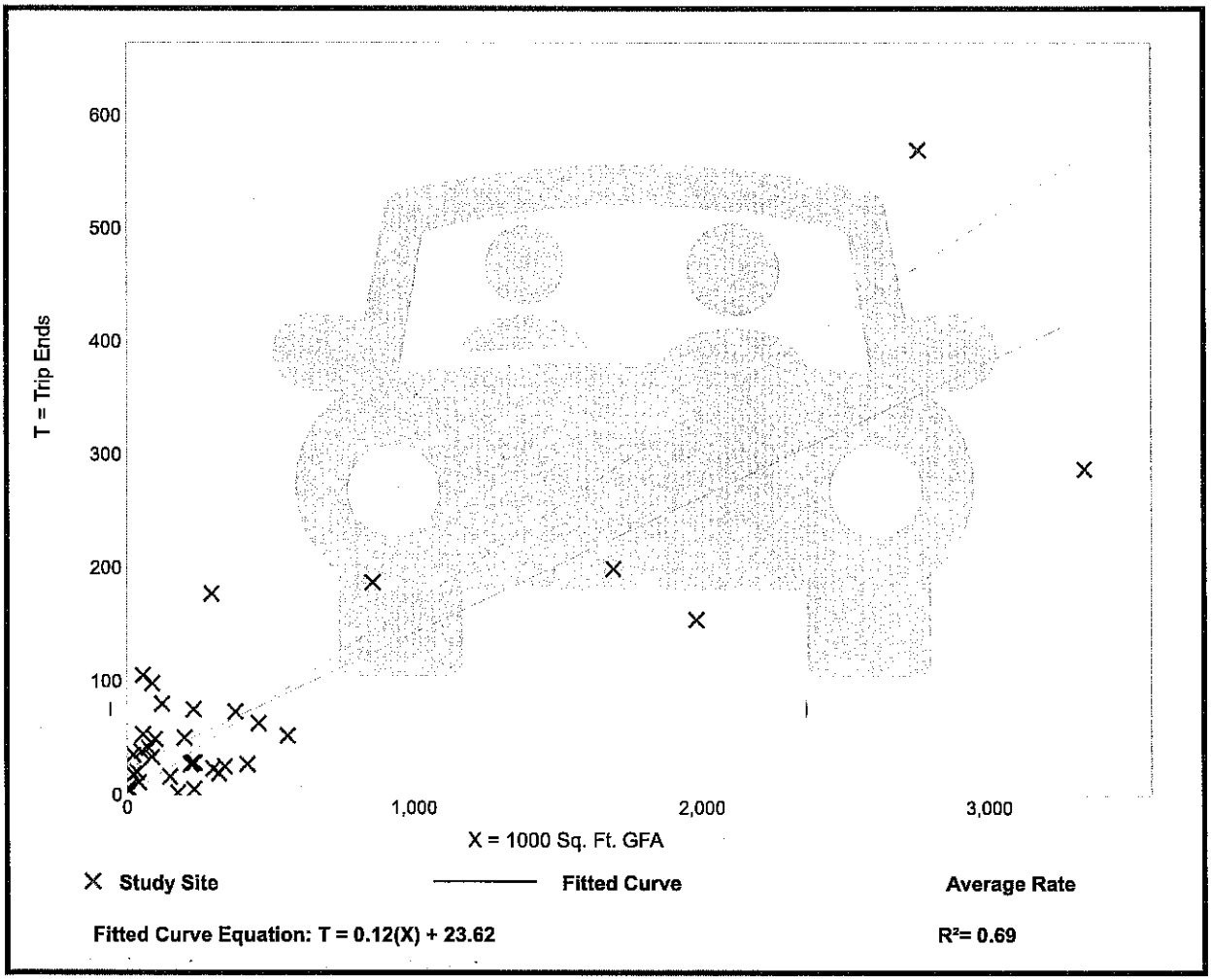
Warehousing
(150)

Vehicle Trip Ends vs: **1000 Sq. Ft. GFA**
On a: **Weekday,**
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.
Setting/Location: **General Urban/Suburban**
Number of Studies: 36
Avg. 1000 Sq. Ft. GFA: 448
Directional Distribution: 77% entering, 23% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
0.17	0.02 - 1.93	0.19

Data Plot and Equation



Trip Gen Manual, 11th Edition • Institute of Transportation Engineers

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

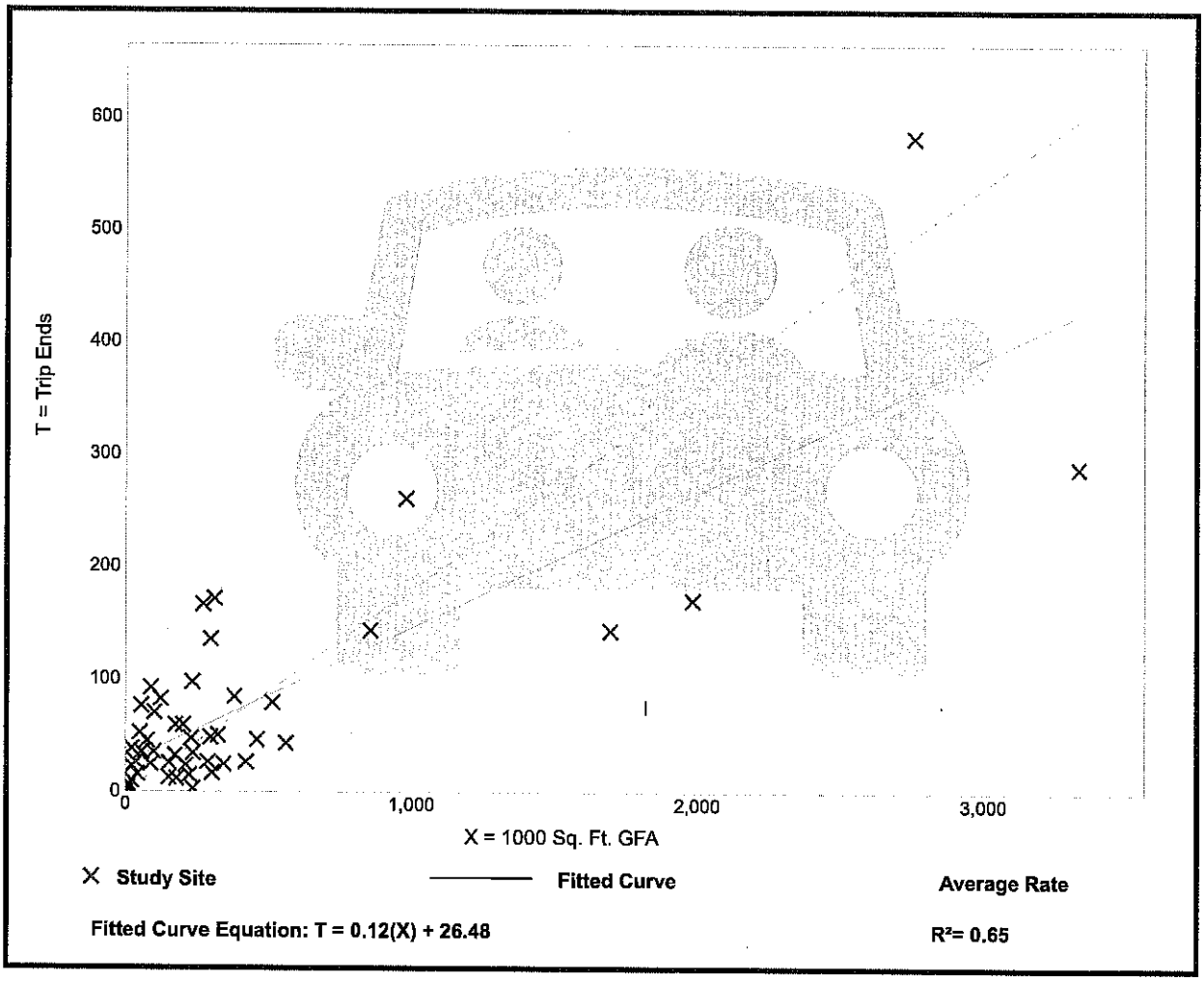
Warehousing
(150)

Vehicle Trip Ends vs: **1000 Sq. Ft. GFA**
On a: **Weekday,**
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: **General Urban/Suburban**
Number of Studies: 49
Avg. 1000 Sq. Ft. GFA: 400
Directional Distribution: 28% entering, 72% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
0.18	0.01 - 1.80	0.18

Data Plot and Equation



Trip Gen Manual, 11th Edition ● Institute of Transportation Engineers

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

ull Environmental Assessment Form
Part 1 - Project and Setting

REVISED
APR 21 2022
TOWN OF AMHERST
PLANNING DEPT.

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Amherst Commerce Center - Proposed Rezoning		
Project Location (describe, and attach a general location map): 4252 - 4256 Ridge Lea Road, Town of Amherst, Erie County		
Brief Description of Proposed Action (include purpose or need): The proposed project is a rezoning request to rezone 14.8+/- acres of land to the RD (Research & Development) zoning district to allow for a new 108,000 SF Warehouse building and to connect the proposed warehouse to the existing southerly 21,736 SF building with a 3,000 SF building additional along with new parking, utilities, drainage and landscaping.		
Name of Applicant/Sponsor: Benderson Development Company, LLC	Telephone: 716-878-9626 E-Mail: jamesboglioli@benderson.com	
Address: 570 Delaware Ave		
City/PO: Buffalo	State: NY	Zip Code: 14202
Project Contact (if not same as sponsor; give name and title/role):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, or Village Board of Trustees ☑Yes ☐No	Town Board - Rezoning	6/2021
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	6/2021
c. City, Town or Village Zoning Board of Appeals ☐Yes ☑No		
d. Other local agencies ☑Yes ☐No	Town of Amherst - Traffic Safety Board	6/2021
e. County agencies ☑Yes ☐No	Erie County - Planning Dept	6/2021
f. Regional agencies ☐Yes ☑No		
g. State agencies ☐Yes ☑No		
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☑Yes ☐No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No
iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes ☑No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☑Yes ☐No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☑Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☑Yes ☐No
If Yes, identify the plan(s):
NYS Heritage Areas: West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes ☑No
If Yes, identify the plan(s):

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
CTR-8 (Center 8) District

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☑ Yes ☐ No
If Yes,
i. What is the proposed new zoning for the site? RD - Research & Development

C.4. Existing community services.

a. In what school district is the project site located? Sweet Home School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police, Erie County Sheriffs and New York State Police

c. Which fire protection and emergency medical services serve the project site?
North Bailey Fire Protection District

d. What parks serve the project site?
None

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? 14.8+/- acres
b. Total acreage to be physically disturbed? 14.8+/- acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 52.1 +/- acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)
ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: 15 months
ii. If Yes:
- Total number of phases anticipated 1
- Anticipated commencement date of phase 1 (including demolition) 4 month 22 year
- Anticipated completion date of final phase 7 month 23 year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

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f. Does the project include new residential units? ☐Yes ☑No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? ☑Yes ☐No
If Yes,
i. Total number of structures 1
ii. Dimensions (in feet) of largest proposed structure: 36 height; 180 width; and 600 length
iii. Approximate extent of building space to be heated or cooled: 111,000 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☑Yes ☐No
If Yes,
i. Purpose of the impoundment: Stormwater Detention Pond
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☑Surface water streams ☐Other specify:
iii. If other than water, identify the type of impounded/contained liquids and their source.
iv. Approximate size of the proposed impoundment. Volume: 15 million gallons; surface area: 0.75 +/- acres
v. Dimensions of the proposed dam or impounding structure: 8 height; 200 length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
earth fill

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐Yes ☑No
If Yes:
i. What is the purpose of the excavation or dredging?
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards):
- Over what duration of time?

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe.
v. What is the total area to be dredged or excavated? acres
vi. What is the maximum area to be worked at any one time? acres
vii. What would be the maximum depth of excavation or dredging? feet
viii. Will the excavation require blasting? ☐Yes ☐No
ix. Summarize site reclamation goals and plan:

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐Yes ☑No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description):

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ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No
If Yes, describe:

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☐No
If Yes:

- acres of aquatic vegetation proposed to be removed:
- expected acreage of aquatic vegetation remaining after project completion:
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access):
- proposed method of plant removal:
- if chemical/herbicide treatment will be used, specify product(s):

v. Describe any proposed reclamation/mitigation following disturbance:

c. Will the proposed action use, or create a new demand for water? ☑Yes ☐No
If Yes:

i. Total anticipated water usage/demand per day: 11,000 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☑Yes ☐No
If Yes:

- Name of district or service area: Erie County Water Authority
- Does the existing public water supply have capacity to serve the proposal? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No
- Do existing lines serve the project site? ☑Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes ☑No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project:
- Source(s) of supply for the district:

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes ☐No
If, Yes:

- Applicant/sponsor for new district:
- Date application submitted or anticipated:
- Proposed source(s) of supply for new district:

v. If a public water supply will not be used, describe plans to provide water supply for the project:

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☑Yes ☐No
If Yes:

i. Total anticipated liquid waste generation per day: 9,900 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each):
sanitary wastewater

iii. Will the proposed action use any existing public wastewater treatment facilities? ☑Yes ☐No
If Yes:

- Name of wastewater treatment plant to be used: Amherst Plant #16
- Name of district: Amherst Sewer District #16
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes ☐No
- Is the project site in the existing district? ☑Yes ☐No
- Is expansion of the district needed? ☐Yes ☑No

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or 9.33 acres (impervious surface)

_____ Square feet or 14.8 acres (parcel size)

ii. Describe types of new point sources. roof drains and parking lot catch basins

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

on site stormwater management facility

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☐Yes ☐No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐Morning ☐Evening ☐Weekend ☐Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing 167 Proposed 399 Net increase/decrease 232

iv. Does the proposed action include any shared use parking? ☑Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☑Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☑Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☑Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☑Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: 77.7 kWh

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): via grid/local utility

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☑No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7 AM - 9PM
- Saturday: 7 AM - 9PM
- Sunday: none
- Holidays: 7 AM - 9PM

ii. During Operations:

- Monday - Friday: 7 AM - 9PM
- Saturday: 7 AM - 9PM
- Sunday: 7 AM - 9PM
- Holidays: 7 AM - 9PM

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

Construction Equipment 7 AM to 8 PM

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☑ No

Describe:

n. Will the proposed action have outdoor lighting? ☑ Yes ☐ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

dark sky, LED fixtures mounted at 15 to 25 feet per zoning code requirements

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☑ No

Describe:

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction:
- Operation:

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction:
- Operation:

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☑ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☑ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☑ Commercial ☑ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	3.77	9.33	5.56
• Forested	N/A	N/A	N/A
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	N/A	N/A	N/A
• Agricultural (includes active orchards, field, greenhouse etc.)	N/A	N/A	N/A
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.00	0.75	+0.75
• Wetlands (freshwater or tidal)	N/A	N/A	N/A
• Non-vegetated (bare rock, earth or fill)	N/A	N/A	N/A
• Other Describe: landscape area	11.03	4.72	-6.31

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

c. Is the project site presently used by members of the community for public recreation? ☐Yes ☑No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑Yes ☐No
If Yes,
i. Identify Facilities:
Sweet Home Middle School

e. Does the project site contain an existing dam? ☐Yes ☑No
If Yes:
i. Dimensions of the dam and impoundment:
- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☑No
If Yes:
i. Has the facility been formally closed? ☐Yes ☐No
- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☑No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☑No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No
☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____
☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☐No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☐ No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? >7 feet

b. Are there bedrock outcroppings on the project site? ☐ Yes ☑ No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

CfB - Cayuga Silt Loam	18.4 %
CoA - Churchville Silt Loam	70.2 %
Od - Odessa Silt Loam	11.4 %

d. What is the average depth to the water table on the project site? Average: 3 feet

e. Drainage status of project site soils:
☐ Well Drained: ____ % of site
☑ Moderately Well Drained: 18.4 % of site
☑ Poorly Drained 81.6 % of site

f. Approximate proportion of proposed action site with slopes:
☑ 0-10%: 100 % of site
☐ 10-15%: ____ % of site
☐ 15% or greater: ____ % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☑ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☑ No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐ Yes ☑ No

j. Is the project site in the 100-year Floodplain? ☐ Yes ☑ No

k. Is the project site in the 500-year Floodplain? ☐ Yes ☑ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☑ No
If Yes:

i. Name of aquifer: _____

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

m. Identify the predominant wildlife spe[illegible] that occupy or use the project site: [illegible]

n. Does the project site contain a designated significant natural community? ☐Yes ☑No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No

If Yes:

i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No

If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No

If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No

If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐Yes ☑No

If Yes:

i. Nature of historic/archaeological resource: ☐Archaeological Site ☐Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☐Yes ☑No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐Yes ☑No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☑Yes ☐No

If Yes:

i. Identify resource: Ellicott Creek - 1.5 miles; Tonawanda Creek - 2.2 miles; Niagara River 4.3 miles

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): Local Waterway

iii. Distance between project and resource: see above miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐Yes ☑No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐Yes ☐No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Matthew J. Oates, P.E. Date 06/23/2021

Signature _____ Title Director, Engineering

PRINT FORM

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

REVISED
APR 21 2022
TOWN OF AMHERST
PLANNING DEPT.

TOWN OF AMHERST
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM
-- ADDENDUM --

1. For each applicable category of proposed new structures, including additions to existing structures, provide the following information for all soil types on the project site (*according to Soil Survey of Erie County, NY; Table 11, Building Site Development, pp 294-305):*

Soil Name	Shallow excavations	Dwellings without basements	Dwellings with basements	Small commercial buildings	Local roads and streets
Odessa silt loam	Severe	Severe	Severe	Severe	Severe
Churchville Silt Loam	Severe	Severe	Severe	Severe	Severe
Cayuga Silt Loam	Moderate	Moderate	Severe	Moderate	Moderate

2. If the Soil survey indicates either "severe" or "moderate" suitability for the proposed types of construction, a geotechnical and hydrological analysis based on one test per 3.5 acres of project area must be provided (per Town Board resolution, 3/17/03, amended 6/16/03).
   Report is being completed now
   _X_ Geotechnical report attached ____ Not applicable

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes ☑ No
   On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes ☑ No

   If so, the property may be within an area of the Town that is affected by a moratorium on connections to the sanitary sewer system.

4. Are there alternative locations on the site for this project? ☐ Yes ☑ No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:
   Blvd Consumer Square; 1501 - 1551 Niagara Falls Blvd; Maple Crossing; Amherst Development Park;
   1401 - 1405 Niagara Falls Blvd; 3980 Maple Road; 50 Keph Drive; 1715 & 1721 Niagara Falls Blvd

6. Are you aware of current or future plans or intentions by others in the Town of Amherst to develop property within 1000± ft. of the present project request: ☐ Yes ☑ No

   Describe _____

   (Potential environmental impacts from adjacent or nearby projects undergoing the approval process will receive a coordinated environmental review to determine cumulative effects on common receivers (e.g. traffic and drainage corridors) and other relevant environmental concerns.)

7. Maximum number of vehicular trips to be generated per peak hour upon completion of project 10
   Source: Review of existing facility as project is a relocation

8. Will blasting occur during construction? ☐ Yes ☑ No

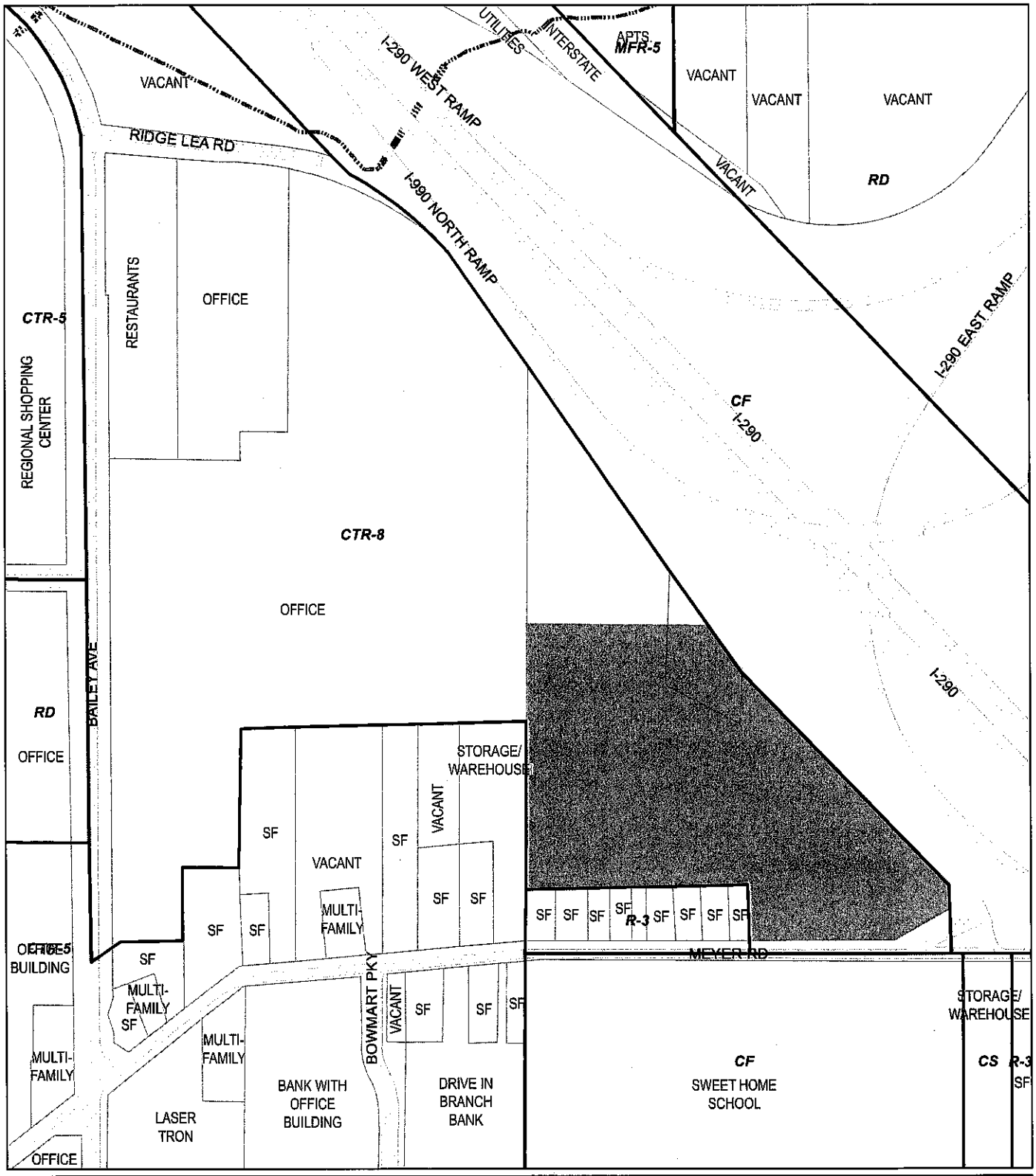
9. Does the project propose to connect and be tributary to the public sanitary sewer system? ☑ Yes ☐ No

10. Proposed net additional gallons per day (gpd) of sanitary sewer discharge upon completion of project:
    2,220 average flow 12.33 GPM peak flow.

    (Average flows of 2,500 gpd or greater will require an Engineer's Report that includes a detailed downstream sewer capacity analysis and the identification of and commitment to required I/I offset work during peak wastewater flow conditions.)

11. Based on the Town's *2011 Reconnaissance Level Survey of Historic Resources,* is your property 'blue-rated' for historic significance? ☐ Yes ☑ No

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



Z-2021-07

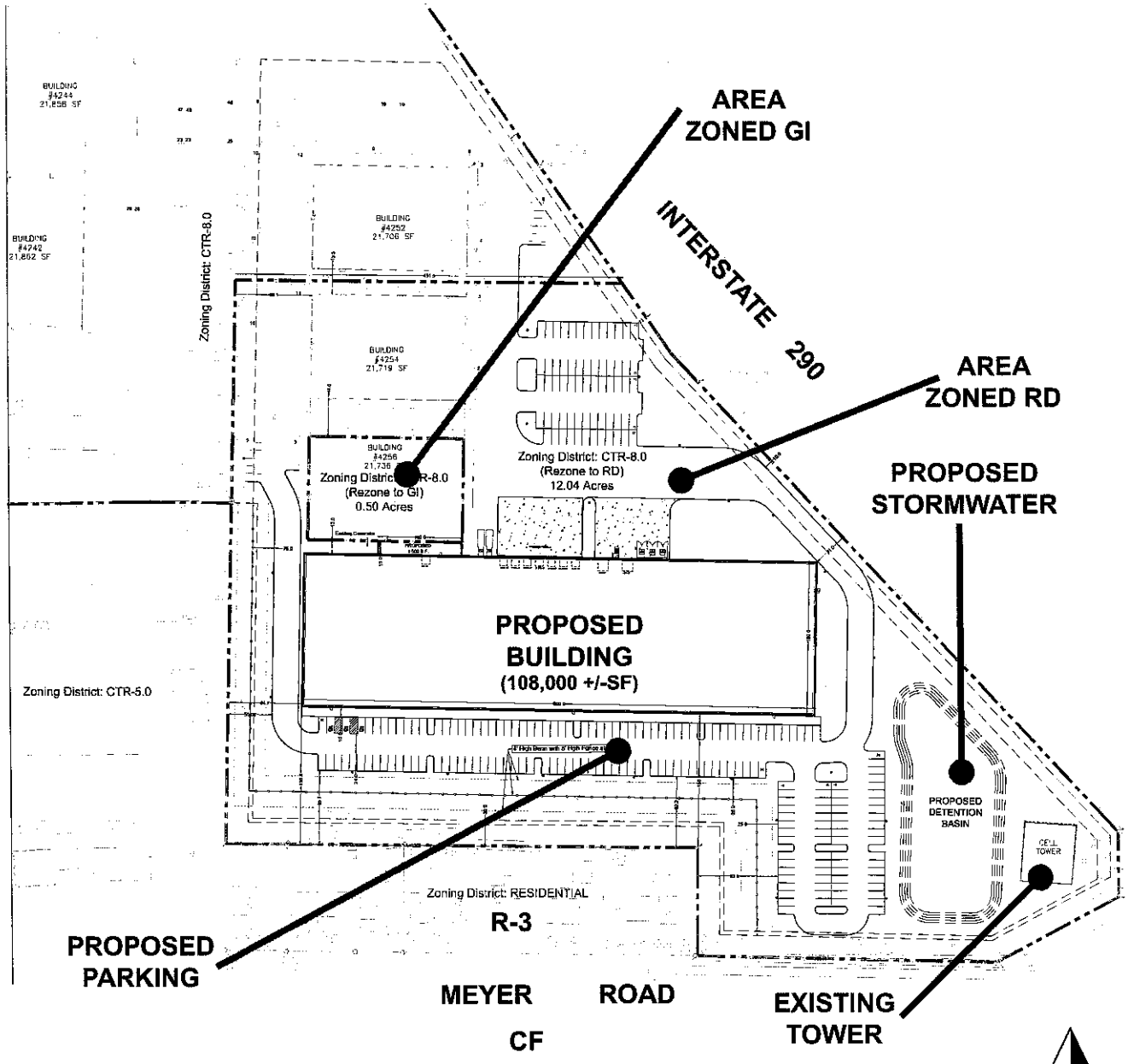
Request to Rezone 14.81+/- Acres from CTR-8 to RD & GI
Property Located at 4252-4256 Ridge Lea Road (portion)
(*BCD*)
Benderson Development Company, LLC, Petitioner

April 21, 2022

4252-4256 Ridge Lea Road

Prepared by the Town of Amherst Planning Department

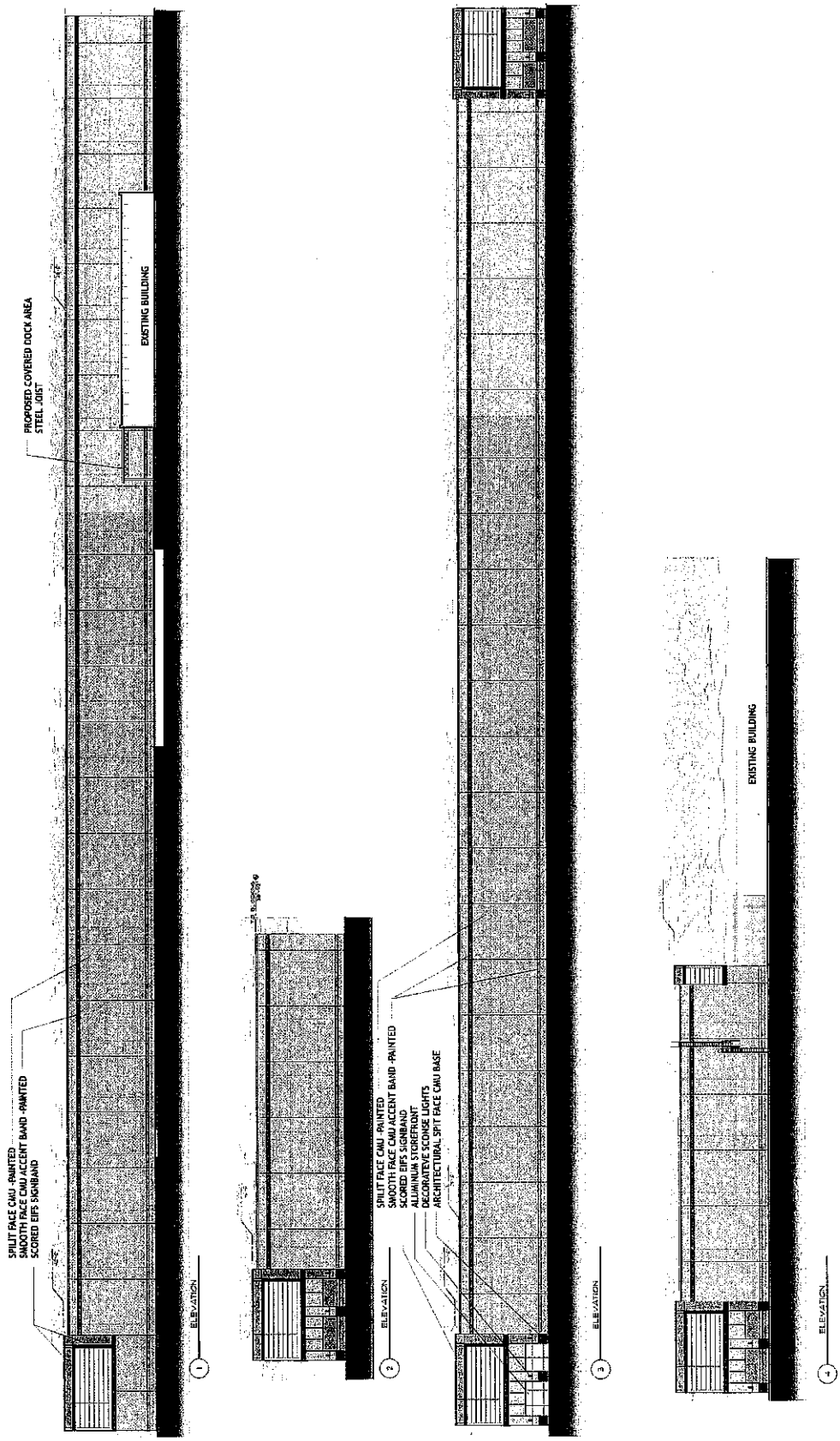
Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



CONCEPT PLAN

Z-2021-07
4252-4256 Ridge Lea Road
Received: 3/23/22

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)



ELEVATION

Z-2021-07
4252-4256 Ridge Lea Road
Received: 3/23/22

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Z-2021-07

Request to Rezone 14.81+/- Acres from CTR-8 to RD & GI
Property Located at 4252-4256 Ridge Lea Road (portion)
(*BCD*)
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April 21, 2022

4252-4256 Ridge Lea Road

Prepared by the Town of Amherst Planning Department

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road 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
APR 27 2022
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

March 25, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/ Eric Blocher, General 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
Ronald Hayes, SEQR Review Coordinator, NYSDOT
NYSDEC

RECEIVED
MAR 28 2022
TOWN ATTORNEY

AMENDED APPLICATION
Please note addition of GI district in request

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

SUBJECT: REQUEST TO REZONE 14.81± ACRES OF LAND FROM CTR-8 TO RD & GI, **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD**. BENDERSON DEVELOPMENT, PETITIONER.

REVIEW:

Do you agree with all statements made? Yes.

If you do not, briefly state why: _____

General comments relative to your agency interests: NA

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

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

Signature: Stanley Sliwa **Date:** 4/27/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Transmittal_Amended_Application_032522.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Z 2021-

7.4.b

SITE PLAN OR ZONING REFERRAL TO COUNTY OF ERIE, N.Y. 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-22-22

Postmark/Delivery Date: 3/29/2022

The proposed action described herein is referred in accordance with the provisions of the General Municipal Law, which provides that if n reply is received in 30 days after receipt of full information including a SEQR EAF if applicable, the municipal agency may take final acti without considering such reply. If, however, replay is received at any time prior to municipal Action, such reply must be considered.

Description of Proposed Action

RECEIVED
APR 22 2022
TOWN OF AMHERST
PLANNING DEPT.

1. Name of Municipality: Town of Amherst

2. Hearing Schedule: Date April 21, 2022 Time _____ Location _____

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 4252-4258 Ridge Lea Road

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

7. Proposed change or use (be specific): Amendment to application to rezone 14.81 acres from CTR-8 to RD and GI

8. Other remarks (SBL#, etc.):

9. Submitted by: Town of Amherst Planning Dept.

10. Return Address: 5583 Main Street, Williamsville, NY 14221

Reply to Municipality by Erie County Division of Planning

Receipt of the above-described proposed action is acknowledged on 3/29/2022**. 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. ☐ **Comment on proposed action is attached hereto.**
3. ☐ **The proposed action is subject to review; Recommendation on Proposed Action is attached hereto.**
4. ☑ **No recommendation; proposed action has been reviewed and determined to be of local concern**

By the Division of Planning: Date: 4/21/2022

Revised 4/4

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Amherst

950098

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

March 25, 2022

RECEIVED
APR 08 2022
TOWN OF AMHERST
PLANNING DEPT.

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/ Eric Blocher, General 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
Ronald Hayes, SEQR Review Coordinator, NYSDOT
NYSDEC

AMENDED APPLICATION
Please note addition of GI district in request

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

SUBJECT: REQUEST TO REZONE 14.81± ACRES OF LAND FROM CTR-8 TO RD & GI, **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD**. BENDERSON DEVELOPMENT, PETITIONER.

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: Do not support a vehicular connection to Meyer Rd.

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: C. Schregel **Date:** 4/7/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Transmittal_Amended_Application_032522.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road 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

March 25, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/ Eric Blocher, General 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
Ronald Hayes, SEQR Review Coordinator, NYSDOT
NYSDEC

RECEIVED
APR 05 2022
TOWN OF AMHERST
PLANNING DEPT.

AMENDED APPLICATION
Please note addition of GI district in request.

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

SUBJECT: REQUEST TO REZONE 14.81± ACRES OF LAND FROM CTR-8 TO RD & GI, **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD**. BENDERSON DEVELOPMENT, 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:** 4-5-22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Transmittal_Amended_Application_032522.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Amherst

Town of Amherst Planning Department

950098

Erie County, New York

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

MEMORANDUM

March 25, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/ Eric Blocher, General 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
Ronald Hayes, SEQR Review Coordinator, NYSDOT
NYSDEC

RECEIVED
APR 01 2022
TOWN OF AMHERST
PLANNING DEPT.

AMENDED APPLICATION
Please note addition of GI district in request

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

SUBJECT: REQUEST TO REZONE 14.81± ACRES OF LAND FROM CTR-8 TO RD & GI, **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD**. BENDERSON DEVELOPMENT, 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: _____ **Date:** 3/31/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Transmittal_Amended_Application_032522.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Amherst

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

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

March 28, 2022

James A. Boglioli, Esq.
Benderson Development Company LLC
570 Delaware Avenue
Buffalo, NY 14202

SUBJECT:	Rezoning Application Review	**Z-2021-07**
	Proposed:	Request to rezone 14.8± acres of land from CTR-8 to RD & GI
	Property located at:	**4252-4258 Ridge Lea Road (BCD)**
	Revised Application received:	March 14, 2022
	Representative:	Benderson Development Company LLC

Dear Mr. Boglioli,

Please consider the following comments:

1. Submit a revised EAF based on the revised scope of the proposed rezoning and please see comments below from previous review letter dated March 7, 2022.
   - Complete the (attached) Town Addendum to the SEQR Environmental Assessment Form.
   - The following items on the FULL Environmental Assessment Form submitted on June 24, 2021 should be corrected or completed:
     - Section B (i)(ii) change response to YES
     - Section C2(b) change response to YES, NYS Heritage Areas: West Erie Canal Corridor
     - Section E2(h)(ii) change response to YES
     - Section E2(h)(iii) change response to YES
     - Section E2(h)(v) answer NO
   - Provide the required Geotechnical Report.
   - Please note that any other SEQR-related issues raised during the review process for this rezoning must be addressed prior to action by the Planning Board.

This is a review only and does not constitute approval of the Rezoning Request. Should you have questions regarding this correspondence, please contact Thomas Voigt, Assistant Planner at tvoigt@amherst.ny.us

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/SM/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Planning_Review_03282022.doc
Attachment
cc: Scott Marshall, Principal Planner

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

TOWN OF AMHERST
ASSESSOR'S OFFICE

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7038
FAX 716-631-7144

Emily A. Murphy
Assessor
emurphy@amherst.ny.us

RECEIVED
MAR 30 2022
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

TO: Daniel Ulatowski, AICP, Associate Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Jeff Burroughs, Town Engineer
Scott Marshall, Principle Planner

FROM: Bonnie B. Arnold, Real Property Appraiser

DATE: March 30, 2022

SUBJECT: REQUEST TO REZONE 14.81±ACRES OF LAND FROM CTR-8 TO RD & GI, Z-2021-07;
Property Location: **4252-4258 RIDGE LEA ROAD**
Petitioner: **BENDERSON DEVELOPMENT**

Site plan approved as submitted.
If rezoning is for building single family homes with condominium status then the Assessor's office does not approve.

cc: Scott Marshal Principal Planner
James Boglioli, Benderson Development Co. LLC 570 Delaward Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road 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
MAR 28 2022
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

March 25, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel J. Ulatowski, AICP, Zoning Enforcement Officer
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/ Eric Blocher, General 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
Ronald Hayes, SEQR Review Coordinator, NYSDOT
NYSDEC

RECEIVED
MAR 28 2022
TOWN ATTORNEY

AMENDED APPLICATION
Please note addition of GI district in request

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

SUBJECT: REQUEST TO REZONE 14.81± ACRES OF LAND FROM CTR-8 TO RD & GI, **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD**. BENDERSON DEVELOPMENT, PETITIONER.

REVIEW:

Do you agree with all statements made? agee 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:** 3/28/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2021\Z-2021-07_(4252-4258_Ridge_Lea_Rd)_2021\Z-2021-07_Transmittal_Amended_Application_032522.doc
cc: Scott Marshall, Principal Planner
James Boglioli, Benderson Development Co. LLC, 570 Delaware Ave., Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

Paul Anderson
Deputy Highway Superintendent
panderson@amherst.ny.us

PHONE (716) 631-711

FAX (716) 631-726

www.amherst.ny.u

RECEIVED
OCT 08 2021
TOWN OF AMHERST
PLANNING DEPT.

October 5, 2021

To: Scott Marshall, Principal Planner

From: Patrick Lucey, Superintendent of Highways

Re: REQUEST TO REZONE 12.54± ACRES OF LAND FROM **CTR-8** TO **RD, Z-2021-07**. PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD (BCD).** BENDERSON DEVELOPMENT COMPANY LLC, PETITIONER.

After review relative to Highway Department concerns, the plan is approved as submitted.

/ke
C: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, AICP, Zoning Enforcement Officer
Douglas Gesel, Supervising Code Enforcement Officer
Jeffrey Burroughs, Town Engineer
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Dave Marrano, Town Assessor
Bryan Parnell, Fire Chiefs Association (c/o Building)
Stan Sliwa, Town Attornewy (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, ROW Agent
Scott A Marshall, Principal Planner
Brian Barnes, Senior GIS Analyst (Eng)
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT
Benderson Development Co., LLC, 570 Delaware Avenue
Buffalo, NY 14202

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Amherst

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

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

MEMORANDUM August 23, 2021

TO: Kathy Cooper, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Dave Marrano, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/Mark Gortzig Gen. Crew Chief
Chris Schregel, Traffic/Safety Coordinator (c/o Eng)
Brian Barnes, Senior GIS Analyst (Eng.) (letter only)
Bryan Parnell, Fire Chiefs' Association (c/o Bldg)
Stan Sliwa, Town Attorney (Local Law Only)
Ann Demopoulos, Deputy Town Attorney, Right-of-Way Agent
Integrated Review Coordinator, ECDEP
Edward Rutkowski, SEQR Review Coordinator, NYSDOT

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

SUBJECT: REQUEST TO AMEND THE COMPREHENSIVE PLAN AND TO REZONE 14.8± ACRES OF LAND FROM **CTR-8** TO **RD**, **BCPA-2021-01** & **Z-2021-07**; PROPERTY LOCATED AT **4252-4258 RIDGE LEA ROAD (BDC)**. BENDERSON DEVELOPMENT COMPANY 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: A VEGETATIVE BUFFER SHOULD BE MAINTAINED AND ENHANCED ALONG THE NORTH LINE OF THE 8 EXISTING DWELLINGS ALONG MEYER ROAD WHICH ABUT THE SUBJECT PROJECT, AS WELL AS, THE EAST LINE OF 390 MEYER RD

~~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: DJ Ulatowski **Date:** 9/16/2021

DANIEL J. ULATOWSKI

DU/RR/ac
X:\Current_Planning\Files\Bicentennail Comp Plan Amends\BCPA-2021-01_(4252-4258 Ridge Lea Road)_2021\BCPA-2021-01_Transmittal_082321.doc
cc: Scott Marshall, Principal Planner

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Fadel, Bryan

From: Ulatowski, Daniel
Sent: Thursday, August 26, 2021 4:27 PM
To: Marshall, Scott; Voigt, Thomas J.; Roberta Rappoccio
Cc: Fadel, Bryan
Subject: FW: 4224 - 4256 Ridge Lea Rd rezoning T. Amherst
Attachments: 4224-4256 Ridge Lea Rd T. Amherst.pdf; 4224-4256 Ridge Lea Rd T. Amherst p1 and p2.pdf

NYSDOT Review attached

From: Hayes, Ron (DOT) <Ron.Hayes@dot.ny.gov>
Sent: Thursday, August 26, 2021 3:44 PM
To: Ulatowski, Daniel <dulatowski@amherst.ny.us>
Cc: Rutkowski, Edward (DOT) <Edward.Rutkowski@dot.ny.gov>; Smith, Douglas K (DOT) <Douglas.Smith@dot.ny.gov>
Subject: 4224 - 4256 Ridge Lea Rd rezoning T. Amherst

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.
Ellen,

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

- NYSDOT concurs with the Town of Amherst acting as Lead Agency.
- 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). However, if any proposed work is located within the State Highway Right-of-Way then a NYSDOT Highway Work Permit will be required.

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

Thank you,

Ron Hayes

Ronald J. Hayes
Planning and Program Management

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

NEW YORK STATE OF OPPORTUNITY. Department of Transportation

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
APR 20 2022
TOWN OF AMHERST
PLANNING DEPT.

April 9, 2022

To The Members of The Town of Amherst Planning Board:

Re: Benderson/ Delta Sonic BCP amendment and Rezoning petition of 14.8 acres on Ridge Lea Rd

My name is Kim Kowalik and I have lived at 382 Meyer Rd for over 20 years and raised 2 of my children here. It has been a great place to raise a family. We have had a number of months to consider this car wash soap factory /warehouse project and in no way do we the residents benefit from this, we are only ignored and ultimately damaged. Our quality of life will be harmed by pollution, noise, lights and we are still concerned by the soap chemicals that will be our new neighbors. We still hold that this massive project is not in keeping with the character of our residential neighborhood.

In addition to this project we now learn about Costco being jammed into the mix. This only adds to our concerns about the impact of the added traffic on the area. It is challenging enough to navigate North Bailey, Maple, Niagara Falls Blvd.

What is the plan to alleviate the upcoming traffic disaster??

I was also made aware by a neighbor about the Benderson purchase of 270 Meyer Rd for $620,000. I thought how crazy to spend that kind of money on that property. In our discussion a motive by Benderson was floated that this would allow them access to Meyer Rd. We hope you see how this is not a viable solution, it is simply imposing on our neighborhood for the towns lack of pre planning in their giddiness to put a big box store in an area where it simply doesn't belong and the infrastructure doesn't support it.

We strongly request that you vote NO.

Sincerely,

Kim Kowalik

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
APR 18 2022
TOWN OF AMHERST
PLANNING DEPT.

4/15/2022

To Whom it May Concern:

While I currently live in Wilson, my family has owned property on Meyer Rd in the town of Amherst for almost 40 years. That street has always been a small oasis within a bustling area. An oasis not only for the residents, some of whom have been there for multiple generations, but for wildlife who is continually being pushed away by new, and many times unnecessary, construction.

It was brought to my attention that when concerns arose regarding this project's impact on property values, among other things, it was brushed aside and the residents were told there would be no impact. As a Realtor I can say that is simply not true. There are many factors that are considered when determining the value of a property. Some of the factors considered are environmental such as traffic, noise and light pollution as well as potential environmental contamination. All of these factors will change as a result of this project which will most likely have a significant negative impact on the property values of the surrounding homes. A quick Google search provides many articles detailing the negative impact of industrial development on residential real estate values.

Thank you for your time and I sincerely hope the residents of Meyer Rd and the Town of Amherst are given the consideration they deserve.

Sincerely,

A. Wagner

Adrian Wagner
Licensed Real Estate Salesperson

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
APR 18 2022
TOWN OF AMHERST
PLANNING DEPT.

Town of Amherst Planning Board:
4/8/2022

Re: Rezoning 4252-4256 Ridge Lea Rd

We are Melvin and Pamela Taylor and we live at 354 Meyer Rd. Our neighborhood is peaceful and our homes are well cared for. We remain strongly opposed to the Benderson/Delta Sonic factory/warehouse. To rezone this parcel Industrial is placing an unfair burden on a community that represents a population including seniors and minorities. We are concerned that this marginalized population is being targeted unjustly as historically it has been. This will not have a positive impact on our community and is definitely not within the character of our residential hamlet. What are you possibly thinking when it comes to the Benderson/Delta Sonic Factory, Key Bank expansion and now Costco Ridge Lea Rd Projects?? All that appears to us is a tremendous influx of traffic and exhaust fumes with no consideration given to the negative impact this will have on this area as a whole. We further implore you to stick by your original condition that Meyer Rd would not be accessed from this development. No access to Meyer Road means No access to Meyer Rd.

We remain resolute that this development is not in character with the neighborhood of the Meyer Rd residents and we are adamant that you should vote no on this project.

Sincerely,

Melvin Taylor

Pamela Taylor

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
APR 18 2022
TOWN OF AMHERST
PLANNING DEPT.

April 9, 2022

Town of Amherst Planning Board:

Re: Benderson/ Delta Sonic factory/warehouse project Ridge Lea Rd.

I am a senior citizen that has lived at 374 Meyer Rd for many years, raised my son here and I enjoy the Mel Ott baseball season. It has been a peaceful area. There has been obvious development over the years but these have mostly added to the convenience factor of my life, without impacting my quality of life. Now my head is spinning with the onslaught of 3 major projects in my backyard to be inundating the area within a year. How can the local infrastructure accommodate these oversized projects?? I see nothing but problems and no proactive action is being considered.

I am also suspicious of the recent sale of 270 Meyer Rd. It is a small home that I understand sold for $620,000 and was purchased by Benderson/Delta Sonic. What do they have planned for this property, will they be seeking access to Meyer Rd for the overflow of traffic?? I am aware that there was a provision in the Boards previous approval that there be NO access to Meyer Rd, does this purchase negate that provision??? It definitely should NOT, it should be maintained by the strongest legal level possible.

I hope you will vote NO on this project.

Sincerely,

Russell Morley

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
APR 18 2022
TOWN OF AMHERST
PLANNING DEPT.

April, 14, 2022
To The Members of The Town of Amherst Planning Board:

Re: Rezoning Ridge Lea Rd to accommodate Benderson Development

My name is Geri DiCosmo and I live at 378 Meyer Rd. Our street is a small hamlet of homes directly on the south border of the land proposed as the site of the Benderson/ Delta Sonic Factory/Warehouse.

I have addressed this panel before regarding the Benderson/Delta Sonic Factory/Warehouse project and to my disappointment you disregarded every concern we had and voted unanimously to approve the project going forward with several restrictions. The one restriction that is paramount to being enforced is that there will NEVER be access to Meyer Rd from any of the many projects that Benderson has in the works for this property. This includes the Key Bank expansion, the Costco big box store and the Delta Sonic Factory/Warehouse and any other development that proposed in the future on this site. We have been given much lip service about how there are no "immediate" plans to access Meyer Rd, however the recent purchase by Benderson of 270 Meyer Rd with street access for the ridiculous amount of $620,000 is very suspicious and we can only ponder the purpose of this purchase. In addition we were assured by the Supervisor that a sign notifying drivers that Meyer Rd is for " local traffic only" would be installed, where is it??

We are concerned that what you are in fact about to approve is an example of Spot Zoning by affording the developer an Industrial area and a Special Use Permit for the purpose of chemical storage, within what is a commercial /retail district. You will use the argument that it was RD before but if we're being honest that RD was for educational labs associated with the UB annex not to house potentially dangerous chemicals adjacent to a residential neighborhood. Will this Spot zoning also include a gas station for Costco??

With respect to the Comprehensive Plan which should be a map for the future of the Town but from what I have observed the BCP is undergoing constant amendment to serve the developers who have a stranglehold on the community. In conjunction with this, changes in zoning have become commonplace to accommodate them.

Our neighborhood can be considered a marginalized community of senior citizens and minorities. One might argue that as is common with this population the area is being targeted for this type of development. I believe there have been a variety of studies which red flag this project, the most impactful being the traffic study, but has there been an Environmental Justice Screen done for this area?? If not I am demanding the planners conduct an EJ screen and the results will show that not even considering what this factory will bring, that this area is already subjected to negative environmental impacts significantly above the national average!

In keeping with this vein of environmental impact I am referencing the New York State Climate Leadership and Community Protection Act of 2019 which requires phasing carbon emissions in

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

electricity, transportation and buildings. How will these 3 projects be addressing this?? Will Delta Sonic/Benderson be using geothermal heating and cooling, will the transport trucks be electric vehicles? Will this also be applied to Costco and will Key Bank be required to retrofit their facility to accommodate the climate change crisis??

Our neighborhood would like clarification about our future as a residential neighborhood. What is the master plan including timeline to eliminate the residential neighborhood of east Meyer Rd? We as taxpayers have a right to know!!!!

I would like to finish this letter of opposition with how this doesn't fit in with the character of our residential neighborhood, but in your minds you have already eliminated this neighborhood and how can an area have character if it's simply a ghost??

I implore you to further evaluate the negative impact this project will have on this marginalized community of senior citizens and minorities. This will be made clear by the results of the Environmental Justice Impact Screen. A NO vote would reflect your interest in protecting an already at risk population. There are plenty of places in the Town of Amherst that would be infinitely more suitable for the factory and Costco projects.

Sincerely,

Geri DiCosmo

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Carrato, Amy

From: joe voytovich <jvoytovich@yahoo.com>
Sent: Friday, February 25, 2022 5:15 PM
To: Palumbo, Gary
Cc: Howard, Dan; Marshall, Scott; Ulatowski, Daniel; Carrato, Amy; Voigt, Thomas J.
Subject: Re: Delta Sonic project - Ridge Lea tenancy rate
Attachments: IMG_0003.jpg; IMG_0005.jpg; IMG_0007.jpg; IMG_0008.jpg; IMG_0009.jpg

CAUTION: This email originated from outside of the organization.
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Hello all,

I've followed up on my previous question with my own investigation. It seems that not everything pertaining to a rezoning request is supplied in the application.

I found that the following 7 buildings are currently vacant and apparently awaiting asbestos abatement: 4230, 4232, 4234, 4244, 4246, 4248 and 4250 Ridge Lea Road. These buildings back up to the proposed Delta Sonic warehouse lot.

I called the Amherst building department and they have no information on what work may be done there, saying that Benderson has not filed any permit requests. I did find one letter attached to a door that states that the abatement will be going on from 2/28/2022 until 2/28/2023. I tried calling the abatement company but didn't get a reply. Their web site also was not active. I will be checking back next Monday to see if any workers show up.

Attached are some pictures I took of the interiors. These buildings look utterly horrible.

Along with the neglected properties, there is an issue with a residential property purchase that was closed on Nov 3, 2021 - one day after the election. The purchaser was 550 Delaware XVIII LLC. This house was assessed by the town for $75,000. The sale price on this was $620,000. Does that not sound an alarm for anyone? Benderson - though not directly listed on the sale - has offices at 550 Delaware Ave. The residents would not have known about this had it not been for the eye of one resident who noticed this in the weekly Buffalo News real estate sales column on Dec 29, 2021.

I am aghast. I will be putting together a more comprehensive report on this rezoning process. Benderson should not enjoy the privilege to disrupt area usage without full disclosure.

Thank you.

Joe Voytovich

On Friday, January 28, 2022, 03:46:38 PM EST, Palumbo, Gary <gpalumbo@amherst.ny.us> wrote:

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Mr. Voytovich,

Unfortunately the information you seek regarding occupancies is not typically found in rezoning applications. But please note you can ask those questions of the Petitioner at a future public hearing.

Note: We are limiting in-person contact, all meetings will be held via video conferencing and/or telephone.

Gary Palumbo, AICP

Associate Planner

Town of Amherst Planning Department
5583 Main Street
Williamsville, NY 14221
Phone: 716 631-7056

From: joe voytovich <jvoytovich@yahoo.com>
Sent: Wednesday, January 26, 2022 3:34 PM
To: Planning Department email <planningemail@amherst.ny.us>
Subject: Delta Sonic project - Ridge Lea tenancy rate

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,

In regards to the Delta Sonic rezoning, I personally surveyed the adjoining Ridge Lea campus. In there, I found some buildings that seemed to have almost NO tenants. Not only that, but the buildings were in such disrepair that it seems unlikely that they will be occupied at any time soon.

Some had boarded up windows (or painted over). The interiors had holes in the walls and wires and ceiling tiles hanging down. There is also the old restaurant on Ridge Lea that has been vacant for maybe 15 years.

Does anyone know that actual occupancy rate of those buildings? It seems if there's no need for those buildings, why would Benderson need to take fresh land to put a new one?

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Also of interest is how they came up with the need for a 108,000 sq ft building. First they explained that they were going to do mixing of soaps and fragrances there, then later it changed to be that they were mixing the soaps in the smaller, existing buildings and will use the large one for machining.

Did you provide any numbers on how they came up with the need for a 108,000 square foot building? Mr. Kulpa toured their existing building, and the machining areas were not that large, so to take up that much space, they would need an extreme number of workstations.

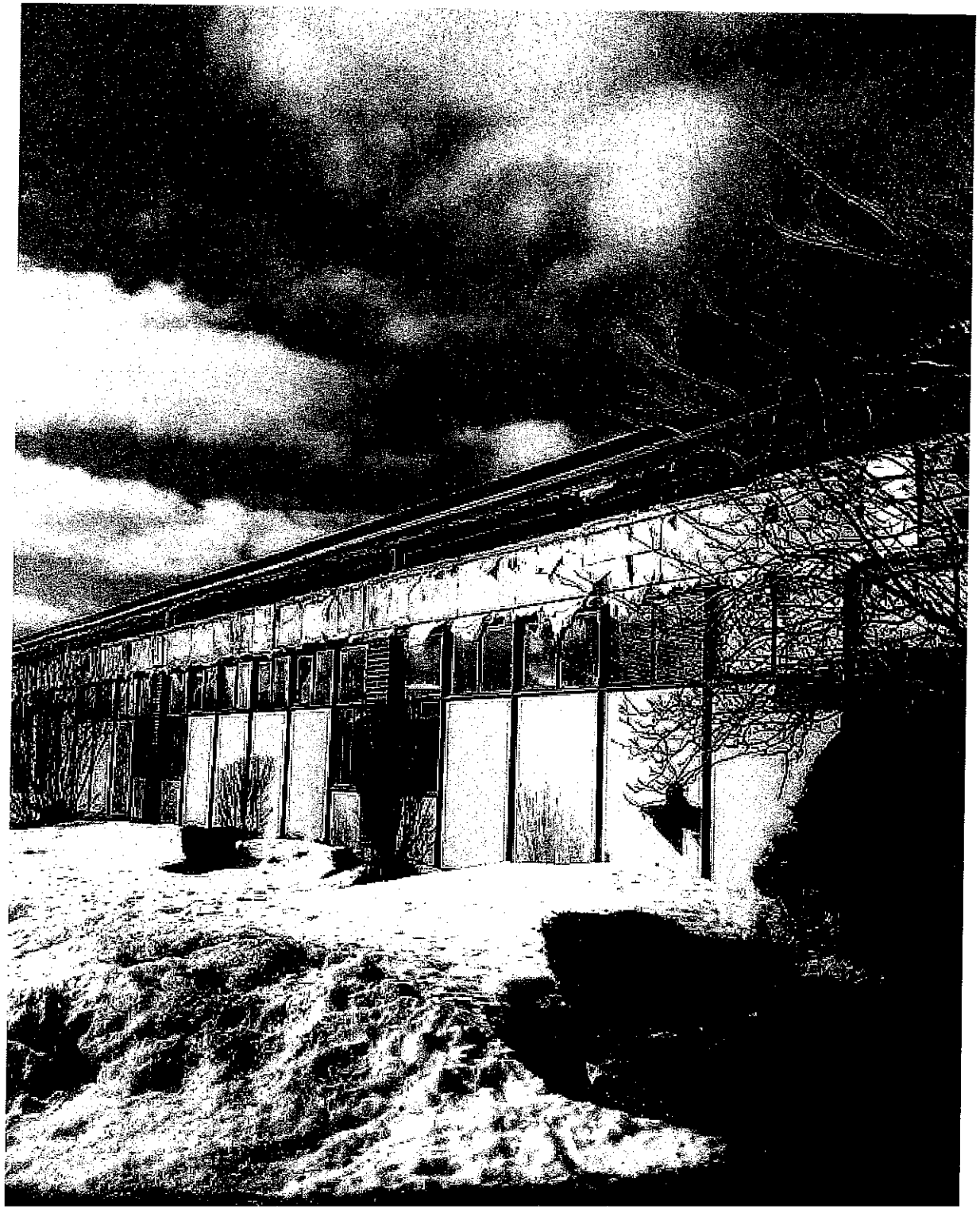
For instance, if a 20 ft x 30 ft space is allocated for each workspace, and half the building was used for this purpose, they would have 90 workspaces. This issue was never discussed during the town board hearings on this. I would appreciate if you can tell me if Benderson presented this data to you.

Thank you.

Joe Voytovich

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

4246



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JAN 24 2022
TOWN OF AMHERST
PLANNING DEPT.

Benderson/Delta Sonic Factory

January 24, 2022

This is our preliminary list.

- 4 (four) foot berm. 8 (eight) foot solid fence on top. Benderson will handle maintenance of fence/berm.
- Leave intact the bushes and trees already existing on the Residents side of the berm. In light of Kulpa tree initiative.
- Berm should be minimum 50 (fifty) feet from the property line.
- Mature trees on the factory side of the berm / fence with dense plantings: pines and evergreens
- Fill in gap areas, where there are currently no trees or bushes, on the Meyer Road side of the berm with mature trees.
- The building should as far away from the residents as possible.
- Complete Removal of the 2 rows of parking spaces on the south side of the building, north of the Meyer Rd residents.
- Building lights of minimal illumination, no more than 12 (twelve) feet high from ground level and hooded facing down, using the minimal number of lights required
- Parking lot on the east end of the building lights of minimal illumination, no higher than 12 (twelve) feet from the ground level, hooded away from the residents and facing down. Using minimal number of lights.
- Noise restrictions:
- Solid sound proof walls, (i.e.block and stucco construction)
- only emergency exits that are alarm activated to prevent propping open for ventilation etc.
- NO exterior Public Address systems,
- building fans are unidirectional (one way) blowing into the building not out of the building. No reversing fans.

Meyer Road Residents and Homeowners

RECEIVED
SEP 16 2021
TOWN OF AMHERST
PLANNING DEPT.

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

To Whom it May Concern:

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- Health Implications
- Light Pollution
- Air Pollution
- Noise Pollution
- Water Pollution
- Rats
- Crime
- Traffic
- Annihilation of the habitat and wildlife

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Please show us that our town will keep its residents best interests in mind when determining the best use for properties within our boundaries and set limits on what developers will be allowed to inflict on their neighbors.

We invite you to come visit and see first hand the adverse impact this will have on our neighborhood.

Sincerely,

CAROLYN H. EVERETT

Signature

Carolyn H. Everett

Address.
325 MEYER RD
AMHERST, NY 14226

Date
9/13/21

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Sincerely,

Signature

374 Meyer 9-14-2021

Address. Date

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

PETITION to **STOP** the PROPOSED CONSTRUCTION of a DELTA SONIC SOAP FACTORY IMMEDIATELY BEHIND MEYER RD RESIDENCES

We the undersigned homeowners and residents of Meyer Rd vehemently oppose this project!!

Our goals in stopping this factory include but are not limited to:

1. Preserving our property values
2. Preserving our quality of life
3. Preserving what is currently one of the few remaining wildlife habitats in our area

Our concerns related to this project include but are not limited to:

1. Health impact from hazardous chemicals
2. Light Pollution
3. Noise Pollution
4. Air Pollution
5. Traffic
6. Crime
7. Rats

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	Printed Name.	Address.	Signature
1	Russell Molloy	370 Meyer	
2	Rosemary Sakura	350 Meyer Rd	14526
3	Jean Marie Rotter	330 Meyer Rd	14226
4	David Rotter	330 Meyer Rd	
5	Andrea C. Kemp	290 MEYER	
6	Debra Kaiser	254 Meyer Rd	
7	Maria Helmig	246 Meyer Rd	
8	Todd Helmigs	246 Meyer Rd	
9	Sheila Goldberg	306 Meyer	
10	William M Everett	325 MEYER RD	WILLIAM M EVERETT
11	Dan & Kim Kowalik	382 Meyer Rd.	Amherst N.Y.
12	Della Hug	362 meyer Rd	
13	John Duggan	331 Meyer Rd	

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

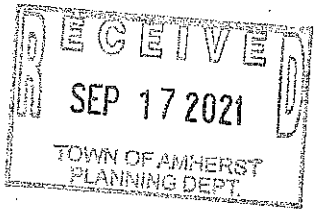
		Name.	Address.	Signature
	14	Anthony Casey	390 Meyer Rd	Anthony Casey
	15	Melvin Taylor	354 Meyer Rd	
	16	Pamela Taylor	354 Meyer Rd	P. M. Taylor
	17	Diana Vatel	260 MEYER Rd.	
CAR	18	Brooke Hicks	307 Reist St.	
CAR	19	Christina Hicks	62 Mahogany Dr	
CAR	20	Josh Hicks	62 Mahogany Dr.	
CAR	21	Colleen Stockdale	300 maynard Dr.	
CAR	22	Kaitlyn Silla	483 Emerson Dr.	K.
CAR	23	Nick DiCosmo	483 Emerson Dr.	N.
CAR	24	Jeremiah Hicks	307 Reist St	
CAR	25	Robert Stockdale	300 Maynard Dr	
	26	Elizabeth Hughes	390 Meyer rd	Elizabeth Hughes
	27	Susan Holt	370 Meyer Rd	Susan Holt
	28	KENNETH C HOLT	370 MEYER RD	Kenneth C Holt
	29	WILLIAM D KLEIS	378 MEYER RD	
	30	Geri DiCosmo	378 Meyer Rd	Geri DiCosmo
	31			
	32			
	33			
	34			
	35			

CAR - concerned Amherst resident

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221



September 13, 2021

Robert J Gilmour:

With regard to the attached petition to stop the planned construction of a factory on the property located at 4252- 4258 Ridge Lea that is directly behind our homes on Meyer Road. The Meyer Road homeowners (your neighbors) hope that you will read and give your full consideration to our concerns as if it were your property being affected.

We strenuously object to the location of this factory behind our homes for these reasons:

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- Water Pollution
- Rats
- Crime
- Traffic
- Annihilation of the habitat and wildlife

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We invite you to come visit and see first hand the adverse impact this will have on our neighborhood.

Sincerely,

Signature

378 Meyer Rd 9/17/21

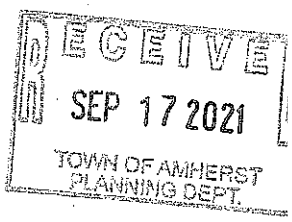
Address. Date

Attached please find the aforementioned petition and a detailed description of our concerns.

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221



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Sincerely,

Signature

378 MEYER RD AMHERST 9-17-21

Address. Date

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Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

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SEP 17 2021
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PLANNING DEPT.

September 13, 2021

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Sincerely,

KENNETH C HOLT

Signature

Kenneth C Holt

Address.
370 MEYER RD

Date 9-17-2021

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
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Sincerely,

Susan Holt

Signature

Susan Holt 9/17/21

Address. Date

390 Meyer Rd
Amherst, NY 14226

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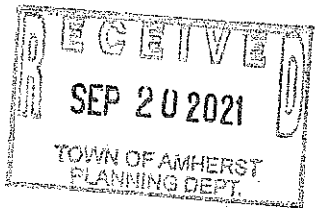

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Sincerely,

Diane Vitel

Signature

Diane Vitel

Address. 260 MEYER RD
AMHERST, NY 14226

Date 9/18/21

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We currently endure increased traffic and on street parking during the May through September Mel Ott season due to insufficient parking space in the Mel Ott parking lot. Now we will be asked to have our homes be located between the factory parking lot which would border our back yard and the Mel Ott over-parking in our front yard making us feel like we live in a used car lot and further devalue our properties. Perhaps they would consider purchasing properties adjacent to Mel Ott, freeing up a larger portion of their land for development.

We are sorely disappointed in the lack of consideration that has been given to us as long term taxpayers and homeowners of this Amherst neighborhood in that a factory is even being considered so close to our residences.

Please show us that our town will keep its residents best interests in mind when determining the best use for properties within our boundaries and set limits on what developers will be allowed to inflict on their neighbors.

We invite you to come visit and see first hand the adverse impact this will have on our neighborhood.

Sincerely,

Sheila Goldberg

Signature

Sheila Goldberg

Address.

306 Meyer Rd

Date

9/15/21

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
SEP 21 2021
TOWN OF AMHERST
PLANNING DEPT.

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

To Whom it May Concern:

With regard to preventing the planned construction of a factory on the property located at 4252-4258 Ridge Lea Rd that is directly behind our homes on Meyer Road. The Meyer Road homeowners (your neighbors) hope that you will read and give your full consideration to our concerns as if it were your property being affected.

We strenuously object to the location of this factory behind our homes for these reasons:

- Property Devaluation
- Health Implications
- Light Pollution
- Air Pollution
- Noise Pollution
- Water Pollution
- Rats
- Crime
- Traffic
- Annihilation of the habitat and wildlife

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We invite you to come visit and see first hand the adverse impact this will have on our neighborhood.

Sincerely,

Della Diaz-Hailey

Signature

Della Diaz-Hailey

Address. 362 Meyer Rd Amherst, NY 14226

Date

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
SEP 21 2021
TOWN OF AMHERST
PLANNING DEPT.

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

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Sincerely,

Rosemary LaBella

Signature

350 Mayer Rd. Buff. NY 14226

Address.

Date Sept 13, 2021

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
SEP 21 2021
TOWN OF AMHERST
PLANNING DEPT.

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

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Sincerely,

Signature

Gordon e. Kemp

Address. 290 MEYER RD
AMHERST NY
14226

Date 9-21-21

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
SEP 21 2021
TOWN OF AMHERST
PLANNING DEPT.

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

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Sincerely,

Bonnie Siegel

Signature

290 Meyer Road Amherst, NY 14226

Address.

Date 9/19/21

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

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Sincerely,

Melvin L - Taylor JR

Signature

Address. 354 Meyer Rd
Amherst, NY 14226

Date 9/20/21

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

RECEIVED
SEP 29 2021

Meyer Road Residents and Homeowners

Town of Amherst Planning Board
5583 Main Street
Williamsville, NY 14221

September 13, 2021

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Sincerely,

Julie M Sykes Julie Sykes

Signature

Robert C Sykes Robert Sykes

Address.

310 Mayer Rd
Amherst Wy 14226

Date 9-27-21

Attachment: Z-2021-07 TB letter 060622 (RES-2022-548 : 4252 - 4258 Ridge Lea Road Rezoning)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25900 **RESOLUTION 2022-549** **ROLL CALL VOTE (ADOPTED)**

2022 Engineering Department Vehicles and Equipment Amended and Restated Bond Resolution ($432,000)

AGENDA ITEM : JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Engineering Department Equipment & Vehicle Bond**
2022 C.I.P. - Project No. E-1
Amended and Restated Bond Resolution - $432,000

Kindly adopt the attached amended and restated bond resolution to allow for a revision to the PPU (Period of Probable Usefulness) for equipment for the Town of Amherst Engineering Department.

Said action has no effect, be it financial or otherwise, on the previously adopted bond resolution (Resolution 2022-503 - May 23rd, 2022) for the same project.

Thank you.
SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Vaishali Reberholt, PE, CPESC (*w/attachment*)

6/6/2022
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:

None for the purposes of this resolution.

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

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

June 6, 2022

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on June 6, 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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

AMENDED AND RESTATED BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, DATED JUNE 6, 2022 AMENDING AND RESTATING A BOND RESOLUTION ADOPTED MAY 23, 2022, APPROPRIATING $432,000 FOR THE INCREASE AND IMPROVEMENT OF FACILITIES OF CONSOLIDATED SANITARY SEWER DISTRICT, AND AUTHORIZING THE ISSUANCE OF BONDS OF SAID TOWN IN THE PRINCIPAL AMOUNT OF $432,000 TO FINANCE SAID APPROPRIATION

Offered by: _____

Seconded By: _____

Recital

WHEREAS, the Town Board of the Town of Amherst (herein the “Town”), in the County of Erie, New York, after a public hearing duly called and held, determined that it is in the public interest to increase and improve the facilities of the Town’s Consolidated Sanitary Sewer District (herein referred to as the "District"), pursuant to a serial bond resolution adopted by the Town Board of the Town on May 23, 2022 (the “Original Resolution”), authorizing serial bonds with a maturity of only five (5) years;

WHEREAS, the Town Board of the Town desires to issue a portion of the serial bonds for the maturity and period of probable usefulness permitted by law, and accordingly, desires to amend and restate the Original Resolution herein;

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

Now, therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF AMHERST, IN THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all the members of said Board) TO AMEND AND RESTATE THE ORIGINAL BOND RESOLUTION IN ITS ENTIRETY TO READ AS FOLLOWS:

Section 1. The Town hereby appropriates the amount of $432,000 for the increase and improvement of facilities of the District, consisting of (i) the acquisition of equipment in the amount of $347,000 (the "Equipment") and (ii) the acquisition of motor vehicles in the amount of $85,000 (the "Vehicles"), each in connection therewith, as described in the map, plan and report dated March 23, 2022 (CIP Project No. E-1) prepared by the Town Engineering Department. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $432,000. The plan of financing includes the issuance of $432,000 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 $432,000 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 Equipment for which a portion of said bonds are authorized to be issued, within the limitations of Section 11.00 a. 28 of the Law, is fifteen (15) years.

(b) The period of probable usefulness of the Vehicles for which a portion of said bonds are authorized to be issued, within the limitations of Section 11.00 a. 29 of the Law, is five (5) years.

(c) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(d) The proposed maturity of the serial bonds authorized by this resolution may 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.

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and the renewals of said bond anticipation notes, and as to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

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

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

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

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

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-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated 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-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated 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 June 6, 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 June, 2022.

(SEAL)

_____

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertBondReso (RES-2022-549 : 2022 Engineering Department Vehicles and Equipment - Amended and Restated Bond Resolution

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25904 A **RESOLUTION 2022-550** **ROLL CALL VOTE (ADOPTED)**

2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000)

AGENDA ITEM - JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Highway Department Vehicles and Equipment (5YPPU)**
Bond Resolution - $151,000.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $151,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Patrick G. Lucey, Superintendent of Highways (*w/attachment)*
Paul Anderson, Deputy Superintendent of Highways (*w/attachment)*

6/6/2022
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 - $151,000

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

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

June 6, 2022

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on June 6, 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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED JUNE 6, 2022, AUTHORIZING THE ACQUISITION OF VEHICLES FOR THE HIGHWAY DEPARTMENT, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $151,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $151,000 TO FINANCE SAID APPROPRIATION

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to acquire vehicles for the Highway Department, as described in the map, plan and report prepared by said Department referencing Capital Improvement Program Project H-2. The total estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $151,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the principal amount of $151,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $151,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

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

(a) The period of probable usefulness applicable to the class of objects or purposes for which said bonds are authorized to be issued, within the limitations of Section Sections 11.00 a. 29 of the Law, is five (5) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will not exceed five (5) years.

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

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Section 7. This bond resolution shall take effect immediately, and the Town Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

"Amherst Bee," a newspaper having a general circulation within said Town and hereby designated as the official newspaper of the Town for such publication.

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

CERTIFICATE

I, Francina J. Spoth, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on June 6, 2022, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

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

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU (Bond Resolution - $151,000))

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

2022 HIGHWAY VEHICLE & EQUIPMENT BOND
2022 CIP PROJECT H-2
5-Year PPU

EQUIPMENT SUMMARY

(4) ¾ TON PICK UP 4x4 @ $37,550.00 each	$150,200.00
Legal/Admin	$800.00
TOTAL BOND	$151,000.00

TAXATION SUMMARY

Total Bond Amount:	$151,000.00
Bond Term:	5 Years
Annual Tax Impact:	$0.0033 per $1,000 AV (Highway Fund)
Typical Property Taxation:	$0.6631 per $200,000 home

Please note that pricing is estimated under current market conditions. If pricing or availability becomes an issue, vehicles may need to be modified.

This is a requested General Account Bond action and as such does not require a public Hearing. Please generate and process all of the required documents in order for the Town Board to consider this bond action as soon as possible.

Attachment: MPR H-2 Highway Vehicles & Equipment - 5-Year PPU (RES-2022-550 : 2022 Highway Department Vehicles and Equipment 5Y PPU

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 25905 **RESOLUTION 2022-551** **ROLL CALL VOTE (ADOPTED)**

2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000)

AGENDA ITEM - JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **2022 Highway Department Vehicles and Equipment (15YPPU)**
Bond Resolution - $679,000.00

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

(1) Adopt the attached bond resolution authorizing the issuance of $679,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - June 6, 2022**)
Daryl Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Dan Ulatowski, AICP, Assistant Planning Director/ZEO (*w/attachment)*
Patrick G. Lucey, Superintendent of Highways (*w/attachment)*
Paul Anderson, Deputy Superintendent of Highways (*w/attachment)*

6/6/2022
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 - $679,000

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

AMHERST HIGHWAY DEPARTMENT

1042 North Forest Road Williamsville, New York 14221

Patrick Lucey
Superintendent of Highways
plucey@amherst.ny.us

PHONE (716) 631-7117

FAX (716) 631-7265

www.amherst.ny.us

2022 HIGHWAY VEHICLE & EQUIPMENT BOND
2022 CIP PROJECT H-2
15-Year PPU

EQUIPMENT SUMMARY

(1) 10-Wheel Tandem w/SS Side Dump & Plow	$240,600.00
(2) 1-Ton w/SS Dump @ $45,000.00 each	$90,000.00
(2) 14' SS Side Dump Bodies @ $50,000.00 each	$100,000.00
(1) Street Sweeper	$245,000.00
Legal/Admin	$3,400.00
TOTAL BOND	$679,000.00

TAXATION SUMMARY

Total Bond Amount:	$679,000.00
Bond Term:	15 Years
Annual Tax Impact:	$0.0060 per $1,000 AV (Highway Fund)
Typical Property Taxation:	$1.1938 per $200,000 home

Please note that pricing is estimated under current market conditions. Funding may be moved between lines if necessary. If pricing or availability becomes an issue, vehicles may need to be modified.

This is a requested General Account Bond action and as such does not require a public hearing. Please generate and process all of the required documents in order for the Town Board to consider this bond action as soon as possible.

Attachment: MPR H-2 Highway Vehicle & Equipment 15-Year PPU (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

June 6, 2022

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on June 6, 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

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED JUNE 6, 2022, AUTHORIZING THE ACQUISITION OF EQUIPMENT FOR THE HIGHWAY DEPARTMENT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $679,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $679,000 TO FINANCE SAID APPROPRIATION.

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to finance the acquisition of equipment for the Highway Department, as described in the map, plan and report prepared by said Department referencing Capital Improvement Program Project H-2. The estimated total maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $679,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the aggregate principal amount of $679,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $679,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said objects or purposes as set forth in section 1 hereof.

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

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

(a) The period of probable usefulness applicable to the class of objects or purposes for which said $679,000 bonds are authorized to be issued, within the limitations of Section 11.00 a. 28 of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

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

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within fifteen (15) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on June 6, 2022, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED JUNE 6, 2022, AUTHORIZING THE ACQUISITION OF EQUIPMENT FOR THE HIGHWAY DEPARTMENT, STATING THE ESTIMATED TOTAL MAXIMUM COST THEREOF IS $679,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $679,000 TO FINANCE SAID APPROPRIATION,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town is authorized to finance the acquisition of equipment for the Highway Department, as described in the map, plan and report prepared by said Department referencing Capital Improvement Program Project H-2; STATING the estimated total maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $679,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $679,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $679,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: June 6, 2022

FRANCINA J. SPOTH,
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on June 6, 2022, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

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

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

AFFIDAVIT OF POSTING

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

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned she was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2022, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on June 6, 2022, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____
Town Clerk

Subscribed and sworn to before me

this _____ day of June, 2022.

_____
Notary Public, State of New York

Attachment: CertBondReso (RES-2022-551 : 2022 Highway Department Vehicles and Equipment 15Y PPU (Bond Resolution - $679,000))

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25906 **RESOLUTION 2022-552** **ADOPTED**

PILOT Agreement: Blocher Homes (CRS #3431)

AGENDA ITEM : JUNE 6TH, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **PILOT Agreement:**
Blocher Homes Housing Development Fund Corporation as nominee for Blocher Homes Apartments and the Town of Amherst, et al. (CRS# 3431)

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

WHEREAS, Blocher Homes Housing Development Fund Corporation, as nominee for Blocher Homes Apartments, has requested that the Town Board approve a PILOT Agreement with a term of fifteen (15) years for the Property; and

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

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

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

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

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

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

SAA:nmb

Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment*, **Agenda Item - June 6, 2022**)
Emily Murphy, Town Assessor (*w/attachment*)

6/6/2022
Consent

FINANCIAL IMPACT:

PILOT

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

AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR BLOCHER HOMES APARTMENTS PROJECT 135 EVANS STREET, WILLIAMSVILLE, NEW YORK

Among

BLOCHER HOMES HOUSING DEVELOPMENT FUND CORPORATION

as nominee for

BLOCHER HOMES APARTMENTS LLC

And

THE VILLAGE OF WILLIAMSVILLE, TOWN OF AMHERST, ERIE COUNTY & WILLIAMSVILLE CENTRAL SCHOOL DISTRICT

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

THIS AGREEMENT for payment in lieu of taxes is made as of the _____ day of _____ 2022 (the ***"PILOT Agreement"***), by and among the **VILLAGE OF WILLIAMSVILLE** a municipal corporation organized and existing under the laws of the State of New York, having its principal office at 5565 Main Street, Williamsville, New York 14221 (the ***"Village"***), the **TOWN OF AMHERST**, a municipal corporation organized and existing under the laws of the State of New York, having its principal office at 5583 Main Street, Williamsville, New York 14221 (the ***"Town"***), the **COUNTY OF ERIE** a municipal corporation organized and existing under the laws of the State of New York, having its principal office c/o Erie County Department of Finance, 95 Franklin Street, Buffalo, New York 14202 (the ***"County"***), the **WILLIAMSVILLE CENTRAL SCHOOL DISTRICT**, a school district formed pursuant to Article 37 of the Education Law of the State of New York, having its principal office at 105 Casey Road, East Amherst, NY 14051 ("***School District***"), **BLOCHER HOMES HOUSING DEVELOPMENT FUND CORPORATION**, a New York not-for-profit corporation organized pursuant to Article XI of the New York State Private Housing Finance Law (the ***"PHFL"***) with offices at 1219 North Forest Road, Williamsville, New York, 14221, (the ***"Taxpayer"***) and **BLOCHER HOMES APARTMENTS LLC** a New York limited liability company with offices at 1219 North Forest Road, Williamsville, New York, 14221 (the ***"Company"*** and together with the Taxpayer, the ***"Owner"***). All being collectively referred to as the ***"parties"*** and individually as a ***"party."***

WHEREAS, the proposed project involves the new construction and rehabilitation of 93 mixed income designated apartment units located at 135 Evans Street in Erie County Census Tract 96.02 as further described within the attached legal description at ***Exhibit "A"***, in the Village of Williamsville, Town of Amherst, County of Erie and State of New York (***"Land"*** or ***"Property"*** collectively, the ***"Project"***), and

WHEREAS, the development of the Project is of vital public interest to the Village, Town, County and School District; and

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

WHEREAS, the Taxpayer qualifies for those certain tax exemptions pursuant to Article 11 of the PHFL; and

WHEREAS, the Taxpayer is the nominal fee owner of the Project for and on behalf of the Company, which is the beneficial owner thereof; and

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

WHEREAS, the Village, Town, County and School District wish to grant the Taxpayer and the Company such relief as permitted under Section 577 of the PHFL; and

WHEREAS, the Village, by Resolution of the Village Board of Trustees adopted on April 25, 2022, approved such an exemption and authorized this PILOT Agreement to be executed on behalf of the Village by the Village Mayor; and

WHEREAS, the Town, by Resolution Number ___ of the Town Board, adopted on _____, 2022 approved such an exemption and authorized this PILOT Agreement to be executed on behalf of the Town by the Town Supervisor; and

WHEREAS, the County, by Resolution Number ___ of the Erie County Legislature, adopted on _____, 2022 approved such an exemption and authorized this PILOT Agreement to be executed on behalf of the County; and

WHEREAS, the School District, by Resolution Number ___ of the School Board, adopted on _____, 2022 approved such an exemption and authorized this PILOT Agreement to be executed on behalf of the School District; and

NOW, THEREFORE, in consideration of the covenants and agreements contained in this PILOT Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. **Tax Exemption**. The parties agree that Owner qualifies for real property tax exemption for the Project in accordance with the provisions of Article 11 of the PHFL and the Town hereby exempts from local and municipal taxes, including school taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Project, including both Land and improvements. "***Local and Municipal Taxes***" shall mean any and all real estate taxes levied by the County, the Town, the School District (collectively, the "***Taxing Jurisdictions***"). The parties understand that the exemption extended pursuant to section 577 of the PHFL and this PILOT Agreement does not include exemption from special assessments, special ad valorem levies, improvement district charges or similar tax equivalents. This PILOT Agreement shall not limit or restrict the Owner's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this PILOT Agreement.

2. **Obligation of the Owner to Make Payments in Lieu of Taxes**. The Village, Town, County and School District require, and the Owner shall, make payments in lieu of real property taxes to the Taxing Jurisdictions pursuant to the real estate tax policies of the Village, Town, County and School District subject to the terms of this PILOT Agreement. So long as the aforementioned exemption remains in place, the owner will make annual payments in lieu of taxes ("***PILOT Payments***") to the Taxing Jurisdictions in the amounts set forth in ***Schedule "A"***, as attached hereto and made a part hereof, in satisfaction of all real property taxes.

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

3. **Requirements of the Owner**.

a. The development of the Project shall be carried out in accordance with the provisions of Article 11 of the PHFL and in compliance with the reasonable requirements of the Planning Board of the Village of Williamsville pursuant to that certain Certified Resolution as duly adopted by the Planning Board of the Village of Williamsville as of March 7, 2022.

b. The PILOT Agreement period is to commence on the Commencement Date, as hereinafter defined, and be concurrent with the Project's use as affordable housing and for so long as a municipality aided, state aided and/or federally aided mortgage is outstanding on the Project, but shall not exceed fifteen (15) years. The tax exemption provided by this PILOT Agreement will continue for a term of fifteen (15) years, unless sooner terminated by law or mutual agreement upon prior written consent of the parties, provided that the Owner continues to operate the Project and the Land for persons of low income in conformance with Article XI of the PHFL.

c. The Owner shall provide the Village, Town, County and School District such information concerning its operations and the operations of the Project in form and substance as may from time to time be reasonably requested. Such information shall include, but shall not be limited to, the annual financial statements of the Owner from the calendar year immediately preceding the fiscal year in which payments are due.

d. The Owner shall permit the Comptroller of the Village, Town, County and/or School District to audit its books and records within fourteen (14) days after receiving a written request from the Village, Town, County or School District.

e. Transfer of legal title to the Land and improvements comprising the Project will not be allowed during the term of this PILOT Agreement without the prior written consent of the Village, Town, County or School District.

4. **Taxing Authorities and Amounts**.

a. Upon commencement of the Town's next taxable status date following substantial completion of the Project described herein as evidenced by receipt of a Certificate of Occupancy (the "Commencement Date"), the Owner shall make annual payments in lieu of local and municipal real estate taxes, including school taxes but not including assessments for local improvements and special assessments on the Land and improvements constituting the Project as follows:

i) A fixed annual PILOT payment to the Taxing Jurisdictions in the amounts as stated in ***Schedule "A"***, attached hereto and made a part hereof, in satisfaction of all real property taxes;

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

ii) In addition to the payments set forth in Schedule A, the Owner will be responsible for paying all special district assessments and other assessments for local improvements permitted by law;

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

b. The PILOT Payments shall be payable annually. Each annual PILOT Payment shall be made to the Village, Town, County and School District, respectively, on or before the date that the particular tax payment would have been due to the Village, Town, County or School District.

c. The accountant for the Owner shall prepare all documents and forms required under this PILOT Agreement.

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

6. **Effect of Fulfillment of the Requirement**. Once having paid the amounts required by this PILOT Agreement when due, the Owner shall not be required to pay any real property taxes for which such payments in lieu of taxes have been made, except special district assessments and other special assessments for local improvements permitted by law.

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

a. An event of default (***"Event of Default"***) shall be defined as (l) failure of the Owner to make any payment required under the PILOT Agreement when due, (2) the Owner's failure to provide any notice as required by this PILOT Agreement to the Village, Town, County or School District, (3) Taxpayer's failure to qualify, or continue to qualify, for a real property tax exemption for the Project in accordance with Article 11 of the PHFL, (4) failure of Owner to provide any of the information required by Section 3(c) or 3(d) of this PILOT Agreement, or (5) the transfer of title or beneficial ownership of any portion of the Project or the Land without the prior written consent of the Village, Town, County and School District.

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

b. Upon the occurrence of an Event of Default as defined pursuant to Section 7(a) above, the Owner shall have ten (10) days after the receipt of Notice from the Village, Town, County or School District regarding such default to cure such default.

c. In the event the Owner has not cured such default or defaults within the time period set forth in this PILOT Agreement, then the exemption from real property taxes described herein shall be deemed to have been terminated as of the taxable status date of the Town's immediately preceding fiscal year.

d. Upon a termination of the exemption from real property taxes set forth in Section 7(c) above, the Owner shall be liable for real property taxes on a pro-rata basis from and after the Town's taxable status date immediately preceding the Event of Default and the statutory lien applicable to such real property taxes shall be deemed in effect as of the lien date normally applicable to such year's real property taxes, unless a separate basis for a real property tax exemption then exists for the benefit of Owner.

e. Any such termination of the real property tax exemption applicable to the Project shall not void the liability of the Owner for any unpaid payments in lieu of taxes required by this PILOT Agreement prior to such termination.

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

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

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

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

11. **Pay Equity**. The Owner shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as **Schedule "B"** and made a part hereof. The Owner shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Owner, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to conforming the Agency's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for the immediate termination of this PILOT Agreement and may constitute grounds for determining that the Owner is not qualified to participate in future County contracts.

12. **Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under the PILOT Agreement shall be in writing to the addresses set forth for each party in the opening paragraph of this PILOT Agreement.

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

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

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

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

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

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

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

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

Remainder of Page Intentionally Left Blank
Signature Pages to Follow

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

IN WITNESS WHEREOF, the Village, Town, County, School District, Company and Taxpayer have duly executed this PILOT Agreement as of the day and year first above written.

COUNTY OF ERIE ("COUNTY")

_____

MARK C. POLONCARZ, County Executive
MARIA R. WHYTE, Deputy County Executive

Date:_____

Approved as to content for Erie County:

_____

DANIEL R. CASTLE, Commissioner
Department of Planning & Economic Development

Date:_____

Approved as to form for Erie County:

_____

RICHARD E. STANTON
Assistant County Attorney

Date:_____

TOWN OF AMHERST ("TOWN")

_____

BRIAN J. KULPA
Town Supervisor

Date:_____

Approved as to form and content for the Town of Amherst:

_____

SAMUEL A. ALBA
Senior Deputy Town Attorney

Date:_____

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

VILLAGE OF WILLIAMSVILLE ("VILLAGE")

_____

DEBORAH ROGERS, MAYOR

Date:_____

Approved as to form and content for the Village of Williamsville:

_____

CHARLES GRIECO,
Village Attorney
Date:_____

BLOCHER HOMES HOUSING DEVELOPMENT FUND CORPORATION ("TAXPAYER")

By: People Community Housing Development Corporation

_____

RHONDA FREDERICK, Authorized Signatory

Date:_____

BLOCHER HOMES APARTMENTS LLC ("COMPANY")
By: BLOCHER HOMES APARTMENTS MM LLC
its Managing Member

By: People Community Housing Development Corporation
its Sole Member

_____

RHONDA FREDERICK, Authorized Signatory

Date:_____

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

WILLIAMSVILLE CENTRAL
SCHOOL DISTRICT ("SCHOOL DISTRICT")

_____

DR. DARREN J. BROWN-HALL
Williamsville Central School District
Superintendent

Date:_____

Approved as to content
for School District:

_____

THOMAS MATURSKI
Williamsville Central School District Assistant
Superintendent for Finance & Management
Services

Date:_____

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

EXHIBIT A: LEGAL DESCRIPTION

All that tract or parcel of land situate in the village of Williamsville, Town of Amherst, County of Erie and State of New York, being part of Lots Nos. 4 and 1, Township 12, Range 7 of the Holland Land Company's Survey, described as follows: -

Beginning at a point in the east line of Evans Street, as presently laid out, being the southwest corner of lands conveyed to Barbara L. Schmidt by a deed dated the 9th day of January, 1990 and recorded in Erie County Clerk's Office in liber 10134 of Deeds page 581: running thence north 89° 35' 54" west along the southerly boundary of said lands conveyed to Barbara L. Schmidt, a distance of 389.49 feet to the easterly line of lands conveyed to the Blocher Homes by deed recorded in Erie County Clerk's Office in liber 1041 of Deeds page 58, being the southwest corner of lands conveyed to said Barbara L. Schmidt: running thence southerly along the east line of the aforesaid lands conveyed to The Blocher Homes (S 00° 28' 24" E), a distance of 553.10 feet to a point: running thence southwesterly (S 89° 00' 02" W), a distance of 71.80 feet to a point: running thence south 00° 03' 04" east, a distance of 125.70 feet to a point: running thence S 81° 10' 33" W, a distance of 226.73 feet to a point in the east line of Evans Street, as presently laid out: running thence N 08° 49' 27" W along the said east line of Evans Street, a distance of 71.99 feet: running thence S 81° 10' 33" W, 5.0 feet along a jog in Evans Street: running thence along the east line of Evans Street, a distance of 250.24 feet to a concrete monument in the said east line of Evans Street: running thence along the east line of Evans Street N 06° 15' 40" W, a distance of 369.46 feet to a concrete monument in the east line of Evans Street and then running along the east line of Evans Street, a distance of 40.13 feet to the point or place of beginning

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

SCHEDULE A
PILOT Payment Schedule

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

Blocher Homes Apartments
135 Evans Street, Village of Williamsville, County of Erie, NY

Year	Total PILOT *100%*	Paid to Village *35%*	Paid to Town *25%*	Paid to School *15%*	Paid to County *25%*
1	$ 50,227	$ 17,579	$ 12,557	$ 7,534	$ 12,557
2	$ 51,733	$ 18,107	$ 12,933	$ 7,760	$ 12,933
3	$ 53,286	$ 18,650	$ 13,322	$ 7,992	$ 13,322
4	$ 54,883	$ 19,209	$ 13,721	$ 8,232	$ 13,721
5	$ 56,532	$ 19,786	$ 14,133	$ 8,480	$ 14,133
6	$ 58,227	$ 20,379	$ 14,557	$ 8,734	$ 14,557
7	$ 59,973	$ 20,991	$ 14,993	$ 8,996	$ 14,993
8	$ 61,772	$ 21,620	$ 15,443	$ 9,266	$ 15,443
9	$ 63,626	$ 22,269	$ 15,907	$ 9,543	$ 15,907
10	$ 65,535	$ 22,937	$ 16,384	$ 9,830	$ 16,384
11	$ 67,500	$ 23,625	$ 16,875	$ 10,125	$ 16,875
12	$ 69,524	$ 24,333	$ 17,381	$ 10,429	$ 17,381
13	$ 71,611	$ 25,064	$ 17,903	$ 10,741	$ 17,903
14	$ 73,759	$ 25,816	$ 18,440	$ 11,063	$ 18,440
15	$ 75,973	$ 26,591	$ 18,993	$ 11,396	$ 18,993

Assumptions:

- Year beginning after construction completion and property achieves stabilized operations.
- PILOT payment to Village is based on 581-a estimate in Year 1 with an annual 3% escalator thereafter.
- PILOT payment to Town, School and County are based on County PILOT A (5% of Effective Gross Income in Year 1 with a 3% escalator thereafter for properties that offer 60% of units for households earning 60% of AMI or less).
- The amount paid to the Village does not include the Village special taxes (including Village sewer) that will be paid outside of the PILOT or 581-a per standard practice. **Estimated Village special taxes total approximately $9,000 based on previous years' tax bills.**

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

SCHEDULE B
Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

_____
Signature

Verification

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

A)

_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)

_____, being duly sworn, states that he or she is the
(Name of Corporate Officer)
_____, of _____,
(Title of Corporate Officer) (Name of Corporation)

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____ Day of _____, 20____

_____
Notary Public

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

Executive Order #13
Pay Equity Certification on County Contracts

WHEREAS, federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Federal Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity) (together "Federal Equal Pay Law"), requires that men and women in the same workplace be given equal pay for equal work; and

WHEREAS, Section 194 of New York State Labor Law ("NYS Equal Pay Law") prohibits compensating men and women differently for the same work; and

WHEREAS, on average, a full-time working woman in New York State earns just 85 cents for every dollar that a man earns and the pay gap is even greater for African-American and Latina women; and

WHEREAS, females make up nearly fifty-two percent of Erie County's population; and

WHEREAS, women make up nearly half of the U.S. labor force and are a growing number of breadwinners in their families; and

WHEREAS, this pay differential shortchanges women and their families by thousands of dollars a year, and potentially hundreds of thousands of dollars over a lifetime, presenting a lifelong threat to those families' economic security and reducing their earnings through Social Security and other post retirement plans; and

WHEREAS, poverty is recognized as a leading cause of or contributing factor to many social problems, including but not limited to substance abuse, domestic violence, child abuse, improper nutrition, obesity, improper health care and criminal conduct; and

WHEREAS, the impact of pay differentials is exacerbated as workers age, causing underpaid workers to disproportionally rely upon various forms of public support in their retirement years; and

WHEREAS, pay inequity can significantly impact the County, necessitating the provision of various public subsidies for low income residents and leading to the lack of receipt of income by women residents which would be spent in our local economy; and

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

WHEREAS, through the enforcement of current state and federal laws that ban unequal pay for equal work, Erie County can help ameliorate the many negative consequences of pay inequality, thereby improving the lives of those who might otherwise be underpaid, strengthening families and protecting children, and reducing the demand for public services, all positively impacting county, state and federal budgets.

NOW, THEREFORE, I MARK C. POLONCARZ, Erie County Executive, by virtue of the authority vested in me by the Erie County Charter § 302, do hereby order as follows:

1. It is ordered that on and after January 1, 2015, all Erie County offices, departments and administrative units, including but not limited to the Division of Purchase, fully implement a requirement in all bids, requests for proposals and other contract solicitations that the contractor submit an Erie County Equal Pay Certification which certifies the contractor's compliance with Federal Equal Pay Law and New York State Equal Pay Law (together, the "Equal Pay Laws"). Such certification shall be required prior to execution of the contract; and it is,

2. Further ordered that such certification shall include a representation by the contractor that it has not been the subject of an adverse finding under the Equal Pay Laws within the previous five years and shall include disclosure of any currently pending claims against the contractor; and it is,

3. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for immediate termination of such a contract; and it is,

4. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for determining a bidder or responder is not qualified to participate in future County contracts; and it is,

5. Further ordered that the Law Department prepare an Erie County Equal Pay Certification for use by Erie County offices, departments and administrative units and assure compliance with this Executive Order in the contract approval process; and it is,

6. Further ordered that the County Division of Equal Employment Opportunity ("EEO") establish a procedure for compliance monitoring and periodic auditing of certification records; and it is,

GIVEN, under my hand and the Privy Seal of the County of Erie in the City of Buffalo this 6th day of November, in the year two thousand fourteen.

COUNTY OF ERIE

BY: _____

MARK C. POLONCARZ
ERIE COUNTY EXECUTIVE

Attachment: BlocherPILOT.SchedA-05312022113043 (RES-2022-552 : PILOT Agreement: Blocher Homes (CRS #3431))

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Attorney
Initiated by: **Samuel A Alba**
Co-Sponsored by:

DOC ID: 25892 **RESOLUTION 2022-553** **ADOPTED**

Settlement of Article 7 Matter - 4459 Bailey, LLC

AGENDA ITEM : JUNE 6th, 2022

TO: **Town Board**

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

DATE: **June 1, 2022**

RE: **Settlement of Article 7 Matter**
5271 Main Street, LLC, 4459 Bailey Avenue, LLC, 200 Bassett Road, LLC v. Town of Amherst, et al.
4459 Bailey Avenue, LLC v. Town of Amherst, et al.

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 Partial Stipulation of Settlement and Judicial Order and Stipulation of Settlement and Judicial Order as the Attorney for the Respondent, Town of Amherst.

Thank you.

Attachment
c: Tim Koller, Deputy Town Clerk
(*w/attachment,* **Agenda Item : June 6, 2022**)
Emily Murphy, Town Assessor (*w/attachment*)

6/6/2022
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 Motion Term of the Supreme Court held in and for the County of Erie, Buffalo, New York, on the ___ day of _____, 2022

PRESENT: HON. HENRY J. NOWAK, J.S.C.
Justice Presiding

STATE OF NEW YORK
SUPREME COURT COUNTY OF ERIE

In the Matter of the Application for a Review Under Article 7 of the Real Property Tax Law of a Tax Assessment by

5271 MAIN STREET, LLC, 4459 BAILEY AVENUE, LLC, 200 BASSETT ROAD, LLC,

Petitioners,

-against-

ASSESSOR FOR THE TOWN OF AMHERST, NY, BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST, NY AND THE TOWN OF AMHERST, NY,

Respondents, and the

COUNTY OF ERIE AND SWEET HOME CENTRAL SCHOOL DISTRICT,

Intervenor-Respondents.

PARTIAL STIPULATION OF SETTLEMENT AND JUDICIAL ORDER

Index Nos.
809028/2017
810337/2018
808983/2019
807608/2020

In the Matter of the Application for a Review Under Article 7 of the Real Property Tax Law of a Tax Assessment by

4459 BAILEY AVENUE, LLC,

Petitioners,

-against-

ASSESSOR FOR THE TOWN OF AMHERST, NY, BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF AMHERST, NY AND THE TOWN OF AMHERST, NY,

Respondents, and the

STIPULATION OF SETTLEMENT AND JUDICIAL ORDER

Index No.
810258/2021

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

COUNTY OF ERIE AND SWEET HOME CENTRAL SCHOOL DISTRICT,

Intervenor-Respondents.

WHEREAS Petitioners (hereinafter collectively the “Petitioner”), having duly and timely commenced the above-captioned proceedings pursuant to Article 7 of the Real Property Tax Law by and through its attorneys against the Assessor for the Town of Amherst, the Board of Assessment Review for the Town of Amherst, the Town of Amherst (collectively, the “Respondents” or “Town”), County of Erie, to review the assessment on three real properties owned by the Petitioner for the assessment roll years at issue, including 5271 Main Street (SBL No. 80.08-8-1.1), 200 Basset Road (SBL 56.10-10-1), which proceedings concerning these two parcels were previously resolved via a Partial Stipulation of Settlement and Judicial Order or Consent Order; and

WHEREAS, after the aforementioned case resolution, there remained one parcel in dispute owned by Petitioner 4459 Bailey Avenue, LLC and located at 4459 Bailey Avenue (SBL No. 67.49-2-1.1) (the "Subject"); and

WHEREAS the Town Respondents appeared in these proceedings by and through Deputy Town Attorney Samuel Alba, Esq.; the Intervenor-Respondent Sweet Home Central School District appeared in these proceedings by and through their attorneys at Gross Shuman P.C. (John Rottaris, Esq.); and the County of Erie appeared in these proceedings by and through their attorneys at Lippes Mathias Wexler Friedman LLP (Margaret A. Hurley, Esq.);

WHEREAS, Petitioner, Respondents and Intervenor-Respondents are collectively referred to herein as the “Parties”; and

WHEREAS, the Parties have entered into extensive settlement negotiations and have agreed that a partial settlement is in the best interests of the Parties, so as to avoid the cost of further litigation, among other things; and

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

NOW, THEREFORE IT IS HEREBY STIPULATED AND AGREED that the Parties propose to settle these proceedings upon the terms and conditions set forth in this Partial Stipulation of Settlement and Judicial Order ("Order"):

1. The Subject is located in the Town of Amherst, Sweet Home Central School District and County of Erie taxing and assessing jurisdictions and their special and other districts (e.g., fire and library districts).

2. The original assessments on the Subject for the years at issue, and the reduced assessments for the years at issue shall be as follows:

Year	Current Assessment	Assessment Reduction	Reduced Assessment
2017/18	$5,980,000	$920,000	$5,060,00
2018/19	$5,980,000	$920,000	$5,060,000
2019/20	$5,980,000	$1,173,000	$4,807,000
2020/21	$5,980,000	$1,375,400	$4,604,600
2021/22	$5,980,000	$2,600,000	$3,379,200

3. The Parties agree that, prospectively and for the term of RPTL Section 727 (that being, years 2022, 2023 and 2024), the Property's maximum full value should be capped at $3,840,000. Specifically excluded from this provision is the Town of Amherst's right to increase the assessment during a town-wide revaluation. Should a revaluation occur during the term of RPTL Section 727 there shall be no prohibition from Petitioner challenging the assessment of the Subject.

4. Petitioner will receive tax refunds for the reduction in the Subject's assessment for years 2017/18 and 2018/19 only. Such refunds are payable within 60 days after service on the parties of a copy of the Order with Notice of Entry. All refund checks must be made out to Petitioner, and mailed to "Speno MacLeod, PLLC, PO Box 152, Baldwinsville, New York 13027". If refunds are received past the 60-day mark, interest will accrue at the statutory rate for tax assessment cases.

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

5. Petitioner agrees to waive all refunds due for the reductions in the Subject's assessment for years 2019/20, 2020/21 and 2021/22. In lieu of the refunds for those years, Respondents and Intervenor-Respondent have agreed, and Petitioner has accepted, a credit in the form of a reduced assessment for years 2022 and 2023. The Respondents and Intervenor-Respondents explicitly agree and acknowledge that this "credit" is offered and accepted for good and valuable consideration, and greatly benefits each taxing jurisdiction involved this matter. In this instance, the 2022/23 shall be reduced to $267,000 given the Town's 2022 equalization rate. The 2023/24 (March 1, 2023 taxable status date) assessment shall be calculated by the assessor using the aforementioned valuation cap set forth in Paragraph 3, above, as multiplied by the Town's 2023 equalization rate. As the 2022 and 2023 assessments are make-up assessments given in exchange for a significant waiver of refunds sought by Respondents and Intervenor-Respondent, no exception to RPTL 727 shall be used to increase such assessments in 2022 or 2023 whatsoever.

6. The Assessor and all other relevant officers and authorities of the relevant taxing jurisdictions are hereby authorized to make and correct these assessments as outlined above on the appropriate books and records of each such jurisdiction.

7. The proceedings shall be discontinued without prejudice upon entry of this Order. With the filing of this final Notice of Entry regarding these actions and receipt of refunds, the entirety of these proceedings will now be considered completed as settled and resolved, and the Clerks may dispose of the matters. That said, Petitioner shall have the right to seek specific enforcement of the terms of this Order and to otherwise enforce this Order by whatever means provided by law. The settled proceedings regarding any other property involved in the proceedings shall not be impacted, changed or modified by this Order in any way.

8. This Order shall not be construed as a waiver of Petitioner's right to raise any constitutional claims associated with these proceedings or the parcel at issue.

9. This Order shall be considered the Parties' entire understanding and agreement between and among them. There shall be no modification of this Order except by a subsequent

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

writing signed by the authorized representatives of the Parties herein, and “So Ordered” by the Court.

10. The Parties authorize their attorneys to execute this Order and to seek the Court’s approval and entry of the same, and each signatory below affirms that they have the proper authority to so execute this Order.

11. If any provision of this Order shall be determined to be invalid, illegal, null or void, or unenforceable to any extent, the remainder of this Order shall remain in effect to the fullest extent of the law.

12. This Court shall retain jurisdiction over this matter for the purposes of enforcing the terms of this Order.

13. Electronic signatures and electronically-transmitted images of original signatures shall be deemed original signatures for the purposes of expediting the filing of this Order.

14. This Order may be executed in multiple counterparts including by means of facsimile, PDF/ADOBE e-mail, etc., each of which shall be deemed an original, but all of which together shall be considered and constitute one and the same instrument.

15. An executed copy of this Order, shall be entered and docketed in the appropriate County Clerk’s Office by Petitioner, then filed with the Assessor’s permanent records.

[signatures on the following page]

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

DATED: _____ SPENO MACLEOD, PLLC

By: _____
Rebecca M. Speno, Esq.
Kevin R. MacLeod, Esq.
Attorneys for Petitioners
PO Box 152
Baldwinsville, New York 13027
315.254.9558

DATED: _____ GROSS SHUMAN P.C.

By: _____
John K. Rottaris, Esq.
Attorneys for the School District
465 Main St, Ste 600
Buffalo, New York 14203
716.854.4300

DATED: _____ TOWN OF AMHERST

By: _____
Samuel Alba, Esq
Attorney for Respondents
5583 Main Street
Amherst, New York 14221
716.631.7037

DATED: _____ LIPPES MATHIAS WEXLER FRIEDMAN LLP

By: _____
Margaret A. Hurley, Esq
Attorney for Erie County
50 Fountain Plaza, Suite 1700
Buffalo, New York 14202
716.853.5100

SO ORDERED AND ENTERED THIS _____ DAY OF _____, 2022.

By: _____
Hon. Daniel J. Furlong, J.S.C.

Attachment: 22.05.18 Bailey - Consent order - Unsinged (RES-2022-553 : Settlement of Article 7 Matter - 4459 Bailey, LLC)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Mark S. Berke**
Co-Sponsored by:

DOC ID: 25885 **RESOLUTION 2022-554** **ADOPTED AS AMENDED**

Request to Auction

Please authorize the sale of our surplus of old office furniture and floor scrubbing machine through Auctions International. Thank you for considering this request.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Councilmember Bucki. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Amendment corrects the account number in Financial Impact. A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

FINANCIAL IMPACT:

Monies received from the sale are to be deposited into A1620-02617

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: 06/06/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 25919 **RESOLUTION 2022-555** **ADOPTED**

Budget Transfers and Amendments

For June 6, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 6/1/2022
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:***
A1440.1000 Personal Services $6,075.25	A1410.1000 Personal Services $9,791.00
A1440.8030 FICA $464.75	A1410.8030 FICA $749.00
A1440.4090 Professional Services $4,000.00	

To transfer funds from Engineering Office to Town Clerk for records consulting project.

A1990.4000 Contingency $500.00	A1220.4020 Supervisor - Postage $500.00

To transfer funds for special mailing.

KP2034.4979 Contingency $5,245.89	KP2034.4971 Design $5,245.89

To transfer funds from contingency to design in KP2034 Streetlight Replacement.

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
D5112.05001 Paving - Refund of C/Y Exp. $14,000	D5112.4330 Resurfacing Materials $14,000

To setup budget for refund of current year expense for Frontier Road paving.

N2144.02785 New Construction - PI $6,750.00	N2144.4000 Contractual $6,750.00
N2149.02785 HOME Admin- PI $750.00	N2149.4003 Admin $750.00

To recognize Community Development program income from 25 Rowland, Cheektowaga.

N2123.02785 CDBG & VG PI $170.00	N2123.4000 Contractual $170.00

To recognize Community Development program income from 169 Hillcrest, Amherst.

N0001.20080 CDBG Income 20/21 $40,000	N2066.4000 CDBG Meals on Wheels $40,000

To setup budget for amendments to action plan for COVID -19 #2 (RES 2021-1) for Meals on Wheels.

DECREASE:	***DECREASE:***
N2140.02785 Amherst HOME Rehab $170.00	N2140.4000 Contractual $170.00

To fix RES2022-516 funds from 169 Hillcrest, Amherst, monies should have gone to CDBG program.

6/6/2022
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: 06/06/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 25902 **RESOLUTION 2022-556** **ADOPTED**

Payment of Community Development Vendor and Payroll Warrants

Please approve the attached procedures to allow the operating and payroll bank accounts float balance to loan funds to Community Development until drawdowns are processed and received from HUD.

6/6/2022
Consent

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

TOWN OF AMHERST

OFFICE OF TOWN COMPTROLLER

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
(716) 631-7005
www.amherst.ny.us

Daryl C. Bramer
Town Comptroller
dbramer@amherst.ny.us

Updated 5.23.2022

Payment of Community Development Block Grant Funds

Community Development Block Grant (CDBG) vendor and payroll warrants will be allowed to float checks out the operating and payroll bank accounts float balance. The operating float for vendor checks will be $50,000.

Every Tuesday before a payroll check date, CDBG will process a drawdown and send an email notification of the drawdown to the Town Comptroller, Chief Accountant, and Payroll Process Manager. Once the funds are received in the bank account, the Comptroller's Office will reimburse the operating and payroll bank accounts according to the outstanding warrants. *Note: The drawdown is for entitlement funds only and may not agree with the total warrant. Program Income is already in the CDBG bank account.*

The Comptroller's Office will keep a running balance of the float and once the operating float exceeds $50,000 all checks (except payroll) will be held and CDBG will be notified. Once a drawdown is processed for all outstanding warrants (operating and payroll) and the funds are received in the bank account, held checks will be released.

CDBG is encouraged to proactively process drawdowns for large invoices to avoid delay of payment to vendors.

This process does not include HOME funds. These procedures are subject to change by the Town Comptroller as deemed appropriate.

Attachment: CDBG Vendor and Payroll Warrants Processing (RES-2022-556 : Payment of Community Development Vendor and Payroll

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 25903 **RESOLUTION 2022-557** **ADOPTED**

Interfund Load

Please approve an interfund loan from the General Fund (A) to the Capital Fund (KP) for $4,435,238.54 to cover NYPA LED Street Lighting payment CRS# 3199, for materials, labor and equipment. The loan will be repaid when the Town goes to bond market for funding.

6/6/2022
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: 06/06/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25872 **RESOLUTION 2022-558** **ADOPTED**

Authorize Temporary Access, Working Rights and Occupation Agreement - CRS #3399

WHEREAS, on June 17, 2019 the Town Board authorized funding to remove dead ash trees along Youngs Road as part of the Town Ash Tree Remediation project; and

WHEREAS, adjacent residents expressed concerns over the condition of the site after the tree removal had taken place; and

WHEREAS, the Town provided a tree restoration plan and in Resolution 2021-258 awarded a contract to Beau Enterprises, Inc. to plant vegetation within the project site along Youngs Road between Maple Road and Sheridan Drive; and

WHEREAS, the contract with Beau Enterprises expired in March 2022, but maintenance activities will continue through the end of 2022;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Supervisor to sign a Temporary Access, Working Rights and Occupation Agreement with Beau Enterprises, which will allow them to continue to work on Town property during the maintenance period.

6/6/2022
Consent

FINANCIAL IMPACT:

N/A

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

TEMPORARY ACCESS, WORKING RIGHTS AND OCCUPATION AGREEMENT

This Temporary Access, Working Rights and Occupation Agreement ("Agreement") is entered into as of the ____ day of April 2022 by and between **Beau Enterprises, Inc.**, a New York Corporation with an office at 4250 Williams Road Ransomville, NY 14131 and **TOWN OF AMHERST**, with an address of 5583 Main Street, Williamsville, NY 14221 ("Landowner") until December 31, 2022.

Landowner, for valuable consideration, sufficiency and receipt of which is hereby acknowledged, hereby grants to Beau Enterprises, Inc. the right to enter upon, use and occupy certain lands of Landowner described as Town owned right-of-way lands along the west side of Youngs Road between Sheridan Drive and Maple Road (accessing off of Hershey Court, Quantico Court and Bragg Court) Williamsville, New York 14221(the "Land") to maintain the wetland restoration site and replace dead trees, as needed. Beau Enterprises, Inc. use of the Land shall subject to the following terms and conditions:

Beau Enterprises, Inc. assumes all risk of, and to the fullest extent permitted by law indemnifies, protects and saves harmless Landowner and its successors and assigns from, all loss, damage, or injury to persons (including, without limitation, personal injuries resulting in death) or property and from all claims, demands, suits, liabilities, obligations and expenses arising therefrom, including reasonable legal fees and expenses in any way connected with the exercise of the rights granted hereunder, except to the extent the same shall arise out of the negligent or intentional acts or omissions of any employee, officer, agent or representative of Landowner.

Beau Enterprises, Inc. shall maintain at all times during the term hereof sufficient insurance as required below to protect Beau Enterprises, Inc. and Landowner from and against all claims, demands and causes of action arising by reason of any Work performed by Beau Enterprises, Inc. In addition, the Work shall not commence work under this Agreement until a certificate of insurance has been provided to the Town of Amherst and approved by the Town of Amherst.

To the fullest extent permitted by law Beau Enterprises, Inc. shall indemnify and hold the Customer, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town of Amherst, its officers, agents, and/or employees, arising from its conduct and/or the acts, passive and active, of its officers, agents, subcontractors, and/or employees.

Beau Enterprises, Inc. 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 of Amherst.

(a) Workers' Compensation Insurance: Enbridge 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 Insurance: Beau Enterprises, 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 Landowner from claims for damages for personal injury, including accidental death, as

Attachment: Beau Enterprises Temporary Access Agreement (RES-2022-558 : Authorize Temporary Access, Working Rights and Occupation

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 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.

Beau Enterprises, Inc. shall furnish the above insurances to the Town of Amherst and shall name the Town of Amherst as a primary additional insured on said policy on a primary and non-contributory basis.

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

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, 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. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this contract shall be physically amended forthwith to make such insertion.

Beau Enterprises, Inc. shall be responsible to maintain the Land in an orderly fashion and all Work shall be performed in a neat and workmanlike manner. Beau Enterprises, Inc. shall restore the Land to the condition in which it existed prior to Beau Enterprises, Inc. use as best as practicable. Beau Enterprises shall follow the previous contract specifications from the executed contract March 29, 2021 (Bid No. 2021003 / CRS#2490).

This Agreement shall be effective as of the date first set forth above and the term of this Agreement shall extend until the work is complete.

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

LANDOWNER	BEAU ENTERPRISES, INC
By: _____	By: _____
Name: Brian J. Kulpa	Name: KEN LILLY
Title: Supervisor, Town of Amherst	Title: VP/Sec

Attachment: Beau Enterprises Temporary Access Agreement (RES-2022-558 : Authorize Temporary Access, Working Rights and Occupation

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25895 **RESOLUTION 2022-559** **ROLL CALL VOTE (ADOPTED)**

Award Bid #2022013 - Adulticides and Pesticides - CRS #3432 & 3433

WHEREAS, bids were received by the Contract Compliance & Administration Department on May 5, 2022 for Bid #2022013 Adulticides and Pesticides; and

WHEREAS, two (2) vendors submitted bids, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, that bid items be awarded as follows: Adapco LLC (CRS #3432) - Items: #10, 11, 13, 15, 21-23; Clarke Mosquito Control (CRS #3433) - Items #2-6, 8, 8 Alt., 9, 14, and 16-20; and

BE IT FURTHER RESOLVED, that both vendors deliver via third party shipping companies and will not be on Town property, so a waiver of insurance is requested; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contracts with Adapco LLC, and Clark Mosquito Control; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the contract routing system due to the fact that the Town is currently without a contract for these items.

6/6/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and approved via Roll Call vote 4-1 (nay, Bucki).

FINANCIAL IMPACT:

H4068-4000; Amount TBD

RESULT:	**ROLL CALL VOTE (ADOPTED) [4 TO 1]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Lavin, Szukala
NAYS:	Bucki

Bid #2022013 Adulticides and Pesticides					= Low Bidder				
			Vendor Name:	Clarke Mosquito Control			Adapco, LLC		
Item #	Quan.	U/M		Unit Price	Pkg. Info	Total	Unit Price	Pkg. Info.	Total
1	20	Gallon	Malathion 5 lb. spray	NO BID		NO BID	NO BID		NO BID
2	2	Case	Altosid (Methoprene) Briquets (R-S)-Methoprene:	$500.00	400 briquets/case	$1,000.00	NO BID		NO BID
3	25	Case	Altosid (Methoprene) Briquets	$787.60	220 briquets/case	$19,690.00	NO BID		NO BID
4	1	Container	Altosid (Methoprene) Pellets (S)-	$1,169.08	2x22 lb containers/case	$1,169.08	NO BID		NO BID
5	8	Container	Altosid (Methoprene) Liquid Larvicide (S)-	$1,100.12	4x1 gal containers/case	$2,200.24	NO BID		NO BID
6	110	Case	Bactimos Briquets	$124.00	100 briquets/case	$13,640.00	NO BID		NO BID
7	1	Bag	Aquabac Granules Bacillus thuringiensis subsp. israelensis	NO BID		NO BID	NO BID		NO BID
8	50	Gallon	Permethrin 10 EC Active ingredients Permethrin 10%	$182.50	4x1 gal containers/case	$9,125.00	NO BID		NO BID
	50	Gallon	Alternate Packaging for Item #8	$167.54	2.5 gal/container	$8,377.00			
9	30	Container	Lambda 9.7 CS Lambda-cyhalothrin	$397.00	6x1 qt. bottles	$1,985.00	$98.94	6x1 quart/case	$2,968.20
10	1	Bag	VectoBac G	NO BID		NO BID	$80.00	40 lb bag	$80.00
11	1	Container	VectoLex WDG Bacillus sphaericus 2362	NO BID		NO BID	$1,528.64	24 x1lb base	$1,528.64
12	75	Container	Aquabac XT Liquid Bacillus thuringiensis var israelensis 1200	NO BID		NO BID	NO BID		NO BID
13	1	Case	VectoLex WSP Bacillus sphaericus 2362,	NO BID		NO BID	$710.70	20x40pk 800/cs	$710.70
14	3	Case	FourStar Briquets Sustained Release 45 Day Microbial Briquets	$302.00	200 briquets/case	$906.00	NO BID		NO BID
15	3	Case	VectoBac DT-Bacillus thuringiensis,	NO BID		NO BID	$5,000.00	50 Tablets/bottle; 400 bottles/case	$15,000.00
16	2	Case	Four Star Briquets Sustained Release 90 Day Microbial Briquets	$502.00	200 briquets/case	$1,004.00	NO BID		NO BID
17	1	Case	FourStar Briquets Sustained Release 180 Day Microbial Briquets	$782.00	200 briquets/case	$782.00	NO BID		NO BID
18	3	Case	FourStar Bti Briquets Sustained Release 45 Day Microbial Briquets	$302.00	200 briquets/case	$906.00	NO BID		NO BID
19	1	Case	Four Star Bti Briquets	$782.00	200 briquets/case	$782.00	NO BID		NO BID
20	2	Bag	Duplex – G; Bacillus thuringiensis subsp. Israelensis	$598.40	40 lb. bag	$1,196.80	NO BID		NO BID
21	3	Bag	VectoPrime FG-Bacillus thuringiensis, subsp.	NO BID		NO BID	$158.00	40 lb bag	$474.00
22	30	Container	VectoBac 12AS-Bacillus thuringiensis	NO BID		NO BID	$172.00	2 x 2.5 gal/case	$2,580.00
23	2	Case	VectoMax WSP-Bacillus sphaericus 2362,	NO BID		NO BID	$1,400.00	40 lb bag	$2,800.00
NOTES:									
Clarke Mosquito Control Products: Item #8 has an additional prive for 2.5 gallon containers. $167.54/gallon quantity of 50 gallons = $8,377.00									
Adapco: Item #9 product listed as Cyzmic CS									

Attachment: Bid Analysis 2022013 Adulticides and Pesticides (RES-2022-559 : Award Bid #2022013 -

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25898 **RESOLUTION 2022-560** **ADOPTED**

Award Bid #2022014 - Busing - CRS #3436

WHEREAS, bids were received by the Contract Compliance and Administration Department on May 12, 2022 for Bid #2022014 Busing; and

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

NOW, THEREFORE, BE IT RESOLVED, the bid be awarded to Erie Bus Inc. - dba WNY Bus Co.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Erie Bus Inc. - dba WNY Bus Co.; and

BE IT FURTHER RESOLVED, that approval of this contract is pending successful completion of the contract routing system due to the fact that the first field trip is schedule for June 28th, and the next Town Board meeting is not until June 27th.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7145-4110; $34,139.00

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

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
Harlem Road Summer Camp Field Trips 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	28-Jun	Clearfield Pool	$280.00	$159.00	$188.00
	30-Jun	Evangola State Park	$680.00	$397.00	$448.00
	1-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 2	5-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	7-Jul	Fort Niagara State Park	$680.00	$397.00	$424.00
	8-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 3	12-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	14-Jul	Canalside & Woodlawn Beach	$680.00	$397.00	$424.00
	15-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 4	19-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	21-Jul	Kelkenberg Farm & Darien Lake State Park	$680.00	$408.00	$448.00
	22-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 5	26-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	28-Jul	Buffalo Science Museum & Beaver Island	$680.00	$397.00	$424.00
	29-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 6	2-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	4-Aug	Oppenheim Park & Cave of the Winds	$680.00	$418.00	$424.00
	5-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 7	9-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	11-Aug	Letchworth State Park	$790.00	$488.00	$424.00
	12-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 8	16-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	18-Aug	Beaver Island State Park	$680.00	$397.00	$424.00
	19-Aug	Clearfield Pool	$280.00	$159.00	$188.00
		Harlem Road Summer Camp Sub Total	**$10,030.00**	**$5,843.00**	**$6,448.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
WILLIAMSVILLE SUMMER CAMP FIELD TRIPS 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	28-Jun	Clearfield Pool	$280.00	$159.00	$188.00
	29-Jun	Clearfield Pool	$280.00	$159.00	$188.00
	30-Jun	Evangola State Park	$680.00	$397.00	$448.00
Week 2	5-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	6-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	7-Jul	Fort Niagara State Park	$680.00	$418.00	$424.00
Week 3	12-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	13-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	14-Jul	Canalside & Woodlawn Beach	$680.00	$397.00	$424.00
Week 4	19-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	20-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	21-Jul	Kelkenberg Farm & Darien Lake State Park	$680.00	$397.00	$448.00
Week 5	26-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	27-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	28-Jul	Buffalo Science Museum & Beaver Island	$680.00	$418.00	$424.00
Week 6	2-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	3-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	4-Aug	Oppenheim Park & Cave of the Winds	$680.00	$418.00	$424.00
Week 7	9-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	10-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	11-Aug	Letchworth State Park	$790.00	$488.00	$519.00
Week 8	16-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	17-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	18-Aug	Beaver Island State Park	$680.00	$397.00	$424.00
		Williamsville Summer Camp Sub Total	**$10,030.00**	**$5,874.00**	**$6,543.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
NORTHTOWN SUMMER CAMP FIELD TRIPS 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	29-Jun	Clearfield Pool	$280.00	$159.00	$188.00
	30-Jun	Evangola State Park	$680.00	$397.00	$448.00
	1-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 2	6-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	7-Jul	Fort Niagara State Park	$680.00	$418.00	$424.00
	8-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 3	13-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	14-Jul	Canalside & Woodlawn Beach	$680.00	$397.00	$424.00
	15-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 4	20-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	21-Jul	Kelkenberg Farm & Darien Lake State Park	$680.00	$397.00	$448.00
	22-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 5	27-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	28-Jul	Buffalo Science Museum & Beaver Island	$680.00	$418.00	$424.00
	29-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 6	3-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	4-Aug	Oppenheim Park & Cave of the Winds	$680.00	$418.00	$424.00
	5-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 7	10-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	11-Aug	Letchworth State Park	$790.00	$488.00	$519.00
	12-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 8	17-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	18-Aug	Beaver Island State Park	$680.00	$397.00	$424.00
	19-Aug	Clearfield Pool	$280.00	$159.00	$188.00
		Northtown Summer Camp Sub Total	**$10,030.00**	**$5,874.00**	**$6,543.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
CLEARFIELD SUMMER CAMP FIELD TRIPS 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	30-Jun	Evangola State Park	$700.00	$397.00	$448.00
Week 2	7-Jul	Fort Niagara State Park	$700.00	$418.00	$424.00
Week 3	14-Jul	Canalside Carousel & Woodlawn Beach	$700.00	$397.00	$424.00
Week4	21-Jul	Kelkenberg Farm & Darien Lake St Park	$700.00	$397.00	$448.00
Week 5	28-Jul	Buffalo Science Museum & Beaver Island	$700.00	$418.00	$424.00
Week 6	4-Aug	Oppenheim Park & Cave of the Winds	$700.00	$418.00	$424.00
Week 7	11-Aug	Letchworth State Park	$820.00	$488.00	$519.00
Week 8	18-Aug	Beaver Island State Park	$700.00	$397.00	$424.00
		Clearfield Summer Camp Sub Total	**$5,720.00**	**$3,330.00**	**$3,535.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
NARC SUMMER CAMP FIELD TRIPS 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	29-Jun	Grand Island Fun Center & Fort Niagara	$705.00	$418.00	$424.00
	30-Jun	Clearfield Pool	$280.00	$159.00	$188.00
	1-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 2	6-Jul	Build a Machine Fitness & Beaver Island	$700.00	$397.00	$424.00
	7-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	8-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 3	13-Jul	Destroyer Golf & Darien Lake State Park	$700.00	$418.00	$448.00
	14-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	15-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 4	20-Jul	Como Park & Woodlawn Beach	$660.00	$418.00	$398.00
	21-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	22-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 5	27-Jul	Ellicott Creek Park & Niagara Climbing Cent	$700.00	$397.00	$424.00
	28-Jul	Clearfield Pool	$280.00	$159.00	$188.00
	29-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 6	3-Aug	Brighton Batting Cages & Beaver Island	$700.00	$397.00	$424.00
	4-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	5-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 7	10-Aug	Oppenheim Park & Lockport Skateland	$700.00	$418.00	$424.00
	11-Aug	Northtown Ice Center	$280.00	$159.00	$188.00
	12-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 8	17-Aug	Darien Lake Theme Park	$700.00	$418.00	$448.00
	18-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	19-Aug	Clearfield Pool	$280.00	$159.00	$188.00
		NARC Summer Camp Sub Total	**$10,045.00**	**$5,825.00**	**$6,422.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
EXPLORERS SUMMER CAMP FIELD TRIPS 2022					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Week 1	28-Jun	Tonawanda Waterbikes Adventure	$320.00	$169.00	$188.00
	29-Jun	Alleghany State Park	$775.00	$599.00	$519.00
	30-Jun	Clearfield Pool	$280.00	$159.00	$188.00
Week 2	5-Jul	Build A Machine Fitness	$320.00	$159.00	$188.00
	6-Jul	Grand Island Fun Center & Beaver Island	$680.00	$397.00	$424.00
	7-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 3	12-Jul	Niagara Power Vista	$320.00	$199.00	$188.00
	13-Jul	Chestnut Ridge Eternal Flame & Urban Air	$640.00	$397.00	$424.00
	14-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 4	19-Jul	Canalside Carousel	$320.00	$169.00	$212.00
	20-Jul	Roseland Waterpark	$815.00	$599.00	$519.00
	21-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 5	26-Jul	Delaware Park Hoyt Lake	$320.00	$199.00	$212.00
	27-Jul	Ellicott Creek Park & Buffalo Battleground	$640.00	$397.00	$398.00
	28-Jul	Clearfield Pool	$280.00	$159.00	$188.00
Week 6	2-Aug	WF Planetarium at Buffalo State College	$320.00	$189.00	$424.00
	3-Aug	Whirlpool St Park & Cave of the Winds	$680.00	$397.00	$519.00
	4-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 7	9-Aug	Northtown Ice Center	$320.00	$159.00	$188.00
	10-Aug	Splash Lagoon	$845.00	$599.00	$519.00
	11-Aug	Clearfield Pool	$280.00	$159.00	$188.00
Week 8	17-Aug	Darien Lake Theme Park	$680.00	$418.00	$448.00
	18-Aug	Clearfield Pool	$280.00	$159.00	$188.00
	19-Aug	Regal Theater Transit Road	$360.00	$179.00	$235.00
		Explorers Summer Camp Sub Total	**$10,595.00**	**$6,497.00**	**$7,109.00**

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

	Low Bid	Bid #2022014 Busing	First Student	Erie Bus dba WNY Bus Co.	Transpo Bus Services
RECESS CAMP FIELD TRIPS February & April 2023					
	Date	**Location**	**Cost**	**Cost**	**Cost**
Location: Williamsville Youth Center					
	23-Feb	Rainbow Skateland Lockport	$360.00	$249.00	$235.00
Location: Harlem Road Youth Center					
	23-Feb	Rainbow Skateland Lockport	$360.00	$249.00	$235.00
Location: Clearfield Community Center					
	12-Apr	Kelkenberg Farm	$360.00	$199.00	$235.00
Location: Northtown Amherst Youth & Family Center					
	12-Apr	Kelkenberg Farm	$360.00	$199.00	$235.00
		Recess Camp Field Trips Sub Total	**$1,440.00**	**$896.00**	**$940.00**
GRAND TOTAL FOR ALL TRIPS			**$57,890.00**	**$34,139.00**	**$37,540.00**
NOTES:					
First Student: Williamsville Summer Camp Field Trips - Week 7 - Clearfield Pool price was omitted.					
Amount should be $280					

Attachment: Bid Analysis 2022014 Busing (RES-2022-560 : Award Bid #2022014 - Busing - CRS #3436)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 25909 **RESOLUTION 2022-561** **ADOPTED**

Award Bid #2022016 - Parking Lot Crack Fill, Seal Coat & Stripe - CRS #3437

WHEREAS, the Contract Compliance and Administration Department received bids on May 19, 2022 for Bid #2022016 Parking Lot Crack Fill, Seal Coat & Stripe; and

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

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Baughman Magic Seal, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Baughman Magic Seal, Inc.; and

BE IT FURTHER RESOLVED, that approval is subject to successful completion of the contract routing system due to the fact that the next Town Board meeting is not until June 27th, and a contract needs to be awarded in order to begin scheduling of work.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2114-4972 - $56,200 (Locations #4, 19-21 and 23), total NTE $60,150, including Items 24-26.

KP2214-4972 - $59,406 (Locations 1-3 and 5-18), total NTE $99,500 including Items 24-26.

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

Bid #2022016 - Parking Lot Crack Fill / Seal Coat / Striping							
	= Low Bidder	Vendors		Baughman Magic Seal		Amherst Sealer	
				Unit Price	Total Price	Unit Price	Total Price
Item	Description	Service*	Quantity				
1	Location 1 - Audubon Golf Course (Blue)	SC/S	1	$554.00	$554.00	$5,754.16	$5,754.16
2	Location 2 - Audubon Golf Course (Red)	SC/S	1	$5,157.00	$5,157.00	$5,426.56	$5,426.56
3	Location 3 - Audubon Library	CF/S	1	$2,200.00	$2,200.00	$3,750.00	$3,750.00
4	Location 4 -Audubon Par 3	LS	1	$950.00	$950.00	$500.00	$500.00
5	Location 5 -Bedford Park	CF/SC/S	1	$1,400.00	$1,400.00	$2,992.00	$2,992.00
6	Location 6 - North Forest Trailhead	CF/SC/S	1	$3,900.00	$3,900.00	$5,894.00	$5,894.00
7	Location 7 - Clearfield Library	CF/S	1	$1,150.00	$1,150.00	$2,825.00	$2,825.00
8	Location 8 - Clearfield Youth Center	CF/S	1	$2,600.00	$2,600.00	$4,312.00	$4,312.00
9	Location 9 - Eggertsville-Snyder Library	CF/S	1	$700.00	$700.00	$1,500.00	$1,500.00
10	Location 10 - Eggertsville Youth & Community Center	CF/S	1	$575.00	$575.00	$1,400.00	$1,400.00
11	Location 11 - Parks Dept.	CF/SC/S	1	$7,265.00	$7,265.00	$9,304.25	$9,304.25
12	Locaiton 12 -Buffalo Niagara Heritage Village (Red)	CF/SC/S	1	$3,335.00	$3,335.00	$6,031.50	$6,031.50
13	Location 13 - Buffalo Niagara Heritage Village (Blue)	CF/SC/S	1	$6,400.00	$6,400.00	$8,910.00	$8,910.00
14	Location 14 - Police Training Facility	CF/SC/S	1	$2,380.00	$2,380.00	$4,625.00	$4,625.00
15	Location 15 -North French Soccer Complex	CF/SC/S	1	$6,700.00	$6,700.00	$9,370.80	$9,370.80
16	Location 16 - Senior Center	CF/S	1	$3,800.00	$3,800.00	$7,312.50	$7,312.50
17	Location 17 - Town Hall - Weekday Pricing	CF/SC/S	1	$4,140.00	$4,140.00	$7,735.00	$7,735.00
17A	Location 17A - Town Hall - Weekend Pricing	CF/SC/S	1	$4,950.00	$4,950.00	$8,535.00	$8,535.00
18	Location 18 Veterans Park	LS	1	$2,200.00	$2,200.00	$900.00	$900.00
19	Location 19 - Northtown Center at Amherst (13,600 SY)	CF/SC/S	1	$14,100.00	$14,100.00	$17,110.00	$17,110.00
20	Location 20 - Central Amherst Little League	SC/S	2	$9,150.00	$18,300.00	$9,550.50	$19,101.00
21	Location 21 - Williamsville Youth & Family Center	SC/S	2	$8,500.00	$17,000.00	$9,583.20	$19,166.40
22	Location 22 - Northtown Center at Amherst (7,000 SY)	SC/S	2	$9,500.00	$19,000.00	$10,080.00	$20,160.00
23	Location 23 - Water Pollution Control Facility Areas 1, 2 & 3	CF/SC/S	1	$5,850.00	$5,850.00	$8,440.00	$8,440.00
	Total				**$115,606.00**		**$160,895.17**
24	Other - additional painted lines - quantity estimate 500 Linear Feet		500	$1.00	$500.00	$1.50	$750.00
25	Other - additional mobilization for painting control lines - quantity est. 2		2	$250.00	$500.00	$350.00	$700.00
26	Other - additional painted symbol - estimated quantity 5		5	$30.00	$150.00	$225.00	$1,125.00

Service:
- CF = Crack Fill
- SC = Seal Coat
- S = Stripe
- LS = Layout Stripe

NOTES: Location 22 has been removed from the list.

Attachment: Bid Analysis - Bid 2022016 - Parking Lot Crack Fill Seal Coat Stripe (RES-2022-561 : Award

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Economic Development
Initiated by: **Angela Rossi**
Co-Sponsored by:

DOC ID: 25896 **RESOLUTION 2022-562** **ADOPTED AS AMENDED**

American Rescue Plan Act, Subrecipient Agreement with Erie County - Amherst Central Park CRS #3362

Authorize the Supervisor to sign the American Rescue Plan Act, Subrecipient Agreement with Erie County pending CRS approval. The Town of Amherst shall utilize the ARPA Funds to create a world-class park entitled, Amherst Central Park in the heart of Amherst. The funding will be utilized by the Town of Amherst to complete the planning, design and engineering of the park space, including infrastructure needs throughout the property. With a focus on preservation of green space, the park design will include a public square to support a variety of economic driving activities like local markets, including an annual holiday market, for the Town and region's small businesses.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Bucki and unanimously approved 5-0. Amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

- $2,400,000

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

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

AMERICAN RESCUE PLAN ACT
SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") made the ____ day of _____, 2022, by and between the **COUNTY OF ERIE**, a municipal corporation of the State of New York, having an office and place of business at 95 Franklin Street, Buffalo, New York 14202 (hereafter the "County") and the **TOWN OF AMHERST,** a municipal corporation in the State of New York having an office and principal place of business at **5583 Main Street, Williamsville, New York 14221** (hereafter the "Subrecipient").

W I T N E S S E T H :

WHEREAS, the American Rescue Plan Act ("ARPA") was passed by Congress and signed into law on March 11, 2021, which provides approximately $2 Trillion in economic relief; and

WHEREAS, the ARPA provides for payments to State, Local and Tribal governments navigating the impact of COVID-19; and

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated $89,213,547.00 of federal stimulus funding to the County from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds ("ARPA Funds") under Sections 602 (b) and 603 (b) of the Social Security Act, as amended by Section 9901 of the ARPA; and

WHEREAS, the County entered into an agreement with the Treasury bearing OMB Approved No. 1505-0271 (hereinafter referred to as the "Recipient Agreement"), a copy of which is attached hereto and the terms of which are incorporated herein as **Attachment A**; and

WHEREAS, the ARPA authorizes the County to expend ARPA Funds for the following eligible purposes as outlined in the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule ("Interim Final Rule"), a copy of which is attached hereto and incorporated herein as **Attachment B**:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
(4) To make necessary investments in water, sewer, or broadband infrastructure (collectively referred to as "Eligible Uses"); and

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

WHEREAS, Pursuant to the ARPA, Eligible Uses must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026; and

WHEREAS, the County desires to allocate portions of the ARPA Funds to the Subrecipient; and

WHEREAS, the County and Subrecipient desire to enter into this Agreement so that the Subrecipient may use ARPA Funds for Eligible Uses as identified herein.

NOW, THERFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the Parties agree as follows:

1. **RECITALS**: The foregoing recitals are true and accurate and are incorporated herein by reference.

2. **SCOPE OF SERVICES**: The Subrecipient expressly agrees to the provisions set forth in the Recipient Agreement entered into by the County for the underlying grant funding. The Subrecipient shall utilize the ARPA Funds for The Town of Amherst to create a world-class park entitled, Amherst Central Park in the heart of Amherst. The funding will be utilized by the Town of Amherst to complete the planning, design and engineering of the park space, including infrastructure needs throughout the property. With a focus on preservation of green space, the park design will include a public square to support a variety of economic driving activities like local markets, including an annual holiday market, for the Town and region's small businesses, as more fully described in **Attachment C**, which is attached hereto and made a part hereof (the "Services"). The Services shall be carried out by the Subrecipient in accordance with current industry standards and trade practices. The Subrecipient expressly agrees to the provisions set forth in the following schedules:

Attachment A -	U.S. Treasury American Rescue Plan Act Agreement
Attachment B -	Interim Final Rule
Attachment C –	Scope of Services
Attachment D –	Department of the Treasury Compliance and Reporting Guidance
Attachment E -	Certification Regarding Debarment and Suspension
Attachment F-	Quarterly Report
Attachment G -	Apprenticeship Certification – Quarterly Report
Attachment H –	Erie County Insurance Requirements
Attachment I-	M/WBE Utilization – Quarterly Report
Attachment J –	Certification Regarding Drug-Free Workplace Requirements
Attachment K –	Certification Regarding Lobbying
Attachment L -	Certification Regarding Equal Pay

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

3. **EFFECTIVE DATE AND TERM**: This Agreement shall commence on as of the date when last executed by all Parties and remain in effect until **December 31, 2026**, unless terminated earlier by the County in writing. Pursuant to the ARPA, Eligible Uses must be obligated no later than December 31, 2024, with final disbursement of all funds no later than December 31, 2026. The Subrecipient shall report to the County on its progress toward completing Services contemplated herein, as the County may request, and shall immediately inform the County in writing of any cause for delay in the performance of its obligations under this Agreement. Notwithstanding anything herein to the contrary, the Parties understand and agree that all terms and conditions of this Agreement that may require continued performance or compliance beyond a termination date or natural end of this Agreement, shall survive such end date and shall be enforceable as provided herein.

4. **ARPA FUNDS**: The County agrees to provide the Subrecipient a total sum not to exceed **Two Million Four Hundred Thousand Dollars and No Cents ($2,400,000.00)** to be used for the Services identified herein. The Subrecipient shall receive payment as follows:

    - 50% thereof or **One Million Two Hundred Thousand Dollars and No Cents ($1,200,000.00)** within 30 days of the execution of this Agreement; and
    - 50% thereof or **One Million Two Hundred Thousand Dollars and No Cents ($1,200,000.00)** upon satisfactory demonstration that the first half of payment has been expended for the Services described herein.

    Payments shall be made on two separate invoices submitted by the Subrecipient to the Erie County Department of Environment and Planning (the "Department") and approved by the Department. The invoice for first payment should be dated the same date as the Agreement signed by the Subrecipient. The second invoice should not be submitted until the first half of funding has been expended.

    If, in order to perform its obligations under this Agreement on a timely basis, the Subrecipient requires the use of an additional part of said amount prior to such payment dates, the County may, upon approval of the Budget Director, pay to the Subrecipient from time to time such amounts as the Budget Director may determine.

    Except as otherwise expressly stated in this Agreement, no payment shall be made by the County to the Subrecipient for out-of-pocket expenses or disbursements made in connection with the Services rendered or the work performed hereunder.

5. **INELIGIBLE USES**: Non-allowable uses of ARPA Funds include, without limitation, the following: (a) usage of funds to either directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation or administrative interpretation during the covered period that reduces any tax or delays the imposition of any tax or tax increase; (b) damages covered by insurance; (c) usage of funds as a deposit into a pension fund; (d) expenses that have been or will be reimbursed under any federal program; (e) debt service costs; (f) contributions to a "rainy day" fund; and (g) legal settlements.

6. **STATUTORY AND REGULATORY COMPLIANCE**: The Subrecipient shall comply

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

with all laws and regulations applicable to the ARPA Funds, including but not limited to the Department of the Treasury Compliance and Reporting Guidance applicable to the ARPA, which is attached hereto and incorporated herein as **Attachment D**.

Without limiting the foregoing, the Subrecipient shall be responsible for the submission of Quarterly Reports. Additionally, for any construction contract, as defined by Erie County Local Law No. 3-2018, totaling more than $250,000, the Subrecipient shall include an accounting of the percentage of apprentices employed as of the date of the report, to the Department on a quarterly basis. The Quarterly Reports shall be due no later than the following dates for every year until the project has been closed out:

a. First Quarter: April 15th (covering activities for January 1st – March 30th);
b. Second Quarter: July 15th (covering activities for April 1st – June 30th);
c. Third Quarter: October 15th (covering activities for July 1st - September 30th); and
d. Fourth Quarter: January 15th (covering activities for October 1st – December 31st).

Copies of the Quarterly Report and Apprenticeship Certification forms are attached hereto and incorporated herein as **Attachments F and G**, respectively.

7. **RECORD MAINTENANCE**: The Subrecipient shall maintain books, records, documents, data and other evidence relating to this Agreement and the performance of Services herein described in accordance with all state, federal and local laws, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

   The Subrecipient shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under this Agreement, shall be subject at reasonable times during normal business hours of the Subrecipient to inspection, review or audit by the County, personnel duly authorized by the County, and federal and state official so authorized by law, regulation or agreement. If any litigation, claim or audit commences prior to the expiration of the six (6) year period, any and all records shall be retained until all litigation, claims, or audit findings are complete.

8. **AUDIT**: The Subrecipient must comply with the most recent version (unless a specific version is noted) of the Administrative Requirements, Cost Principles, and Audit requirements, and to the extent necessary cooperate and maintain information and documentation to allow the County to comply with the applicable regulations governing use of the ARPA Funds, including, but not limited to 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards. Failure to do so may result in disallowance of costs upon audit. The Subrecipient, and, if applicable, subcontractors, shall only use ARPA Funds for eligible ARPA activities as described herein.

   If the Subrecipient expends $750,000 or more in federal awards from any and/or all sources in any fiscal year applicable to this Agreement, the Subrecipient shall procure and pay for a single audit or a program–specific audit for that fiscal year. Upon completion of each audit, the Subrecipient shall (a) submit to the County the reporting package specified in OMB

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Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor; and (b) submit to the County follow-up and developed corrective action plans for all audit findings. If the Subrecipient expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Subrecipient shall notify the County if did not meet the single audit requirement. The Subrecipient shall send all single audit documentation to the County within ninety (90) calendar days of receipt.

All disbursements of funds to the Subrecipient under this Agreement shall be subject to audit and recovery of disallowed costs from the Subrecipient.

9. **REPAYMENT OF FUNDS TO COUNTY**: The Subrecipient shall return ARPA Funds disbursed to it by the County under this Agreement for return by the County to the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC §803(c)(1), 31 CFR Part 35, US Treasury FAQs, the U.S. Department of the Treasury, the County, State law, or this Agreement. In such a case, the County shall make a written demand upon the Subrecipient for repayment, and the Subrecipient shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.

   No exercise by the County for the right to demand repayment of funds from the Subrecipient shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Subrecipient may be exercised as often as necessary to recoup from the Subrecipient all funds required to be returned by the County to the Treasury.

   The Subrecipient is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

10. **DEBARMENT AND SUSPENSION**: The Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such the Subrecipient certifies that the Subrecipient and none of its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The Subrecipient must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction (e.g., subcontract) it enters into. This certification is a material representation of fact relied upon by the County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Subrecipient agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C throughout the period of the Agreement. The Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions. The Subrecipient shall complete a certificate, which is attached hereto and incorporated herein as **Attachment E**.

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11. **CONFLICTS OF INTEREST**: The Subrecipient shall notify the County as soon as possible if the Agreement or any aspect related to the anticipated work under this Agreement raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Subrecipient shall explain the actual or potential conflict in writing in sufficient detail so that the County is able to assess such actual or potential conflict. The Subrecipient shall provide the County any additional information necessary for the County to fully assess and address such actual or potential conflict of interest. The Subrecipient shall accept any reasonable conflict mitigation strategy employed by the County, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict. If requested by the County, Subrecipient shall sign a certification affirming that it has no conflict of interest arising from performance of work on a specific task.

12. **NON-DISCRIMINATION**: The Subrecipient expressly agrees that neither it nor any employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status or any other status protected by New York State or Federal laws during the term of or in connection with this Agreement.

13. **ASSIGNABILITY and SUBCONTRACTING**: The Subrecipient shall not delegate any duties or assign any of its rights under this Agreement without the prior express written consent of the County. The Subrecipient shall not subcontract any part of the Services without the written consent of the County, subject to any necessary legal approvals. Any purported delegation of duties, assignment of rights or subcontracting of Work under this Agreement without the prior express written consent of the County is void. All subcontracts that have received such prior written consent shall provide that subcontractor(s) are subject to all terms and conditions set forth in this Agreement. It is recognized and understood by the Subrecipient that for the purposes of this Agreement, all Services performed by a County-approved subcontractor shall be deemed Services performed by the Subrecipient and the Subrecipient shall insure that such subcontracted work is subject to the material terms and conditions of this Agreement.

14. **ACKNOWLEDGEMENT**: ARPA Funds paid under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the ARPA of 2021. From and after the effective date of this Agreement, the Subrecipient agrees that any publications (written, visual or sound), issued by the Subrecipient describing programs and projects funded in whole or in par with the ARPA Funds, shall contain the following statement:

    This project was supported in whole or in part, by federal funds awarded to the County of Erie through the American Rescue Plan Act.

15. **INSURANCE**: During the term of this Agreement, the Subrecipient agrees to cause its

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contractors, sub-contractors and vendors to maintain insurance coverage consistent with the insurance certificate included as **Attachment H** hereto and to name the "County of Erie" as an additional insured on all such insurance policies, and to provide to the County Attorney certificate(s) of insurance evidencing such insurance coverage prior to the commencement of any Services.

16. **INDEMNIFICATION**: The Subrecipient shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Subrecipient or third parties under the direction or control of the Subrecipient; and to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

17. **COMPLIANCE with LAWS**: The Subrecipient shall comply, at its own expense, with the provisions of all applicable local, state and federal laws, rules and regulations. The Subrecipient shall further comply, at its own expense, with all applicable rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, and others employed to render the Services hereunder. This shall include, but not be limited to any and all Federal, State and Local procurement laws; County Local Law No. 3-2018 known as the Erie County Workforce Development and Diversification New York State Certified Worker Training Program; the New York State Environmental Quality Review Act (SEQR); permitting requirements; and all federal guidance regarding the ARPA Funds, including the Interim Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.

18. **MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE (M/WBE) GOALS**: The Subrecipient is required to include M/WBE participation goals of 10% MBEs and 2% WBEs in all bids for capital projects estimated to exceed $100,000.00. The selected contractor will be required to use good faith efforts to meet the participation goals. In the event that the Subrecipient (or Subrecipient's contractor) is unable to meet the M/WBE goals, the Subrecipient is required to request a waiver from the County's Director of Equal Employment Opportunity (EEO) outlining the reasons why the goals cannot be met. The Director will review each waiver request on an individual basis and determine whether a whole or partial waiver is appropriate.

    Attached hereto and incorporated herein as Attachment I is a M/WBE Utilization report, which shall be submitted by the Subrecipient on a quarterly basis to the Department.

19. **EXECUTORY**: The parties recognize and acknowledge that the obligations of the County under this Agreement are subject to the County's receipt of ARPA Funds from the federal government, and that no liability shall be incurred by the County beyond the monies made available from the Treasury for this Agreement. Therefore, this Agreement shall be deemed executory only to the extent of the monies appropriated and available. The Subrecipient agrees that the County shall not be liable for any of the payments hereunder unless and until the County has received said funds.

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If, for any reason, the full amount of said funds is not paid over or made available to the County by the Treasury, the County may terminate this Agreement immediately or reduce the amount payable to the Subrecipient, at the discretion of the County. The County shall give prompt notice of any such termination or reduction to the Subrecipient. If the County subsequently offers to pay a reduced amount to the Subrecipient, the Subrecipient shall have the right to terminate this Agreement upon reasonable prior written notice.

20. **LOBBYING**: (Applicable to Agreements exceeding $100,000). The Contractor certifies, to the best of its knowledge and belief, that:

    No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

    If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

    The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

    This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

    A certificate is attached hereto and incorporated herein as **Attachment K**.

21. **TERMINATION**: (a) The County, upon ten (10) days' notice to the Subrecipient, may terminate this Agreement in whole or in part when the County deems it to be in its best interest. In such event, the Subrecipient shall be compensated and the County shall be liable only for payment for Services already rendered under this Agreement prior to the effective date of termination. Upon receipt of notice that the County is terminating this Agreement in its best interests, the Subrecipient shall stop work immediately and incur no further costs in furtherance of this Agreement without the express approval of the Commissioner, and the

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Subrecipient shall direct any approved subcontractors to do the same.

(b) In the event the County determines that there has been a material breach by the Subrecipient of any of the terms of the Agreement and such breach remains uncured for forty-eight (48) hours after service on the Subrecipient of written notice thereof, the County, in addition to any other right or remedy it might have, may terminate this Agreement and the County shall have the right, power and authority to complete the Services provided for in this Agreement, or contract for its completion, and any additional expense or cost of such completion shall be charged to and paid by the Subrecipient. Without limiting the foregoing, upon written notice to the Subrecipient, repeated breaches by the Subrecipient of duties or obligations under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure.

(c) The Parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

22. **COPYRIGHT**: All records or recorded data of any kind compiled by the Subrecipient in completing the Services described in this Agreement, including but not limited to written reports, handouts, studies, drawings, blueprints, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the County and Treasury, as per the requirements for the Recipient Agreement. The Subrecipient may retain copies of such records for its own use. The County shall have the right to reproduce and publish such records, if it so desires, at no additional cost to the County.

    Notwithstanding the foregoing, all deliverables created under this Agreement by the Subrecipient are to be considered "works made for hire." If any of the deliverables do not qualify as "works made for hire," the Subrecipient hereby assigns to the County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Subrecipient agrees to assist the County, if required, in perfecting these rights. Where possible, the Subrecipient shall provide the County with at least one copy of each deliverable.

    The Subrecipient agrees to defend, indemnify and hold harmless the County for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Subrecipient agrees to enable the County's continued use of the deliverable, or to modify or replace it. If the County determines that none of these alternatives is reasonably available, the deliverable may be returned.

23. **INDEPENDENT CONTRACTORS**: The Subrecipient and the County agree that the Subrecipient and its officers, employees, agents, contractors, subcontractors and/or consultants are independent contractors and not employees of the County or any department,

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agency or unit thereof. In accordance with their status as independent contractors, the Subrecipient covenants and agrees that neither the Subrecipient nor any of its officers, employees, agents, contractors, subcontractors and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

24. **STRICT PERFORMANCE**: Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of any Services or the payment of any fee or reimbursement due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

25. **NOTICES**: All notices of any nature referred to in this Agreement shall be in writing and either sent by registered or certified mail postage pre-paid, or delivered by hand or overnight courier, or sent by facsimile (with acknowledgment received and a copy of the notice sent by registered or certified mail postage pre-paid), as set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt. Notices shall be sent to the following:

To the County:

Erie County
Commissioner of Environment & Planning
95 Franklin Street, 10th Floor
Buffalo, NY 14202

with a copy to:

County Attorney
Department of Law
95 Franklin Street, Suite 1634
Buffalo, New York 14202

To the Subrecipient:

TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221

26. **ENTIRE AGREEMENT**: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede

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all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

In the event of any conflict between the terms of this Agreement and the terms of any schedule or attachment hereto, it is understood that the terms of this Agreement shall be controlling with respect to any interpretation of the meaning and intent of the parties.

27. **THIRD-PARTIES**: Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third-party rights are expressly granted herein.

28. **NO EXCLUSIVITY**: The Subrecipient recognizes that this Agreement does not grant the Subrecipient the exclusive right to perform Services for the County and that the County may enter into similar agreements with other Subrecipients on an "as needed" basis.

29. **EQUAL PAY**: The Subrecipient shall comply with Erie County Executive Order 13 (2014) and agrees to complete the Certificate collectively attached hereto as **Exhibit L** and made a part hereof. The Subrecipient shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Subrecipient, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Agency's compliance with Erie County Executive Order 13 (2014). Notwithstanding the termination provisions contained herein, violation of the provisions of Executive Order 13 (2014), may constitute grounds for the immediate termination of this Agreement and may constitute grounds for determining that the Subrecipient is not qualified to participate in future County contracts.

30. **COUNTERPARTS**: This Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York. In addition, the parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Erie.

    If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement shall in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision shall be interpreted and enforced to give effect to the original written intent of the parties prior to the determination of such invalidity or unenforceability.

31. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**: The Subrecipient shall comply with 2 CFR §200.216.

32. **SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**: The Subrecipient will comply with the small and minority firms, women's business enterprise, and labor surplus area requirements as set forth at 2 CFR §200.321. The Subrecipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

    (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

    (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

    (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

    (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

    (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

    (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

33. **DOMESTIC PREFERENCE**: As appropriate and to the extent consistent with law, the Subrecipient and applicable subcontractors should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

    For purposes of this section:
    a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
    b. ''Manufactured products'' means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

34. **EQUAL OPPORTUNITY EMPLOYMENT**:

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In accordance with 41 CFR §60-1.4(b), the Subrecipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Subrecipient further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Subrecipient agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such

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compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Subrecipient further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Subrecipient agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

35. **SECTION 503 OF THE REHABILITATION ACT OF 1973**: (Applicable to contracts exceeding $10,000). The Subrecipient shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

    A. The Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to take affirmative actionto employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in allemployment practices, including the following:

        1. Recruitment, advertising, and job application procedures;
        2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
        3. Rates of pay or any other form of compensation and changes in compensation;
        4. Job assignments, job classifications, organizational structures, positiondescriptions, lines of progression, and seniority lists;
        5. Leaves of absence, sick leave, or any other leave;
        6. Fringe benefits available by virtue of employment, whether or not administeredby the Subrecipient;
        7. Selection and financial support for training, including apprenticeship, professionalmeetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
        8. Activities sponsored by the Subrecipient including social or recreational programs; and
        9. Any other term, condition, or privilege of employment.

    B. The Subrecipient agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973.

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

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C. In the event of the Subrecipient's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973.

D. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as wellas the Subrecipient's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Subrecipient must ensure that applicants and employees with disabilities are informed ofthe contents of the notice (e.g., the Subrecipient may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

36. **COPELAND "ANTI-KICKBACK" ACT**: (Applicable to all construction or repair contracts). Salaries of personnel performing Services under the Agreement shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; and 40 U.S.C. § 3145) as supplemented by Department of Labor regulations (29 C.F.R. Part 3). The Subrecipient shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under the Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

37. **DAVIS-BACON ACT**: Not applicable to projects funded solely by Coronavirus State and Local Fiscal Recovery Funds (CSFRF / CLFRF).

    The Subrecipient may need to comply with the Davis Bacon Act (40 U.S.C. §§ 3141 to 3144, and 3146 to 3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5) if other federal funds are also being used for the underlying Services.

38. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**: (Applicable to contracts exceeding $100,000 that involve the employment of mechanics or laborers).

    The Subrecipient shall comply with 40 U.S.C. §§ 3702 and 3704 of the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract

Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable federal laws and regulations pertaining to labor standards.

39. **ENERGY EFFICIENCY**: The Subrecipient shall comply with mandatory standards and policies relating to energy efficiency which are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163, 89 Stat. 871).

40. **SOLID WASTE DISPOSAL**: Pursuant to 2 C.F.R. § 200.323, Subrecipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in theEPA guidelines.

41. **ENVIRONMENTAL PROTECTION LAWS**: If the Agreement is in excess of $150,000, the Subrecipient shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401- 7671q), Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387), Section 508of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act), and all other applicable environmental laws that may exist now or in the future. Violations must be reported to the U.S. Treasury and the Regional Office of the Environmental Protection Agency (EPA). The Subrecipient shall include this provision in all subcontracts in excess of $150,000.

42. **NECESSARY APPROVAL**: This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

[END TEXT]

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

IN WITNESS WHEREOF, the County of Erie and the Subrecipient have caused this Agreement to be executed.

COUNTY OF ERIE

By: _____
Name: Mark Poloncarz/Maria Whyte
Title: County Executive/Deputy County Executive
Date:

TOWN OF AMHERST

By: _____
Name:
Title:
Date:

Approved as to Content:

By: _____
Name: Daniel R. Castle
Title: Commissioner, Environment & Planning
Date:

Approved as to Form:

By: _____
Name: Kristen M. Walder
Title: Second Assistant County Attorney
Doc. No.: _____
Date:

Authorized by the Erie County Legislature
On: _____
Item: _____

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "A"

U.S. DEPARTMENT OF TREASURY AND ERIE COUNTY AMERICAN RESCUE PLAN ACT GRANT AGREEMENT

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

DocuSign Envelope ID: 6B823558-418E-47A2-B9E9-E58821EBAA43

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address:	DUNS Number: 071479059
Erie County 95 Franklin St. Buffalo, New York, 14202-3904	Taxpayer Identification Number: 166002558 Assistance Listing Number: 21.019

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: DocuSigned by: Mark Poloncarz 6AFA008AA5A5447...

Authorized Representative: Mark Poloncarz

Title: County Executive

Date signed: 5/10/2021

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

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U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
   a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records
   a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

   c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

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9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

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ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.
    a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

    b. Any debts determined to be owed the federal government must be paid promptly by

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Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.
    a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

    b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.
    a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

    b. The list of persons and entities referenced in the paragraph above includes the following:
        i. A member of Congress or a representative of a committee of Congress;
        ii. An Inspector General;
        iii. The Government Accountability Office;
        iv. A Treasury employee responsible for contract or grant oversight or management;
        v. An authorized official of the Department of Justice or other law enforcement agency;
        vi. A court or grand jury; or
        vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

    c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

   The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

Erie County	5/10/2021
Recipient	Date

DocuSigned by:
[signature]
6AFA008AA5A1447...

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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ATTACHMENT "B"

INTERIM FINAL RULE

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505–AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov*. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529–9527.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID–19) was discovered in the United States in January 2020, the disease has infected over 32 million and killed over 575,000 Americans.[1] The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.[2] As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.[3] During this time, a significant share of households have faced food and housing insecurity.[4] Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.[5] As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.[6]

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of COVID–19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID–19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic's impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.[7] Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.[8] These cuts to State, local, and Tribal government workforces

[1] Centers for Disease Control and Prevention, COVID Data Tracker, *http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home* (last visited May 8, 2021).

[2] U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/UNRATE*, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNU02000000*, May 3, 2021.

[3] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS*, May 7, 2021.

[4] Nirmita Panchal et al., The Implications of COVID–19 for Mental Health and Substance Abuse (Feb. 10, 2021), https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis; U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, https://www.census.gov/programs-surveys/household-pulse-survey.html (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, Morb. Mortal. Wkly. Rep. 69(45):1675–80 (Nov. 13, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm*.

[5] Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), *https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm*.

[6] Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), *https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/*.

[7] Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), *https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities*.

[8] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.[9]

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,[10] as well as higher rates of unemployment and lack of basic necessities like food and housing.[11] Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID–19 health outcomes.[12] Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.[13] Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.[14] Unfortunately, the pandemic also has reversed many gains made by communities of color in the prior economic expansion.[15]

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.[16] Section 9901 of ARPA amended Title VI of the Social Security Act[17] (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).[18] The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID–19 and in their efforts to contain COVID–19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).[19]

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID–19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

(a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(b) To respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers;

(c) For the provision of government services to the extent of the reduction in revenue due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include "directly or indirectly offset[ting] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation."

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID–19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the

[9] Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), *http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession.*

[10] Sebastian D. Romano et al., Trends in Racial and Ethnic Disparities in COVID–19 Hospitalizations, by Region—United States, March–December 2020, MMWR Morb Mortal Wkly Rep 2021, 70:560–565 (Apr. 16, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.*

[11] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and* (last visited May 4, 2021).

[12] Lisa R. Fortuna et al., Inequity and the Disproportionate Impact of COVID–19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response, Psychological Trauma Vol. 12(5):443–45 (2020), *available at https://psycnet.apa.org/fulltext/2020-37320-001.pdf.*

[13] Emily Vogles et al., 53% of Americans Say the internet Has Been Essential During the COVID–19 Outbreak (Apr. 30, 2020), *https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/.*

[14] Emma Dorn et al., COVID–19 and student learning in the United States: The hurt could last a lifetime (June 2020), *https://webtest.childrensinstitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf;* Andrew Bacher-Hicks et al., Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time, J. of Public Econ. Vol. 193(C) (July 2020), *available at https://www.nber.org/papers/w27555.*

[15] *See, e.g.,* Tyler Atkinson & Alex Richter, Pandemic Disproportionately Affects Women, Minority Labor Force Participation, *https://www.dallasfed.org/research/economics/2020/1110* (last visited May 9, 2021); Jared Bernstein & Janelle Jones, The Impact of the COVID19 Recession on the Jobs and Incomes of Persons of Color, *https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf* (last visited May 9, 2021).

[16] American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 *et seq.* The term "state" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means each of the 50 States and the District of Columbia. The term "territory" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa. Tribal government is defined in the Act and the interim final rule to mean "the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the [American Rescue Plan Act] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131)." See section 602(g)(7) of the Social Security Act, as added by the American Rescue Plan Act. On January 29, 2021, the Bureau of Indian Affairs published a current list of 574 Tribal entities. See 86 FR 7554, January 29, 2021. The term "local governments" as used in this **SUPPLEMENTARY INFORMATION** includes metropolitan cities, counties, and nonentitlement units of local government.

[17] 42 U.S.C. 801 *et seq.*

[18] Sections 602, 603 of the Act.

[19] The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (2020).

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last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due to COVID–19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The interim final rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID–19 public health emergency on certain populations, geographies, and economic sectors. The interim final rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID–19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the interim final rule and, to better facilitate public comment, has included specific questions throughout this **SUPPLEMENTARY INFORMATION.** Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this interim final rule and Treasury's work in administering the Fiscal Recovery Funds. In addition, the interim final rule establishes certain regular reporting requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID–19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID–19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID–19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.[20]

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID–19 public health emergency. Assessing whether a program or service "responds to" the COVID–19 public health emergency requires the recipient to, first, identify a need or negative impact of the COVID–19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID–19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID–19 public health emergency.

[20] Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

The interim final rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID–19 or the negative economic impacts of the COVID–19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The interim final rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID–19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID–19 public health emergency, the interim final rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID–19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID–19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.[21] By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.[22] This wave brought acute

[21] Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), *https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html.*

[22] Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID–19 in the United States, February 24–April 21, 2021, MMWR Morb Mortal Wkly Rep 2021, 69(18):551–56 (May 8, 2021), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm.*

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strain on health care and public health systems: Hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID–19 waves that brought many similar challenges: The second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.[23] By early May 2021, the United States has experienced over 32 million confirmed COVID–19 cases and over 575,000 deaths.[24]

Mitigating the impact of COVID–19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID–19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (*e.g.*, monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID–19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID–19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.[25]

The need for public health measures to respond to COVID–19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for youths. This also includes monitoring the spread of COVID–19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID–19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID–19 will continue to require a public health response, including medical services for individuals with "long COVID," and research to understand how COVID–19 impacts future health needs and raises risks for the millions of Americans who have been infected.

Other areas of public health have also been negatively impacted by the COVID–19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.[26] The proportion of children's emergency department visits related to mental health has also risen noticeably.[27] Similarly, rates of substance misuse and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.[28] Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access services.[29] Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.[30]

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.[31] The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID–19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.[32]

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.[33] Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 211 deaths per 100,000 as of May 2021.[34]

[23] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID–19 Cases and Deaths in the US Reported to CDC, by State/Territory, *https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases* (last visited May 8, 2021).

[24] *Id.*

[25] Centers for Disease Control and Prevention, COVID Data Tracker: COVID–19 Vaccinations in the United States, *https://covid.cdc.gov/covid-data-tracker/#vaccinations* (last visited May 8, 2021).

[26] Panchal, *supra* note 4; Mark É. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID–19 Pandemic– United States, June 24–30 2020, Morb. Mortal. Wkly. Rep. 69(32):1049–57 (Aug. 14, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm*.

[27] Leeb, *supra* note 4.

[28] Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, *https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm* (last visited May 8, 2021).

[29] Megan L. Evans, et al., A Pandemic within a Pandemic—Intimate Partner Violence during Covid–19, N. Engl. J. Med. 383:2302–04 (Dec. 10, 2020), *available at https://www.nejm.org/doi/full/10.1056/NEJMp2024046*.

[30] Jeanne M. Santoli et al., Effects of the COVID–19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, Morb. Mortal. Wkly. Rep. 69(19):591–93 (May 8, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm;* Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID–19 Pandemic—New York City, March 1–June 27, 2020, Morb. Mortal. Wkly. Rep. 69(30):999–1001 (Jul. 31 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm*.

[31] Office of the White House, National Strategy for the COVID–19 Response and Pandemic Preparedness (Jan. 21, 2021), *https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf*.

[32] In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID–19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. *See* Romano, *supra* note 10.

[33] Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases and Deaths in the United States, by County-level Population Factors, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited May 8, 2021).

[34] The CDC's Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID–19 Cases

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Over the last year, Native Americans have experienced more than one and a half times the rate of COVID–19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.[35] Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID–19 mortality.[36]

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.[37] Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.[38] The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.[39]

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID–19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID–19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID–19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID–19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID–19 public health emergency, including:

- *COVID–19 Mitigation and Prevention.* A broad range of services and programming are needed to contain COVID–19. Mitigation and prevention efforts for COVID–19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (*e.g.*, monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (*e.g.*, nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;[40] ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.[41] They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID–19 mitigation tactics. These COVID–19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.[42]
- *Medical Expenses.* The COVID–19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID–19 variants has raised new risks and genomic surveillance needs.[43] Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID–19, or for post-intensive care syndrome.[44] State and local governments may need to continue to provide care and services to address these near- and longer-term needs.[45]

and Deaths in the United States, by Social Vulnerability Index, *https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths* (last visited May 8, 2021).

[35] Centers for Disease Control and Prevention, Risk for COVID–19 Infection, Hospitalization, and Death By Race/Ethnicity, *https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html* (last visited Apr. 26, 2021).

[36] *See, e.g.*, Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID–19 (Dec. 10, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html* (last visited Apr. 26, 2021).

[37] Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID–19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249*; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, JAMA 324(4):388–90 (2020), *available at https://jamanetwork.com/journals/jama/fullarticle/2767630.*

[38] *See, e.g.*, Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID–19—34 Jurisdictions, January–May 2020, Morb. Mort. Wkly. Rep. 70(5):155–61 (Feb. 5, 2021), *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm*; Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID–19: Protecting Vulnerable Communities During a Pandemic, Health Affairs Blog (Mar. 19, 2020), *https://www.healthaffairs.org/do/10.1377/hblog20200319.757883/full/.*

[39] *See, e.g.*, Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra* note 38; Nathaniel M. Lewis et al., Disparities in COVID–19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, Morb. Mortal. Wkly. Rep. 69(38):1369–73 (Sept. 25, 2020), *https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm.*

[40] This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational Strategy for K–12 Schools through Phased Prevention, *available at https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html.*

[41] Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID–19 will continue to be eligible under the ARPA, including those not explicitly listed here (*e.g.*, telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions), with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section II.A of this **SUPPLEMENTARY INFORMATION**) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this **SUPPLEMENTARY INFORMATION**).

[42] Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), *available at https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.*

[43] Centers for Disease Control and Prevention, *supra* note 24.

[44] Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), *https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html* (last visited Apr. 26, 2021).

[45] Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

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• *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

• *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID–19 public health emergency.[46] Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID–19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID–19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID–19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID–19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID–19 response. Recipients need not routinely track staff hours.

• *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID–19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID–19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),[47] to families living in QCTs, or when these services are provided by Tribal governments.[48] Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

• Funding community health workers to help community members access health services and services to address the social determinants of health;[49]

• Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;

• Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;

• Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and

• Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.[50]

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote

[46] In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

[47] Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

[48] U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, *https://www.huduser.gov/portal/datasets/qct.html* (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), *https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf* (last visited Apr. 26, 2021).

[49] The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. *See, e.g.*, U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, *https://health.gov/healthypeople/objectives-and-data/social-determinants-health* (last visited Apr. 26, 2021).

[50] National Commission on COVID–19 and Criminal Justice, Impact Report: COVID–19 and Crime (Jan. 31, 2021), *https://covid19.councilonj.org/2021/01/31/impact-report covid-19-and-crime-3/* (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID–19 pandemic, Am. J. of Emerg. Med. 38(12): 2753–55 (Dec. 1, 2020), *available at https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext* (showing a spike in domestic violence).

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education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.[51] Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,[52] and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.[53]

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.[54] Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.[55] A severe recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.[56] Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.[57] Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.2 percentage points[58] during the pandemic as compared to 1.0 percentage points for Black men[59] and 2.0 percentage points for White women.[60]

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.[61] In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores[62] and reduced familial and childhood wellbeing.[63] These potential long-term economic consequences underscore the continued need for robust policy support.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment[64] and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.[65] Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.[66] Sectors with a large share of small business employment have been among those with the most drastic drops in employment.[67] The negative outlook for small businesses has continued: As of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.[68]

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.[69] In general, small businesses can face greater hurdles in accessing credit,[70] and many small businesses were already financially fragile at the outset of the pandemic.[71] Non-profits, which provide vital services to communities, have similarly faced

[51] U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/PAYEMS* (last visited May 8, 2021).

[52] *Id.*

[53] U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CLF16OV* (last visited May 8, 2021).

[54] U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), *https://www.bls.gov/news.release/empsit.t01.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea04.htm* (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), *https://www.bls.gov/web/empsit/cpseea05 htm* (last visited May 8, 2021).

[55] Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), *https://files.epi.org/pdf/219418.pdf. See also,* Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID–19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), *https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf.*

[56] Center on Budget and Policy Priorities, Tracking the COVID–19 Recession's Effects on Food, Housing, and Employment Hardships, *https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and* (last visited May 8, 2021).

[57] Women have carried a larger share of childcare responsibilities than men during the COVID–19 crisis. *See, e.g.,* Gema Zamarro & María J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID–19, Rev. Econ. Household 19:11–40 (2021), *available at https://link.springer.com/article/10.1007/s11150-020-09534-7;* Titan Alon et al., The Impact of COVID–19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), *available at https://www.nber.org/papers/w26947.*

[58] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300032* (last visited May 8, 2021).

[59] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300031* (last visited May 8, 2021).

[60] U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; *https://fred.stlouisfed.org/series/LNS11300029* (last visited May 8, 2021).

[61] *See, e.g.,* Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), *https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/.*

[62] Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), *https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.*

[63] Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., Children of the Great Recession, Russell Sage Foundation (Aug. 2016), *available at https://www.russellsage.org/publications/children-great-recession.*

[64] Board of Governors of the Federal Reserve System, *supra* note 5.

[65] U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), *https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/.*

[66] Biden, *supra* note 6.

[67] Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID–19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), *available at https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf.*

[68] U.S. Census Bureau, Small Business Pulse Survey, *https://portal.census.gov/pulse/data/* (last visited May 8, 2021).

[69] Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID–19 Pandemic (Nov. 2020), *https://www.nber.org/papers/w28151.*

[70] *See e.g.,* Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), *available at https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm.*

[71] Alexander W. Bartik et al., The Impact of COVID–19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), *available at https://www.pnas.org/content/117/30/17656.*

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economic and financial challenges due to the pandemic.[72]

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.[73] These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID–19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID–19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,[74] and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID–19.[75] Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,[76] raise a substantial risk that the effects of the COVID–19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007–2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor neighborhoods more than doubling by 2010–2014 relative to 2000.[77] Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.[78] Given the disproportionate impact of COVID–19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID–19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all of which contribute to long-term economic outcomes.[79] Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.[80] Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,[81] an effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.[82] Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.[83]

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.[84] Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.[85]

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID–19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be

[72] Federal Reserve Bank of San Francisco, Impacts of COVID–19 on Nonprofits in the Western United States (May 2020), *https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf.*

[73] Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID–19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), *https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances.*

[74] Kim Parker et al., Economic Fallout from COVID–19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), *https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/*; Gould, *supra* note 55.

[75] *See infra* Section II.B of this Supplementary Information.

[76] Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), *https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/.*

[77] Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), *https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/.*

[78] David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), *available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.*

[79] Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. *See, e.g.,* Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, PLoS ONE 13(7) (2018), *available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144*; Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, *https://opportunityinsights.org/education/* (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education* (last visited Apr. 26, 2021).

[80] *See, e.g.,* Bacher-Hicks, *supra* note 14.

[81] A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. *See* Institute of Education Sciences, Monthly School Survey Dashboard, *https://ies.ed.gov/schoolsurvey/* (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only. *See* Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), *https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07* (last visited May 4, 2021).

[82] HHS, *supra* note 79.

[83] Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease—2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, J. of Pediatrics Vol. 223:188–93 (Aug. 1, 2020), *available at https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract.*

[84] Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey." Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. *https://doi.org/10.18128/D030.V8.0; see also* Donna Feir & Charles Golding, Native Employment During COVID–19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), *https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound.*

[85] Moreno & Sobrepena, *supra* note 73.

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eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID–19 public health emergency and whether, and the extent to which, the use would respond or address this harm.[86] A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID–19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must "respond to" the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began and remain so due to the negative economic impacts of the pandemic.
- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic's negative economic impacts on unemployed workers.
- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID–19 is also an eligible use. This includes: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID–19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID–19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID–19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor's benefits to surviving family members of COVID–19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID–19 victims.
- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.
- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID–19 public health emergency, including:
  - Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
  - Loans, grants, or in-kind assistance to implement COVID–19 prevention or mitigation tactics, such as physical

[86] In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

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plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID–19 vaccination, testing, or contact tracing programs; and

○ Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID–19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (*e.g.*, comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.[87]

• *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.[88] Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

• *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID–19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID–19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID–19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID–19 public health emergency.[89] Recipients should also consider whether impacts were due to the COVID–19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID–19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID–19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.[90] Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID–19 public health emergency, including:

○ *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID–19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.[91]

[87] *See* Federal Reserve Bank of Cleveland, An Uphill Battle: COVID–19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), *https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx* (discussing the impact of COVID–19 on minority owned businesses).

[88] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited May 8, 2021).

[89] From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. *See* U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/USLAH* (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (*e.g.* revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. *See* Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, *https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf*.

[90] HUD, *supra* note 48.

[91] Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), *https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of-*

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Services in this category alleviate the immediate economic impacts of the COVID–19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.[92] Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development to increase supply of affordable and high-quality living units; and
- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.[93]

Addressing Educational Disparities. As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
- Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and
- Evidence-based practices to address the social, emotional, and mental health needs of students;

Promoting Healthy Childhood Environments. Children's economic and family circumstances have a long-term impact on their future economic outcomes.[94] Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

- New or expanded high-quality childcare to provide safe and supportive care for children;
- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and
- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (*e.g.*, investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (*e.g.*, affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. *See* Section II.D of this **SUPPLEMENTARY INFORMATION**. State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. *See* Section II.C of this **SUPPLEMENTARY INFORMATION**.

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID–19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID–19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring

persistent-urban-inequality-and-concentrated-poverty/.

[92] U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, *https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11* (last visited Apr. 26, 2021).

[93] The Opportunity Atlas, *https://www.opportunityatlas.org/* (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107–162 (2018), *available at https://opportunityinsights.org/paper/neighborhoodsi/.*

[94] *See* supra notes 52 and 84.

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plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID–19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID–19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this **SUPPLEMENTARY INFORMATION**, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID–19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID–19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID–19? Describe how these respond to the COVID–19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries" affected by the COVID–19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID–19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID–19 on low-income populations and communities? Describe how these respond to the COVID–19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID–19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.[95] These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID–19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have contracted or died of COVID–19.[96] Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.[97] In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID–19 by mid-May 2020, with nearly 4,000 testing positive for the virus.[98] Furthermore, many essential workers are people of color or low-wage workers.[99] These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID–19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.[100]

[95] Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

[96] *See, e.g.*, Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, *https://covid.cdc.gov/covid-data-tracker/#health-care-personnel* (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID–19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week—United States, *https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff* (last visited May 4, 2021).

[97] *See, e.g.*, The Lancet, The plight of essential workers during the COVID–19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), *available at https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext.*

[98] *Id.*

[99] Joanna Gaitens et al., Covid–19 and essential workers: A narrative review of health outcomes and moral injury, Int'l J. of Envtl. Research and Pub. Health 18(4):1446 (Feb. 4, 2021), *available at https://pubmed.ncbi.nlm.nih.gov/33557075/;* Tiana N. Rogers et al., Racial Disparities in COVID–19 Mortality Among Essential Workers in the United States, World Med. & Health policy 12(3):311–27 (Aug. 5, 2020), *available at https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358* (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

[100] Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), *https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/.*

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Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.[101] A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.[102] The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID–19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean "those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government." [103] The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.[104] These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would "respond to" to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to $13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed $25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker's total pay above 150 percent of their residing state's average annual wage for all occupations, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, or their residing county's average annual wage, as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.[105]

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.[106] For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID–19, it must be entirely additive to a worker's regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker's normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID–19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.[107] Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many

[101] McCormack, *supra* note 37.

[102] *Id.*

[103] Sections 602(g)(2), 603(g)(2) of the Act.

[104] The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

[105] County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. *See* U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/current/oessrcst.htm* (last visited May 1, 2021); U.S. Bureau of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, *https://www.bls.gov/oes/current/county_links.htm* (last visited May 1, 2021).

[106] Treasury performed this analysis with data from the U.S. Census Bureau's 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

[107] However, such compensation must be "in addition to" remuneration or wages already received. That is, employers may not reduce such workers' current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

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months. Essential workers who have already earned premium pay for essential work performed during the COVID–19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. *See* Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID–19 public health emergency.[108] Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same period 2019.[109] At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.[110] Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.[111] These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID–19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.[112] Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,[113] while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID–19 public health emergency began.[114]

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of "general revenue" for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID–19 public health emergency.

General Revenue. The interim final rule adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.[115] By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.[116] In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of

[108] ARPA, *supra* note 16.

[109] Major sources include personal income tax, corporate income tax, sales tax, and property tax. *See* Lucy Dadayan., States Reported Revenue Growth in July–September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), *available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3 0.pdf.*

[110] National League of Cities, City Fiscal Conditions (2020), *available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal Conditions_2020_FINAL.pdf.*

[111] Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. *See* Moreno & Sobrepena, *supra* note 73.

[112] *See, e.g.*, Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html*; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf*; Gordon, *supra* note 9.

[113] State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

[114] U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/CES9092000001* and *https://fred.stlouisfed.org/series/CES9093000001* (last visited Apr. 27, 2021).

[115] U.S. Census Bureau, Annual Survey of State and Local Government Finances, *https://www.census.gov/programs-surveys/gov-finances.html* (last visited Apr. 30, 2021).

[116] The interim final rule would define tax revenue in a manner consistent with the Census Bureau's definition of tax revenue, with certain changes (*i.e.*, inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as "charges imposed for providing current services or for the sale of products in connection with general government activities." It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.*, other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

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the COVID–19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.[117]

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.[118] For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

Finally, the term "general revenue" includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau's methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.[119] For purposes of measuring loss in general revenue due to the COVID–19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.[120]

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID–19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID–19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.[121] Although revenue may decline for reasons unrelated to the COVID–19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID–19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID–19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.[122] This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID–19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- *Step 1:* Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.*, last full fiscal year before January 27, 2020), called the *base year revenue*.
- *Step 2:* Estimate *counterfactual revenue*, which is equal to *base year revenue* * [(1 + *growth adjustment*) ^ (*n*/12)], where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal

[117] Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. *See* Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287–B (Feb. 2009).

[118] *Supra* note 116.

[119] U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), *https://www2.census.gov/govs/class/classfull.pdf*.

[120] For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), *https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html*.

[121] For example, following the 2007–09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. *See* U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/graph/?g=r3YI* (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

[122] Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015–2018 represents the most recent available data. *See* U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), *https://www.census.gov/programs-surveys/gov-finances/data/datasets.html*.

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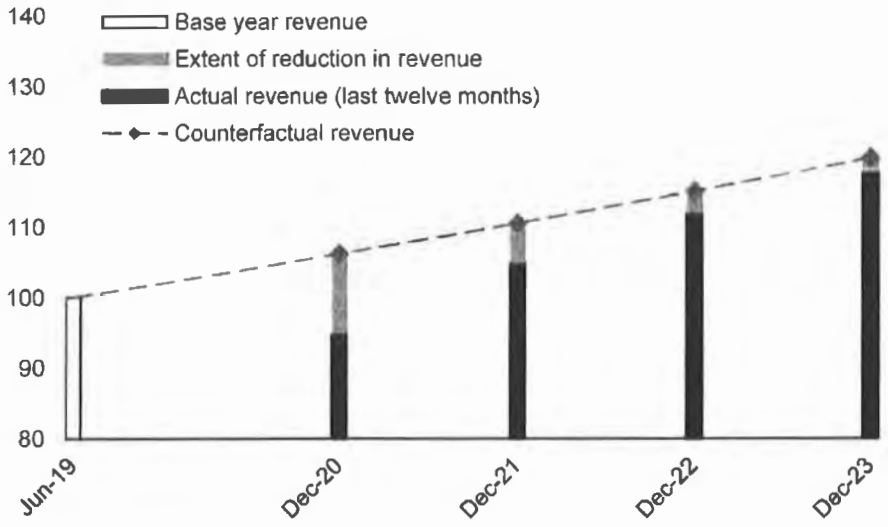
years prior to the COVID–19 public health emergency.

- *Step 3:* Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.
- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual revenue* less *actual revenue*. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1 percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
n (months elapsed)	18	30	42	54
Counterfactual revenue:	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building [123] of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (*e.g.*, rainy day or other reserve funds) would not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID–19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID–

[123] Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

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19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID–19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury to do support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.[124]

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.[125] By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).[126]

Established by the 1987 amendments[127] to the Clean Water Act (CWA),[128] the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.[129] Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.[130]

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),[131] with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.[132] Like the CWSRF,

[124] Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

[125] Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

[126] Environmental Protection Agency, Drinking Water State Revolving fund, *https://www.epa.gov/dwsrf* (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf* (last visited Apr. 30, 2021).

[127] Water Quality Act of 1987, Public Law 100–4.

[128] Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111–5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113–121. *The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115–270.*

[129] *See* Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA–816–R–00–023 (Nov. 2000), *https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF; See also* Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund, https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf (last visited Apr. 30, 2021).*

[130] 33 U.S.C. 1383(c). *See also Environmental Protection Agency, Overview of Clean Water State Revolving Fund Eligibilities (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, Clean Water Act: A Summary of the Law, Congressional Research Service (Oct. 18, 2016), https://fas.org/sgp/crs/misc/RL30030.pdf; Jonathan L Ramseur, Wastewater Infrastructure: Overview, Funding, and Legislative Developments, Congressional Research Service (May 22, 2018), https://fas.org/sgp/crs/misc/R44963.pdf.*

[131] 42 U.S.C. 300j–12.

[132] Environmental Protection Agency, Drinking Water State Revolving Fund Eligibility Handbook, (June 2017), *https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf;* Environmental Protection Agency, Drinking Water

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the DWSRF provides States with the flexibility to meet the needs of their populations.[133] The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.[134] In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.[135]

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.[136] The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID–19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.[137] Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to "assist systems most in need on a per household basis according to state affordability criteria" would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.[138]

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, undeserved, or rural communities? How do these projects differ from DWSFR and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

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Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), *https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.*

[133] *Id.*

[134] *Id.*

[135] 42 U.S.C. 300j–12(b)(3)(A)

[136] Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, *https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf* (last visited Apr. 30, 2021); 42 U.S.C. 300j–12

[137] House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), *https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief.*

[138] Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), *https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf;* Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, *https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations* (last visited Apr. 30, 2020).

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infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID–19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.[139] With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.[140] By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).[141] There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.[142] Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.[143]

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.[144] In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.[145] In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017[146] and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,[147] attributable, in part to a shift to using broadband and the internet by individuals and businesses

[139] *See, e.g., https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show; https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show;* and generally, *https://www.ntia.gov/data/digital-nation-data-explorer.*

[140] As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, *https://broadbandmap.fcc.gov/#/* (last visited May 9, 2021).

[141] How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, *available at https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide.*

[142] *See, e.g.,* Federal Communications Commission, Fourteenth Broadband Deployment Report, *available at https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf.*

[143] *See, e.g.,* Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), *https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx;* Kansas Office of Broadband Development, Broadband Acceleration Grant, *https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf* (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), *https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf.*

[144] This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

[145] Federal Communications Commission, Broadband Speed Guide, *https://www.fcc.gov/consumers/guides/broadband-speed-guide* (last visited Apr 30, 2021).

[146] Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19–126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, *available at https://ecfsapi.fcc.gov/file/101030085118517/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf.* Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide,* Apr. 29, 2021.

[147] *Id. See also* United States's Mobile and Broadband internet Speeds—Speedtest Global Index, *available at https://www.speedtest.net/global-index/united-states#fixed.*

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to create and share content using video sharing, video conferencing, and other applications.[148]

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.[149] As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.[150] For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others. [151] These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8 gigabytes.[152] OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent—from 19 gigabytes to 31 gigabytes—between December, 2019 and December, 2020.[153] According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.[154]

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the "above baseline" performance tier set by the FCC.[155] The Broadband Infrastructure Program (BBIP) [156] of the Department of Commerce, which provides Federal funding to deploy broadband infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.[157]

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC's benchmark for an "advanced telecommunications capability." [158] This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC's RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.[159] The Department of Commerce's BBIP also considers households to be "unserved" generally if they lack access to broadband service

[148] *Id.*

[149] One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

[150] *See, e.g.,* Zoom, System Requirements for Windows, macOS, and Linux, *https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c* (last visited May 8, 2021).

[151] By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. *Reviews.org:* What is Symmetrical internet? (March 2020).

[152] OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), *available at https://openvault.com/ovbi-covid-19-drove-51-increase-in-broadband-traffic-in-2020; See* OpenVault's data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4,* Quarterly Advisory (Feb. 10, 2021), *available at https://openvault.com/complimentory-report-4q20/.*

[153] OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 20201), *available at https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/;* Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity, available at https://openvault.com/upstream-whitepaper/.*

[154] Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), *https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls www.oecd.org/sti/broadband/broadband-statistics.*

[155] *Rural Digital Opportunity Fund,* Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), *available at https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0.*

[156] The BIPP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

[157] Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

[158] *Deployment Report, supra* note 142.

[159] *Rural Digital Opportunity Fund, supra* note 156.

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with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID–19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase." In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID–19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit Into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for "deposit into any pension fund." For the reasons discussed below, Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID–19 public health emergency, and
2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID–19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans

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(Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments [160]), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation [161] during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. *See* Section IV of this **SUPPLEMENTARY INFORMATION**. As discussed below Section IV of this **SUPPLEMENTARY INFORMATION**, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—*i.e.*, cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (*e.g.*, an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).
- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.
- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.
- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:
  - State or territory tax changes that would increase any source of general

[160] In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

[161] For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

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fund revenue, such as a change that would increase a tax rate; and

○ Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.*, fiscal year 2019 tax revenue adjusted for inflation). This "revenue reduction cap," together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

• Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this **SUPPLEMENTARY INFORMATION**.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. *See* Section IV of this **SUPPLEMENTARY INFORMATION**.

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from "a change in law, regulation, or administrative interpretation." A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government's expansion of the EITC in the ARPA.[162] This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.[163]

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID–19 public health emergency.[164] This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the "most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency" as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,[165] suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines "reporting year" as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases ("in-year" value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term "reporting year" refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule's definition of "tax revenue" is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.[166] It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this **SUPPLEMENTARY INFORMATION**, tax

[162] *See, e.g.*, Tax Policy Center, How do state earned income tax credits work?, *https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/* (last visited May 9, 2021).

[163] U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, *https://www.bea.gov/data/prices-inflation/gdp-price-deflator* (last visited May 9, 2021).

[164] Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. *See* section 602(c)(1)(C).

[165] Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), *available at https://www.cbo.gov/publication/56965*.

[166] U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, *https://www.census.gov/programs-surveys/state/about/glossary.html* (last visited Apr. 30, 2021).

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revenue does not include revenue taxed and collected by a different unit of government (*e.g.*, revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States and territories already consider tax changes.[167]

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.[168] The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or

[167] *See, e.g.*, Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), *available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.*

[168] Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

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authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to "indirectly" offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.[169] In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by $1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth $500 million, it need only pay for the remaining $500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this **SUPPLEMENTARY INFORMATION**, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of

[169] This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

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practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.[170]

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.[171] The definition of "incurred" does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID–19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of "obligation" that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID–19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).[172] As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to "respond to" the COVID–19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (*e.g.*, average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (*e.g.*, replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID–19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.[173]

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.[174] The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the

[170] *See* 42 CFR 433.51 and 45 CFR 75.306.

[171] Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

[172] Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

[173] Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

[174] Sections 602(e) and 603(e) of the Act.

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recipient. As discussed further in Sections III.B and VIII of this SUPPLEMENTARY INFORMATION, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.[175] This process will allow the Secretary to respond to the issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (*i.e.*, February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.[176] Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.[177] For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-

[175] The interim final rule also provides that Treasury may extend any deadlines.

[176] With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

[177] The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID–19 pandemic, J. of Public Econ. (Nov. 2020), *available at https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389.*

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pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.[178] Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021 [179]) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government." [180] Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (*e.g.*, a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID–19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and

[178] Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, *https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions* (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, *https://fred.stlouisfed.org/series/UNRATE* (last visited Apr. 27, 2021).

[179] U.S. Bureau of Labor Statistics, Economic News Release—Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, *https://www.bls.gov/news.release/laus.t01.htm* (last visited Apr. 30, 2021).

[180] Section 602(c)(3) of the Act.

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"public benefit corporation" that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for $19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID–19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury's implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU's use of Fiscal Recovery Funds based on the NEU's proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU's distribution. Further, States and territories may not provide funding on a reimbursement basis—*e.g.*, requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU's most recent budget. The most recent budget is defined as the NEU's most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury's implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (*e.g.*, a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government's NEU allocation under section 603(b)(2) but not to the consolidated government's county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient's expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds. The reports will include the same general data (*e.g.*, on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

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annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As discussed below, the requirements of advance notice and public comment do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." [181] The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." [182] This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID–19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID–19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as "economically significant" regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available

[181] 5 U.S.C. 553(a)(2).

[182] 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule").

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techniques to quantify anticipated present and future benefits and costs as accurately as possible." OMB's Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the $350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID–19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress' mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers $350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined $350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID–19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.[183] Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–09 recession.[184]

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID–19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury's approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- *Revenue Loss:* Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury's decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients' pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury's approach provides a more accurate representation of the effect of the pandemic on overall revenues.
- *Premium Pay:* Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold. To set this threshold, Treasury analyzed data

[183] Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, American Econ. J.: Econ. Policy, 4:3 118–45 (Aug. 2012), *available at https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118.*

[184] *See, e.g.*, Fitzpatrick, Haughwout & Sotron, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), *https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html*; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), *available at https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf*; Gordon, *supra* note 9.

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from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.
- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID–19 crisis. Targeting relief is in line with Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," which laid out an Administration-wide priority to support "equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."[185] To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;[186] and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

[185] Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/* (last visited May 9, 2021).

[186] David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, *https://www.epi.org/publication/bp339-public-sector-jobs-crisis* (last visited May 9, 2021).

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becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency . . . grants." The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus "both clearly and directly related to a federal grant program." *National Wildlife Federation* v. *Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the "process necessary to maintain state . . . eligibility for federal funds," *id.*, as well as the "method[s] by which states can . . . qualify for federal aid," and other "integral part[s] of the grant program," *Center for Auto Safety* v. *Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule"). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553's requirements. The ARPA is a law responding to a historic economic and public health emergency; it is "extraordinary" legislation about which "both Congress and the President articulated a profound sense of 'urgency.'" *Petry* v. *Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to "respond to the public health emergency," and the urgency is further exemplified by Congress's command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, "[t]o the extent practicable," funds must be provided to Tribes and cities "not later than 60 days after the date of enactment." *See Philadelphia Citizens in Action* v. *Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been "virtually impossible"). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA "covered period" began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.*, payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent ($48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes)	1,262.5	$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes)	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes)	2,525	123,220
Quarterly Project and Expenditure Report	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs	TBD	1 per year	†20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at *https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm* (visited March 28, 2020). Base wage of $33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of $48.80.

**5,050–TBD.

***Per year after first year.

† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

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31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over $50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on the all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the *www.regulations.gov* docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to *oira_submission@omb.eop.gov*.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

■ 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

■ 2. Revise the part heading to read as set forth above.

■ 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

35.1 Purpose.
35.2 Applicability.
35.3 Definitions.
35.4 Reservation of authority, reporting.
35.5 Use of funds.
35.6 Eligible uses.
35.7 Pensions.
35.8 Tax.
35.9 Compliance with applicable laws.
35.10 Recoupment.
35.11 Payments to States.
35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et seq.*) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

(1) Begins on March 3, 2021; and

(2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

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Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID–19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID–19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

(1) Is not performed while teleworking from a residence; and

(2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to $13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID–19 public health emergency. Such amount may not exceed $25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to $13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to $13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

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Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U–3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID–19 response and prevention.* Expenditures for the mitigation and prevention of COVID–19, including:

(i) Expenses related to COVID–19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID–19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID–19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(vi) Costs of providing COVID–19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID–19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID–19-related treatment;

(ix) Expenses for communication related to COVID–19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID–19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

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response to the COVID–19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID–19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID–19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID–19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.* Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID–19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID–19 public health emergency.

(8) *Assistance to households.* Assistance programs, including cash assistance programs, that respond to the COVID–19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID–19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID–19 public health emergency assistance programs, including services responding to the COVID–19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID–19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID–19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID–19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID–19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID–19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID–19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

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(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$Max\ \{[Base\ Year\ Revenue * (1 + Growth\ Adjustment)^{\left(\frac{n_t}{12}\right)}] - Actual\ General\ Revenue_t; 0\}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID–19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID–19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

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(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

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Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "C"

ORIGINAL SCOPE OF SERVICES/WORK

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "D"

U.S. DEPARTMENT OF TREASURY
COMPLIANCE AND REPORTING GUIDANCE

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

Compliance and Reporting Guidance

State and Local Fiscal Recovery Funds

June 24, 2021

Version: 1.1

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

U S DEPARTMENT OF THE TREASURY

Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities

On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") program. This program is intended to provide support to State, territorial, local, and Tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents, and businesses.

This guidance provides additional detail and clarification for each recipient's compliance and reporting responsibilities under the SLFRF program, and should be read in concert with the Award Terms and Conditions, the authorizing statute, the SLFRF implementing regulation, and other regulatory and statutory requirements, including regulatory requirements under the Uniform Guidance (2 CRF Part 200). Please see the Assistance Listing in SAM.gov under assistance listing number (formerly known as CFDA number), 21.027 for more information.

Please Note: This guidance document applies to the SLFRF program only and does not change nor impact reporting and compliance requirements for the Coronavirus Relief Fund ("CRF") established by the CARES Act.

This guidance includes two parts:

Part 1: General Guidance

This section provides an orientation to recipients' compliance responsibilities and the U.S. Department of the Treasury's ("Treasury") expectations and recommends best practices where appropriate under the SLFRF Program.

A. Key Principles..... P. 3
B. Statutory Eligible Uses..... P. 3
C. Treasury's Rulemaking..... P. 4
D. Uniform Guidance (2 CFR Part 200)..... P. 6
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Part 2: Reporting Requirements

This section provides information on the reporting requirements for the SLFRF program.

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Part 1: General Guidance

This section provides an orientation on recipients' compliance responsibilities and Treasury's expectations and recommended best practices where appropriate under the SLFRF program.

Recipients under the SLFRF program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the "SLFRF statute") that receive a SLFRF award. Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient.

Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Interim Final Rule, and reporting requirements, as applicable.

A. Key Principles

There are several guiding principles for developing your own effective compliance regimes:

- Recipients and subrecipients are the first line of defense, and responsible for ensuring the SLFRF award funds are not used for ineligible purposes, and there is no fraud, waste, and abuse associated with their SLFRF award;
- Many SLFRF-funded projects respond to the COVID-19 public health emergency and meet urgent community needs. Swift and effective implementation is vital, and recipients must balance facilitating simple and rapid program access widely across the community and maintaining a robust documentation and compliance regime;
- SLFRF-funded projects should advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; and
- Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per Memorandum M-21-20 and Memorandum M-20-21.

B. Statutory Eligible Uses

As a recipient of an SLFRF award, your organization has substantial discretion to use the award funds in the ways that best suit the needs of your constituents – as long as such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

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Treasury adopted an Interim Final Rule to implement these eligible use categories and other restrictions on the use of funds under the SLFRF program.[1] It is the recipient's responsibility to ensure all SLFRF award funds are used in compliance with these requirements. In addition, recipients should be mindful of any additional compliance obligations that may apply – for example, additional restrictions imposed upon other sources of funds used in conjunction with SLFRF award funds, or statutes and regulations that may independently apply to water, broadband, and sewer infrastructure projects. Recipients should ensure they maintain proper documentation supporting determinations of costs and applicable compliance requirements, and how they have been satisfied as part of their award management, internal controls, and subrecipient oversight and management.

C. Treasury's Rule

Treasury's Interim Final Rule details recipients' compliance responsibilities and provides additional information on eligible and restricted uses of SLFRF award funds and reporting requirements. Your organization should review and comply with the information contained in Treasury's Interim Final Rule, and any subsequent final rule when building appropriate controls for SLFRF award funds.

1. **Eligible and Restricted Uses of SLFRF Funds.** As described in the SLFRF statute and summarized above, there are four enumerated eligible uses of SLFRF award funds. As a recipient of an award under the SLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project's eligibility, recipients are also responsible for determining subrecipient's or beneficiaries' eligibility and must monitor use of SLFRF award funds.

   To help recipients build a greater understanding of eligible uses, Treasury's Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the SLFRF program, including some helpful definitions. For example, Treasury's Interim Final Rule establishes:

   - A framework for determining whether a project "responds to" a "negative economic impact" caused by the COVID-19 public health emergency;
   - Definitions of "eligible employers", "essential work," "eligible workers", and "premium pay" for cases where premium pay is an eligible use;
   - A definition of "general revenue" and a formula for calculating revenue lost due to the COVID-19 public health emergency;
   - A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency's Drinking Water and Clean Water State Revolving Funds; and
   - A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.

   Treasury's Interim Final Rule also provides more information on four important restrictions on use of SLFRF award funds: recipients may not deposit SLFRF funds into a pension fund; recipients that are States or territories may not use SLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative

[1] Treasury's Interim Final Rule is effective as of May 17, 2021, and public comments are due July 16, 2021. This guidance may be clarified consistent with the final rule. https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf

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interpretation; and, recipients may not use SLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of SLFRF funds outside the scope of eligible uses, including that recipients generally may not use SLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a "rainy day" fund. Recipients should refer to Treasury's Interim Final Rule for more information on these restrictions.

2. **Eligible Costs Timeframe.** Your organization, as a recipient of an SLFRF award, may use SLFRF funds to cover eligible costs that your organization incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, as long as the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the recipient State, territorial, local, or Tribal government prior to March 3, 2021 are not eligible, as provided for in Treasury's Interim Final Rule.

   Recipients may use SLFRF award funds to provide assistance to households, businesses, and individuals within the eligible use categories described in Treasury's Interim Final Rule for costs that those households, businesses and individuals incurred prior to March 3, 2021. For example,

   a. Public Health/Negative Economic Impacts: Recipients may use SLFRF award funds to provide assistance to households – such as rent, mortgage, or utility assistance – for costs incurred by the household prior to March 3, 2021, provided that the recipient State, territorial, local or Tribal government did not incur the cost of providing such assistance prior to March 3, 2021.
   b. Premium Pay: Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be "in addition to" wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021.
   c. Revenue Loss: Treasury's Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. While calculation of lost revenue begins with the recipient's revenue in the last full fiscal year prior to the COVID-19 public health emergency and includes the 12-month period ending December 31, 2020, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
   d. Investments in Water, Sewer, and Broadband: Recipients may use SLFRF award funds to make necessary investments in water, sewer, and broadband. Recipients may use SLFRF award funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the SLFRF award funds were incurred after March 3, 2021.

   Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors. For the purposes of determining expenditure eligibility, Treasury's Interim Final Rule provides that "incurred" has the same meaning given to "financial obligation" in 2 CFR § 200.1.

3. **Reporting.** Generally, recipients must submit one initial interim report, quarterly or annual Project and Expenditure reports which include subaward reporting, and in some cases annual Recovery Plan reports. Treasury's Interim Final Rule and Part 2 of this guidance provide more detail around SLFRF reporting requirements.

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Assistance Listing

The Assistance Listing for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) was published May 28, 2021 on SAM.gov under Assistance Listing Number ("ALN"), formerly known as CFDA Number, **21.027**.

The assistance listing includes helpful information including program purpose, statutory authority, eligibility requirements, and compliance requirements for recipients. The ALN is the unique 5-digit number assigned to identify a federal assistance listing, and can be used to search for federal assistance program information, including funding opportunities, spending on USASpending.gov, or audit results through the Federal Audit Clearinghouse.

To expedite payments and meet statutory timelines Treasury issued initial payments under an existing ALN, 21.019, assigned to the CRF. If you have already received funds or captured the initial number in your records, please update your systems and reporting to reflect the new ALN 21.027 for the SLFRF program. **Recipients must use ALN 21.027 for all financial accounting, subawards, and associated program reporting requirements for the SLFRF awards.**

D. Uniform Administrative Requirements

The SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the "Uniform Guidance"). In all instances, your organization should review the Uniform Guidance requirements applicable to your organization's use of SLFRF funds, and SLFRF-funded projects. Recipients should consider how and whether certain aspects of the Uniform Guidance apply.

The following sections provide a general summary of your organization's compliance responsibilities under applicable statutes and regulations, including the Uniform Guidance, as described in the 2020 OMB Compliance Supplement Part 3. Compliance Requirements (issued August 18, 2020). Note that the descriptions below are only general summaries and all recipients and subrecipients are advised to carefully review the Uniform Guidance requirements and any additional regulatory and statutory requirements applicable to the program.

1. **Allowable Activities.** Each recipient should review program requirements, including Treasury's Interim Final Rule and the recipient's Award Terms and Conditions, to determine and record eligible uses of SLFRF funds. Per 2 CFR 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.

2. **Allowable Costs/Cost Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

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SLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that SLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.[2]

Treasury's Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed, or not in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

a. Administrative costs: Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.[3] Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the SLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the SLFRF award such as the cost of facilities or administrative functions like a director's office.[4][5] Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

b. Salaries and Expenses: In general, certain employees' wages, salaries, and covered benefits are an eligible use of SLFRF award funds. Please see Treasury's Interim Final Rule for details.

3. **Cash Management.** SLFRF payments made to recipients are not subject to the requirements of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 or 2 CFR 200.305(b)(8)-(9).

   As such, recipients can place funds in interest-bearing accounts, do not need to remit interest to Treasury, and are not limited to using that interest for eligible uses under the SLFRF award.

4. **Eligibility.** Under this program, recipients are responsible for ensuring funds are used for eligible purposes. Generally, recipients must develop and implement policies and procedures, and record retention, to determine and monitor implementation of criteria for

[2] See 42 CFR 433.51 and 45 CFR 75.306.
[3] Recipients also may use SLFRF funds directly for administrative costs to improve efficacy of programs that respond to the COVID-19 public health emergency. 31 CFR 35.6(b)(10).
[4] 2 CFR 200.413 Direct Costs.
[5] 2 CFR 200.414 Indirect Costs.

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determining the eligibility of beneficiaries and/or subrecipients. Your organization, and if applicable, the subrecipient(s) administering a program on behalf of your organization, will need to maintain procedures for obtaining information evidencing a given beneficiary, subrecipient, or contractor's eligibility including a valid SAM.gov registration. Implementing risk-based due diligence for eligibility determinations is a best practice to augment your organization's existing controls.

5. **Equipment and Real Property Management.** Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

6. **Matching, Level of Effort, Earmarking.** There are no matching, level of effort, or earmarking compliance responsibilities associated with the SLFRF award. SLFRF funds may only be used for non-Federal match in other programs where costs are eligible under both SLFRF and the other program and use of such funds is not prohibited by the other program.

7. **Period of Performance.** Your organization should also develop and implement internal controls related to activities occurring outside the period of performance. For example, each recipient should articulate each project's policy on allowability of costs incurred prior to award or start of the period of performance. All funds remain subject to statutory requirements that they must be used for costs incurred by the recipient during the period that begins on March 3, 2021, and ends on December 31, 2024, and that award funds for the financial obligations incurred by December 31, 2024 must be expended by December 31, 2026. Any funds not used must be returned to Treasury.

8. **Procurement, Suspension & Debarment.** Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate.[6] Recipients must have and use documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320. The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations.

9. **Program Income.** Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental or real or personal property acquired under Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. Recipients of SLFRF funds

[6] 2 CFR 200.320(c)(1)-(3) and (5)

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should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.

The Uniform Guidance outlines the requirements that pertain to program income at 2 CFR 200.307. Treasury intends to provide additional guidance regarding program income and the application of 2 CFR 200.307(e)(1), including with respect to lending programs.

10. **Reporting.** All recipients of federal funds must complete financial, performance, and compliance reporting as required and outlined in Part 2 of this guidance. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definition of expenditures pursuant to 2 CFR 200.1. Your organization should appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles.

    In addition, where appropriate, your organization needs to establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting. See Part 2 of this guidance for a full overview of recipient reporting responsibilities.

11. **Subrecipient Monitoring.** SLFRF recipients that are pass-through entities as defined under 2 CFR 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 CFR 200.332 regarding requirements for pass-through entities.

    First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

    Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

    Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

12. **Special Tests and Provisions.** Treasury has set a deadline of July 16, 2021, for receipt of public comment on its Interim Final Rule and will adopt a final rule responding to these comments. In addition, Treasury may add clarifications to the implementing guidance.

Across each of the compliance requirements above, Treasury described some best practices for development of internal controls. The table below provides a brief description and example of each best practice.

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Table 1: Internal controls best practices

Best Practice	Description	Example
Written policies and procedures	Formal documentation of recipient policies and procedures	Documented procedure for determining worker eligibility for premium pay
Written standards of conduct	Formal statement of mission, values, principles, and professional standards	Documented code of conduct / ethics for subcontractors
Risk-based due diligence	Pre-payment validations conducted according to an assessed level of risk	Enhanced eligibility review of subrecipient with imperfect performance history
Risk-based compliance monitoring	Ongoing validations conducted according to an assessed level of risk	Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics
Record maintenance and retention	Creation and storage of financial and non-financial records.	Storage of all subrecipient payment information.

E. Award Terms and Conditions

The Award Terms and Conditions of the SLFRF financial assistance agreement sets forth the compliance obligations for recipients pursuant to the SLFRF statute, the Uniform Guidance, and Treasury's Interim Final Rule. Recipients should ensure they remain in compliance with all Award Terms and Conditions. These obligations include the following items in addition to those described above:

1. **SAM.gov Requirements.** All eligible recipients are also required to have an active registration with the System for Award Management (SAM) (https://www.sam.gov). To ensure timely receipt of funding, Treasury has stated that Non-entitlement Units of Government (NEUs) who have not previously registered with SAM.gov may do so after receipt of the award, but before the submission of mandatory reporting.[7]

2. **Recordkeeping Requirements.** Generally, your organization must maintain records and financial documents for five years after all funds have been expended or returned to Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

   Your organization must agree to provide or make available such records to Treasury upon request, and to any authorized oversight body, including but not limited to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and the Pandemic Relief Accountability Committee ("PRAC").

3. **Single Audit Requirements.** Recipients and subrecipients that expend more than $750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.[8] Recipients and subrecipients may also refer to the Office of

[7] See flexibility provided in https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.
[8] For-profit entities that receive SLFRF subawards are not subject to Single Audit requirements. However, they are subject to other audits as deemed necessary by authorized governmental entities, including Treasury, the GAO, the PRAC and the Treasury's OIG.

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Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

4. **Civil Rights Compliance**. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

   In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status.

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Part 2: Reporting Guidance

There are three types of reporting requirements for the SLFRF program.

- **Interim Report:** Provide initial overview of status and uses of funding. This is a one-time report. **See Section A, page 13.**
- **Project and Expenditure Report:** Report on projects funded, expenditures, and contracts and subawards over $50,000, and other information. **See Section B, page 15.**
- **Recovery Plan Performance Report:** The Recovery Plan Performance Report (the "Recovery Plan") will provide information on the projects that large recipients are undertaking with program funding and how they plan to ensure program outcomes are achieved in an effective, efficient, and equitable manner. It will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury. The Recovery Plan will be posted on the website of the recipient as well as provided to Treasury. **See Section C, page 23.**

Table 2: Reporting requirements by recipient type

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditures by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter[9]	By August 31, 2021, and annually thereafter by July 31 [10]
Metropolitan cities and counties with a population below 250,000 residents which received more than $5 million in SLFRF funding			Not required
Tribal Governments			
Metropolitan cities and counties with a population below 250,000 residents which received less than $5 million in SLFRF funding		By October 31, 2021, and then annually thereafter[11]	
NEUs	Not required		

The remainder of this document describes these reporting requirements. A users' guide will be provided with additional information on how and where to submit required reports.

[9] Interim Final Rule Page 111
[10] Interim Final Rule page 112
[11] Interim Final Rule Page 111

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Comparison to reporting for the CRF

This guidance does not change the reporting or compliance requirements pertaining to the CRF. Reporting and compliance requirements for the SLFRF are separate from CRF reporting requirements. Changes from CRF to SLFRF include:

- **Project, Expenditure, and Subaward Reporting**: The SLFRF reporting requirements leverage the existing reporting regime used for CRF to foster continuity and provide many recipients with a familiar reporting mechanism. The data elements for the Project and Expenditure Report will largely mirror those used for CRF, with some minor exceptions noted in this guidance. The users' guide will describe how reporting for CRF funds will relate to reporting for the SLFRF.
- **Timing of Reports**: CRF reports were due within 10 days of each calendar quarter. SLFRF quarterly reporting will be due 30 days from quarter end.
- **Program and Performance Reporting**: The CRF reporting did not include any program or performance reporting. To build public awareness and accountability and allow Treasury to monitor compliance with eligible uses, some program and performance reporting is required.

A. Interim Report

States, U.S. territories, metropolitan cities, counties, and Tribal governments are required to submit a one-time interim report with expenditures[12] by Expenditure Category from the date of award to July 31, 2021. The recipient will be required to enter obligations[13] and expenditures and, for each, select the specific expenditure category from the available options. See Appendix 1 for Expenditure Categories (EC).

1. Required Programmatic Data

Recipients will also be required to provide the following information if they have or plan to have expenditures in the following Expenditure Categories.

a. Revenue replacement (EC 6.1[14]): Key inputs into the revenue replacement formula in the Interim Final Rule and estimated revenue loss due to the Covid-19 public health emergency calculated using the formula in the Interim Final Rule as of December 31, 2020.

- Base year general revenue (e.g., revenue in the last full fiscal year prior to the public health emergency)
- Fiscal year end date
- Growth adjustment used (either 4.1 percent or average annual general revenue growth over 3 years prior to pandemic)
- Actual general revenue as of the twelve months ended December 31, 2020
- Estimated revenue loss due to the Covid-19 public health emergency as of December 31, 2020
- An explanation of how revenue replacement funds were allocated to government services (Note: additional instructions and/or template to be provided in users' guide)

[12] For purposes of reporting in the SLFRF portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity).
[13] For purposes of reporting in the SLFRF portal, an obligation is an order placed for property and services, contracts and subawards made, and similar transactions that require payment.
[14] See Appendix 1 for the full Expenditure Category (EC) list. References to Expenditure Categories are identified by "EC" followed by numbers from the table in Appendix 1.

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In calculating general revenue and the other items discussed above, recipients should use audited data if it is available. When audited data is not available, recipients are not required to obtain audited data if substantially accurate figures can be produced on an unaudited basis. Recipients should use their own data sources to calculate general revenue, and do not need to rely on revenue data published by the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported general revenue figures may differ from those published by the Census Bureau. Recipients may provide data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period and until reporting is no longer required. Recipients' reporting should align with their own financial reporting.

In calculating general revenue, recipients should exclude all intergovernmental transfers from the federal government. This includes, but is not limited to, federal transfers made via a State to a locality pursuant to the CRF or SLFRF. To the extent federal funds are passed through States or other entities or intermingled with other funds, recipients should attempt to identify and exclude the federal portion of those funds from the calculation of general revenue on a best-efforts basis.

Consistent with the broad latitude provided to recipients to use funds for government services to the extent of reduction in revenue, recipients will be required to submit a description of services provided. This description may be in narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with $100 in revenue replacement funds available could indicate that $50 were used for law enforcement operating expenses and $50 were used for pay-go building of sidewalk infrastructure. As discussed in the Interim Final Rule, these services can include a broad range of services but may not be used directly for pension deposits or debt service.

Reporting requirements will not require tracking the indirect effects of Fiscal Recovery Funds, apart from the restrictions on use of Fiscal Recovery Funds to offset a reduction in net tax revenue. In addition, recipients must indicate that Fiscal Recovery Funds were not used to make a deposit in a pension fund.

b. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU has (1) received funding; (2) declined funding and requested a transfer to the State under Section 603(c)(4) of the Act; or (3) not taken action on its funding. States and territories should be prepared to report on their information, including the following:

- NEU name
- NEU DUNS number
- NEU Taxpayer Identification Number (TIN)
- NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
- NEU contact information (e.g., address, point of contact name, point of contact email address, and point of contact phone number)
- NEU authorized representative name and email address
- Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
- Total NEU reference budget (as submitted by the NEU to the State as part of the request for funding)

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- Amount of the initial and, if applicable, subsequent allocation above 75 percent of the NEU's reference budget which will be returned to Treasury
- Payment amount(s)
- Payment date(s)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State must also attach a form signed by the NEU, as detailed in the Guidance on Distributions of Funds to Non-Entitlement Units of Local Government.

States with "weak" minor civil divisions (i.e., Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) should also list any minor civil divisions that the State deemed ineligible.

B. Project and Expenditure Report

All recipients are required to submit Project and Expenditure Reports.

1. Quarterly Reporting

The following recipients are required to submit quarterly Project and Expenditure Reports:

- States, U.S. territories, and Tribal governments
- Metropolitan cities and counties that received more than $5 million in SLFRF funding

For these recipients, the initial quarterly Project and Expenditure Report will cover two calendar quarters from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 calendar days after the end of each calendar quarter. Quarterly reports are not due concurrently with applicable annual reports. The table below summarizes the quarterly report timelines:

Report	Year	Quarter	Period Covered	Due Date
1	2021	2 and 3	Award Date – September 30	October 31, 2021
2	2021	4	October 1 – December 31	January 31, 2022
3	2022	1	January 1 – March 31	April 30, 2022
4	2022	2	April 1 – June 30	July 31, 2022
5	2022	3	July 1 – September 30	October 31, 2022
6	2022	4	October 1 – December 31	January 31, 2023
7	2023	1	January 1 – March 31	April 30, 2023
8	2023	2	April 1 – June 30	July 31, 2023
9	2023	3	July 1 – September 30	October 31, 2023
10	2023	4	October 1 – December 31	January 31, 2024
11	2024	1	January 1 – March 31	April 30, 2024
12	2024	2	April 1 – June 30	July 31, 2024
13	2024	3	July 1 – September 30	October 31, 2024
14	2024	4	October 1 – December 31	January 31, 2025
15	2025	1	January 1 – March 31	April 30, 2025
16	2025	2	April 1 – June 30	July 31, 2025
17	2025	3	July 1 – September 30	October 31, 2025
18	2025	4	October 1 – December 31	January 31, 2026
19	2026	1	January 1 – March 31	April 30, 2026
20	2026	2	April 1 – June 30	July 31, 2026

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Report	Year	Quarter	Period Covered	Due Date
21	2026	3	July 1 – September 30	October 31, 2026
22	2026	4	October 1 – December 31	March 31, 2027

2. Annual Reporting

The following recipients are required to submit annual Project and Expenditure Reports:

- Metropolitan cities and counties that received less than $5 million in SLFRF funding.
- NEUs. To facilitate reporting, each NEU will need a NEU Recipient Number. This is a unique identification code for each NEU assigned by the State to the NEU as part of its request for funding.

For these recipients, the initial Project and Expenditure Report will cover from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by October 31. The table below summarizes the report timelines:

Report	Period Covered	Due Date
1	Award Date – September 30, 2021	October 31, 2021
2	October 1, 2021 – September 30, 2022	October 31, 2022
3	October 1, 2022 – September 30, 2023	October 31, 2023
4	October 1, 2023 – September 30, 2024	October 31, 2024
5	October 1, 2024 – September 30, 2025	October 31, 2025
6	October 1, 2025 – September 30, 2026	October 31, 2026
7	October 1, 2026 – December 31, 2026	March 31, 2027

3. Required Information

The following information will be required in Project and Expenditure Reports:

a. Projects: Provide information on all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, the recipient will be required to enter the project name, identification number (created by the recipient), project expenditure category (see Appendix 1), description, and status of completion. Project descriptions must describe the project in sufficient detail to provide understanding of the major activities that will occur, and will be required to be between 50 and 250 words. Projects should be defined to include only closely related activities directed toward a common purpose. In particular, recipients should review the Required Programmatic Data described below and define their projects at a sufficient level of granularity to report these metrics for a reasonably specific activity or set of activities in each project.

Note: For each project, the recipient will be asked to select the appropriate Expenditure Category based on the scope of the project (see Appendix 1). Projects should be scoped to align to a single Expenditure Category. For select Expenditure Categories, the recipient will also be asked to provide additional programmatic data (described further below).

b. Expenditures: Once a project is entered the recipient will be able to report on the project's obligations and expenditures. Recipients will be asked to report:

- Current period obligation
- Cumulative obligation
- Current period expenditure
- Cumulative expenditure

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c. Project Status: Once a project is entered the recipient will be asked to report on project status each reporting period, in four categories:
   - Not Started
   - Completed less than 50 percent
   - Completed 50 percent or more
   - Completed

d. Project Demographic Distribution: Recognizing the disproportionate impact of the pandemic-related recession on low-income communities, recipients must report whether certain types of projects[15] are targeted to economically disadvantaged communities, as defined by HUD's Qualified Census Tract.[16] Recipients will be asked to identify whether or not the project is serving an economically disadvantaged community. To minimize the administrative burden on recipients while ensuring that this important aspect of program performance is tracked, recipients may assume that the funds for a project count as being targeted towards economically disadvantaged communities if the project funds are spent on:
   - A program or service is provided at a physical location in a Qualified Census Tract (for multi-site projects, if a majority of sites are within Qualified Census Tracts);
   - A program or service where the primary intended beneficiaries live within a Qualified Census Tract;
   - A program or service for which the eligibility criteria are such that the primary intended beneficiaries earn less than 60 percent of the median income for the relevant jurisdiction (e.g., State, county, metropolitan area, or other jurisdiction); or
   - A program or service for which the eligibility criteria are such that over 25 percent of intended beneficiaries are below the federal poverty line.

   Recipients may use reasonable estimates to determine if a project meets one of these criteria, including identifying the intended beneficiaries of a program or service in terms of income characteristics, geographic location, or otherwise estimating the beneficiaries of a program based on its eligibility criteria. Recipients do not need to track information on each individual beneficiary to make the determination of whether or not the project is serving an economically disadvantaged community. If a recipient is unable to measure economic characteristics of the primary intended beneficiaries of a program or service due to data limitations or for other reasons, that program or service may not be counted as targeted to economically disadvantaged communities. Treasury recognizes that in some circumstances, recipients may fund eligible programs or services that benefit economically disadvantaged communities but may lack adequate data to assess conclusively that such a program or service is targeted to economically disadvantaged communities based on the criteria described above.

e. Subawards: Each recipient shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the recipient that are greater than or equal to $50,000.

[15] Specifically recipients must report this information for projects in the Expenditure Categories that are marked with "^" in the expenditure category listing in Appendix 1 of this guidance

[16] HUD defines as a QCT as having "50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more." To view median income area for their jurisdiction, recipients may visit the U.S. Census website on median incomes and select the geography for their jurisdiction and relevant unit of measurement (household or individual) for the project.

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Recipients do not also need to submit separate monthly subaward reports to FSRS.gov as required pursuant to the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, which is included in the SLFRF Award Terms and Conditions. Treasury will submit this reporting on behalf of recipients using the $50,000 reporting threshold, timing, and data elements discussed in this guidance. If recipients choose to continue reporting to FSRS.gov in addition to reporting directly to Treasury on these funds, they may do so and will be asked to notify Treasury as part of their quarterly submission.

In general, recipients will be asked to provide the following information for each Contract, Grant, Loan, Transfer, or Direct Payment greater than or equal to $50,000:

- Subrecipient identifying and demographic information (e.g., DUNS number and location)
- Award number (e.g., Award number, Contract number, Loan number)
- Award date, type, amount, and description
- Award payment method (reimbursable or lump sum payment(s))
- For loans, expiration date (date when loan expected to be paid in full)
- Primary place of performance
- Related project name(s)
- Related project identification number(s) (created by the recipient)
- Period of performance start date
- Period of performance end date
- Quarterly obligation amount
- Quarterly expenditure amount
- Project(s)
- Additional programmatic performance indicators for select Expenditure Categories (see below)

Aggregate reporting is required for contracts, grants, transfers made to other government entities, loans, direct payments, and payments to individuals that are below $50,000. This information will be accounted for by expenditure category at the project level.

As required by the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, recipients must also report the names and total compensation of their five most highly compensated executives and their subrecipients' executives for the preceding completed fiscal year if (1) the recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and received $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act (and subawards), and (2) if the information is not otherwise public. In general, most SLFRF Recipients are governmental entities with executive salaries that are already disclosed, so no additional information must be reported. The recipient is responsible for the subrecipients' compliance with registering and maintaining an updated profile on SAM.gov.

f Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964 on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.

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g. Required Programmatic Data (other than infrastructure projects): For all projects listed under the following Expenditure Categories (see Appendix 1), the information listed must be provided in each report.

1. Payroll for Public Health and Safety Employees (EC 1.9):
   - Number of government FTEs responding to COVID-19 supported under this authority

2. Household Assistance (EC 2.1-2.5):
   - Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households)
   - Number of individuals served (by program if recipient establishes multiple separate household assistance programs)
   - Brief description of recipient's approach to ensuring that aid to households responds to a negative economic impact of Covid-19, as described in the Interim Final Rule

3. Small Business Economic Assistance (EC 2.9):
   - Brief description of the structure and objectives of assistance program(s) (e.g., grants for additional costs related to Covid-19 mitigation)
   - Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs)
   - Brief description of recipient's approach to ensuring that aid to small businesses responds to a negative economic impact of COVID-19, as described in the Interim Final Rule

4. Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (EC 2.11-2.12):
   - If aid is provided to industries other than travel, tourism, and hospitality (EC 2.12), a description of pandemic impact on the industry and rationale for providing aid to the industry
   - Brief narrative description of how the assistance provided responds to negative economic impacts of the COVID-19 pandemic
   - For each subaward:
     - Sector of employer (Note: additional detail, including list of sectors to be provided in a users' guide)
     - Purpose of funds (e.g., payroll support, safety measure implementation)

5. Rehiring Public Sector Staff (EC 2.14):
   - Number of FTEs rehired by governments under this authority

6. Education Assistance (EC 3.1-3.5):
   - The National Center for Education Statistics ("NCES") School ID or NCES District ID. List the School District if all schools within the school district received some funds. If not all schools within the school district received funds, list the School ID of the schools that received funds. These can allow evaluators to link data from the NCES to look at school-level demographics and, eventually, student performance.[17]

[17] For more information on NCES identification numbers see https://nces.ed.gov/ccd/districtsearch/ (districts) and https://nces.ed.gov/ccd/schoolsearch/ (schools).

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7. Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2):
   - List of sectors designated as critical to the health and well-being of residents by the chief executive of the jurisdiction, if beyond those included in the Interim Final Rule (Note: a list of sectors will be provided in the forthcoming users' guide).
   - Number of workers to be served
   - Employer sector for all subawards to third-party employers (i.e., employers other than the State, local, or Tribal government) (Note: a list of sectors will be provided in the forthcoming users' guide).
   - For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, for whom premium pay would increase total pay above 150 percent of their residing State's average annual wage, or their residing county's[18] average annual wage, whichever is higher, on an annual basis:
     - A brief written narrative justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19, and why the recipient government determined that the premium pay was responsive to workers performing essential work during the pandemic. This description should not include personally identifiable information; when addressing individual workers, recipients should be careful not to include this information. Recipients may consider describing the workers' occupations and duties in a general manner as necessary to protect privacy.

8. Revenue replacement (EC 6.1):
   Under the Interim Final Rule, recipients calculate revenue loss using data as of four discrete points during the program: December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023. Revenue loss calculated as of December 31, 2020 will be reported in the Interim Report, as described above. For future calculation dates, revenue loss will be reported only in the Quarter 4 reports due January 31, 2022, January 31, 2023, and January 31, 2024. Reporting on revenue loss should include:
   - General revenue collected over the past 12 months as of the most recent calculation date, as outlined in the Interim Final Rule (for example, for the January 31, 2022 report, recipients should provide 12 month general revenue as of December 31, 2021);
   - Calculated revenue loss due to the Covid-19 public health emergency; and
   - An explanation of how the revenue replacement funds were allocated to government services (note: additional instructions and/or template to be provided in user guide).

   In calculating general revenue and the revenue loss due to the COVID-19 public health emergency, recipients should follow the same guidance as described above for the Interim Report.

h Required Programmatic Data for Infrastructure Projects (EC 5): For all projects listed under the Water, Sewer, and Broadband Expenditure Categories (see Appendix 1), more detailed project-level information is required. Each project will be required to report expenditure data as described above, but will also report the following information:

[18] *County* means a county, parish, or other equivalent county division (as defined by the Census Bureau). See 31 CFR 35.3.

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1. All infrastructure projects (EC 5):
   - Projected/actual construction start date (month/year)
   - Projected/actual initiation of operations date (month/year)
   - Location (for broadband, geospatial location data)
   - For projects over $10 million:
     a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
        - The number of employees of contractors and sub-contractors working on the project;
        - The number of employees on the project hired directly and hired through a third party;
        - The wages and benefits of workers on the project by classification; and
        - Whether those wages are at rates less than those prevailing.[19]

        Recipients must maintain sufficient records to substantiate this information upon request.
     b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:
        - How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
        - How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
        - How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
        - Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
        - Whether the project has completed a project labor agreement.
     c. Whether the project prioritizes local hires.
     d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

[19] As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

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2. Water and sewer projects (EC 5.1-5.15):
   - National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
   - Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)

3. Broadband projects (EC 5.16-5.17):
   - Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
   - Technology to be deployed
   - Miles of fiber
   - Cost per mile
   - Cost per passing
   - Number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload
     - Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download
     - Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
   - Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
     - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload

l. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory will be asked to provide an update on distributions to individual NEUs, including whether the NEU has (1) received funding; (2) declined funding and requested a transfer to the State under Section 603(c)(4) of the Act; or (3) not taken action on its funding. States and territories should be prepared to report on their information, including the following:
   - NEU name
   - NEU DUNS number
   - NEU Taxpayer Identification Number (TIN)
   - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
   - NEU contact information (e.g., address, point of contact name, point of contact email address, and point of contact phone number)
   - NEU authorized representative name and email address
   - Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
   - Total NEU reference budget (as submitted by the NEU to the State as part of the request for funding)
   - Amount of the initial and, if applicable, subsequent allocation above 75 percent of the NEU's reference budget which will be returned to Treasury
   - Payment amount(s)
   - Payment date(s)

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For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4), the State must also attach a form signed by the NEU, as detailed in the Guidance on Distributions of Funds to Non-Entitlement Units of Local Government.

States with "weak" minor civil divisions (i.e., Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) should also list any minor civil divisions that the State deemed ineligible.

j. NEU Documentation (NEUs only): Each NEU will also be asked to provide the following information with their first report submitted by October 31, 2021:
   - Copy of the signed award terms and conditions agreement (which was signed and submitted to the State as part of the request for funding)
   - Copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the State as part of the request for funding)
   - Copy of actual budget documents validating the top-line budget total provided to the State as part of the request for funding

C. Recovery Plan Performance Report

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to publish and submit to Treasury a Recovery Plan performance report ("Recovery Plan"). Each Recovery Plan must be posted on the public-facing website of the recipient by the same date the recipient submits the report to Treasury. This reporting requirement includes uploading a link to the publicly available document report along with providing data in the Treasury reporting portal.

The Recovery Plan will provide the public and Treasury information on the projects recipients are undertaking with program funding and how they are planning to ensure program outcomes are achieved in an effective, efficient, and equitable manner. While this guidance outlines some minimum requirements for the Recovery Plan, each recipient is encouraged to add information to the plan they feel is appropriate to provide information to their constituents on efforts they are taking to respond to the pandemic and promote economic recovery. Each jurisdiction may determine the general form and content of the Recovery Plan, as long as it includes the minimum information determined by Treasury. Treasury will provide a recommended template but recipients may modify this template as appropriate for their jurisdiction. The Recovery Plan will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury.

The initial Recovery Plan will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, the Recovery Plan will cover a 12-month period and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period (by July 31). The table below summarizes the report timelines:

Annual Report	Period Covered	Due Date
1	Award Date – July 31, 2021	August 31, 2021
2	July 1, 2021 – June 30, 2022	July 31, 2022
3	July 1, 2022 – June 30, 2023	July 31, 2023
4	July 1, 2023 – June 30, 2024	July 31, 2024
5	July 1, 2024 – June 30, 2025	July 31, 2025
6	July 1, 2025 – June 30, 2026	July 31, 2026
7	July 1, 2026 – December 31, 2026	March 31, 2027

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The Recovery Plan will include, at a minimum, the following information:

1. Executive Summary
Provide a high-level overview of the jurisdiction's intended and actual uses of funding including, but not limited to: the jurisdiction's plan for use of funds to promote a response to the pandemic and economic recovery, key outcome goals, progress to date on those outcomes, and any noteworthy challenges or opportunities identified during the reporting period.

2. Uses of Funds
Describe in further detail your jurisdiction's intended and actual uses of the funds, such as how your jurisdiction's approach would help support a strong and equitable recovery from the COVID-19 pandemic and economic downturn. Describe any strategies employed to maximize programmatic impact and effective, efficient, and equitable outcomes. Given the broad eligible uses of funds and the specific needs of the jurisdiction, please also explain how the funds would support the communities, populations, or individuals in your jurisdiction. Your description should address how you are promoting each of the following, to the extent they apply:

a. Public Health (EC 1): As relevant, describe how funds are being used to respond to COVID-19 and the broader health impacts of COVID-19 and the COVID-19 public health emergency.
b. Negative Economic Impacts (EC 2): As relevant, describe how funds are being used to respond to negative economic impacts of the COVID-19 public health emergency, including to households and small businesses.
c. Services to Disproportionately Impacted Communities (EC 3): As relevant, describe how funds are being used to provide services to communities disproportionately impacted by the COVID-19 public health emergency.
d. Premium Pay (EC 4): As relevant, describe the approach, goals, and sectors or occupations served in any premium pay program. Describe how your approach prioritizes low-income workers.
e. Water, sewer, and broadband infrastructure (EC 5): Describe the approach, goals, and types of projects being pursued, if pursuing.
f. Revenue Replacement (EC 6): Describe the loss in revenue due to the COVID-19 public health emergency and how funds have been used to provide government services.

Where appropriate, recipients should also include information on your jurisdiction's use (or planned use) of other federal recovery funds including other programs under the American Rescue Plan such as the Emergency Rental Assistance, Housing Assistance, and so forth, to provide broader context on the overall approach for pandemic recovery.

3. Promoting equitable outcomes
Describe efforts to promote equitable outcomes, including how programs were designed with equity in mind. Please include in your description how your jurisdiction will consider and measure equity at the various stages of the program, including:

a. Goals: Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve within your jurisdiction?
b. Awareness: How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?
c. Access and Distribution: Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?

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d. Outcomes: Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

Treasury encourages uses of funds that promote strong, equitable growth, including racial equity. Please describe how your jurisdiction's planned or current use of funds prioritizes economic and racial equity as a goal, names specific targets intended to produce meaningful equity results at scale, and articulates the strategies to achieve those targets. In addition, please explain how your jurisdiction's overall equity strategy translates into the specific services or programs offered by your jurisdiction in the following Expenditure Categories:

a. Negative Economic Impacts (EC 2): assistance to households, small businesses, and non-profits to address impacts of the pandemic, which have been most severe among low-income populations. This includes assistance with food, housing, and other needs; employment programs for people with barriers to employment who faced negative economic impacts from the pandemic (such as residents of low-income neighborhoods, minorities, disconnected youth, the unemployed, formerly incarcerated people, veterans, and people with disabilities); and other strategies that provide disadvantaged groups with access to education, jobs, and opportunity.
b. Services to Disproportionately Impacted Communities (EC 3): services to address health disparities and the social determinants of health, build stronger neighborhoods and communities (e.g., affordable housing), address educational disparities (e.g., evidence-based tutoring, community schools, and academic, social-emotional, and mental health supports for high poverty schools), and promote healthy childhood environments (e.g., home visiting, child care).

The initial report must describe efforts to date and intended outcomes to promote equity. Each annual report thereafter must provide an update, using qualitative and quantitative data, on how the recipients' approach achieved or promoted equitable outcomes or progressed against equity goals during the performance period. Please also describe any constraints or challenges that impacted project success in terms of increasing equity. In particular, this section must describe the geographic and demographic distribution of funding, including whether it is targeted toward traditionally marginalized communities.

For the purposes of the SLFRF, equity is defined in the Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, as issued on January 20, 2021.

4. Community Engagement

Please describe how your jurisdiction's planned or current use of funds incorporates written, oral, and other forms of input that capture diverse feedback from constituents, community-based organizations, and the communities themselves. Where relevant, this description must include how funds will build the capacity of community organizations to serve people with significant barriers to services, including people of color, people with low incomes, limited English proficient populations, and other traditionally underserved groups.

5. Labor Practices

Describe workforce practices on any infrastructure projects being pursued (EC 5). How are projects using strong labor standards to promote effective and efficient delivery of high-quality infrastructure projects while also supporting the economic recovery through strong employment opportunities for workers? For example, report whether any of the following practices are being utilized: project labor agreements, community benefits agreements, prevailing wage requirements, and local hiring.

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6. Use of Evidence

The Recovery Plan should identify whether SLFRF funds are being used for evidence-based interventions[20] and/or if projects are being evaluated through rigorous program evaluations that are designed to build evidence. Recipients must briefly describe the goals of the project, and the evidence base for the interventions funded by the project. Recipients must specifically identify the dollar amount of the total project spending that is allocated towards evidence-based interventions for each project in the Public Health (EC 1), Negative Economic Impacts (EC 2), and Services to Disproportionately Impacted Communities (EC 3) Expenditure Categories.[21]

Recipients are exempt from reporting on evidence-based interventions in cases where a program evaluation is being conducted. Recipients are encouraged to use relevant evidence Clearinghouses, among other sources, to assess the level of evidence for their interventions and identify evidence-based models that could be applied in their jurisdiction; such evidence clearinghouses include the U.S. Department of Education's What Works Clearinghouse, the U.S. Department of Labor's CLEAR, and the Childcare & Early Education Research Connections and the Home Visiting Evidence of Effectiveness clearinghouses from Administration for Children and Families, as well as other clearinghouses relevant to particular projects conducted by the recipient. In such cases where a recipient is conducting a program evaluation in lieu of reporting the amount of spending on evidence-based interventions, they must describe the evaluation design including whether it is a randomized or quasi-experimental design; the key research questions being evaluated; whether the study has sufficient statistical power to disaggregate outcomes by demographics; and the timeframe for the completion of the evaluation (including a link to completed evaluation if relevant).[22] Once the evaluation has been completed, recipients must post the evaluation publicly and link to the completed evaluation in the Recovery Plan. Once an evaluation has been completed (or has sufficient interim findings to determine the efficacy of the intervention), recipients should determine whether the spending for the evaluated interventions should be counted towards the dollar amount categorized as evidence-based for the relevant project.

For all projects, recipients may be selected to participate in a national evaluation, which would study their project along with similar projects in other jurisdictions that are focused on the same set of outcomes. In such cases, recipients may be asked to share information and data that is needed for the national evaluation.

Recipients are encouraged to consider how a Learning Agenda, either narrowly focused on SLFRF or broadly focused on the recipient's broader policy agenda, could support their overarching evaluation efforts in order to create an evidence-building strategy for their jurisdiction.[23]

Appendix 2 contains additional information on evidence-based interventions for the purposes of the Recovery Plan.

[20] As noted in Appendix 2, evidence-based refers to interventions with strong or moderate levels of evidence.

[21] Of note, recipients are only required to report the amount of the total funds that are allocated to evidence-based interventions in the areas of Public Health, Negative Economic Impacts, and Services to Disproportionately Impacted Communities that are marked by an asterisk in Appendix 1: Expenditure Categories.

[22] For more information on the required standards for program evaluation, see OMB M-20-12.

[23] For more information on learning agendas, please see OMB M-19-23.

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7. Table of Expenses by Expenditure Category
Please include a table listing the amount of funds used in each Expenditure Category (See Appendix 1). The table should include cumulative expenses to date within each category, and the additional amount spent within each category since the last annual Recovery Plan.

8. Project Inventory
List the name and provide a brief description of all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, include the project name, funding amount, identification number (created by the recipient and used thereafter in the quarterly Program and Expenditure Report), project Expenditure Category (see Appendix 1), and a description of the project which includes an overview of the main activities of the project, the approximate timeline, primary delivery mechanisms and partners, if applicable, and intended outcomes. Include a link to the website of the project if available. This information will provide context and additional detail for the information reported quarterly in the Project and Expenditure Report.

For infrastructure investment projects (EC 5), project-level reporting will be more detailed, as described for the Project and Expenditure Report above. Projects in this area may be grouped by Expenditure Category if needed, with further detail (such as the specific project name and identification number) provided in the Project and Expenditure Report. For infrastructure projects, descriptions should note how the project contributes to addressing climate change.

9. Performance Report
The Recovery Plan must include key performance indicators for the major SLFRF funded projects undertaken by the recipient. The recipient has flexibility in terms of how this information is presented in the Recovery Plan, and may report key performance indicators for each project, or may group projects with substantially similar goals and the same outcome measures. In some cases, the recipient may choose to include some indicators for each individual project as well as crosscutting indicators.

Performance indicators should include both output and outcome measures. Output measures, such as number of students enrolled in an early learning program, provide valuable information about the early implementation stages of a project. Outcome measures, such as the percent of students reading on grade level, provide information about whether a project is achieving its overall goals. Recipients are encouraged to use logic models[24] to identify their output and outcome measures. While the initial report will focus heavily on early output goals, recipients must include the related outcome goal for each project and provide updated information on achieving these outcome goals in annual reports. In cases where recipients are conducting a program evaluation for a project (as described above), the outcome measures in the performance report should be aligned with those being evaluated in the program. To support their performance measurement and program improvement efforts, recipients are permitted to use funds to make improvements to data or technology infrastructure and data analytics, as well as program evaluations.

10. Required Performance Indicators and Programmatic Data
While recipients have discretion on the full suite of performance indicators to include, a number of mandatory performance indicators and programmatic data must be included. These are necessary to allow Treasury to conduct oversight as well as understand and aggregate program outcomes across recipients. This section provides an overview of the mandatory performance indicators and programmatic data. This information may be included in each recipient's Recovery Plan as they determine most appropriate, including combining with the

[24] A logic model is a tool that depicts the intended links between program investments and outcomes, specifically the relationships among the resources, activities, outputs, outcomes, and impact of a program.

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section above, but this data will also need to be entered directly into the Treasury reporting portal. Below is a list of required data for each Expenditure Category:

a. Household Assistance (EC 2.2 & 2.5) and Housing Support (EC 3.10-3.12):
   - Number of people or households receiving eviction prevention services (including legal representation)
   - Number of affordable housing units preserved or developed

b. Negative Economic Impacts (EC 2):
   - Number of workers enrolled in sectoral job training programs
   - Number of workers completing sectoral job training programs
   - Number of people participating in summer youth employment programs

c. Education Assistance (EC 3.1-3.5):
   - Number of students participating in evidence-based tutoring programs[25]

d. Healthy Childhood Environments (EC 3.6-3.9):
   - Number of children served by childcare and early learning (pre-school/pre-K/ages 3-5)
   - Number of families served by home visiting

The initial report should include the key indicators above. Each annual report thereafter should include updated data for the performance period as well as prior period data, and a brief narrative adding any additional context to help the reader interpret the results and understand the any changes in performance indicators over time. To the extent possible, Treasury also encourages recipients to provide data disaggregated by race, ethnicity, gender, income, and other relevant factors.

11. Ineligible Activities: Tax Offset Provision (States and territories only)
The following information is required for Treasury to ensure SLFRF funding is not used for ineligible activities.

In each reporting year, States and territories will report certain items related to the Tax Offset Provision 31 CFR 35.8, as detailed below. As indicated in the Interim Final Rule, Treasury is seeking comment on reporting requirements related to the Tax Offset Provision, including ways to better rely on information already produced by States and territories and to minimize burden.

The terms "reporting year," "baseline," "covered change," "net reduction in total spending," and "tax revenue" are defined in the Interim Final Rule, 31 CFR 35.3. For purposes of calculating a net reduction in total spending, total spending for the fiscal year ending 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3. Similarly, for purposes of calculating baseline, tax revenue for the fiscal year 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3.

For purposes of reporting actual tax revenue and calculating tax revenue for the fiscal year ending 2019,[26] (a) if available, recipients should report information using audited financials and (b) recipients may provide data on a cash, accrual, or modified accrual basis, but must be consistent in their approach across all reporting periods. Similarly, for purposes of calculating

[25] For more information on evidence-based tutoring programs, refer to the U.S. Department of Education's 2021 ED COVID-19 Handbook (Volume 2), which summarizes research on evidence-based tutoring programs (see the bottom of page 20.
[26] Tax revenue for fiscal year ending 2019 is relevant for calculating the recipient's baseline.

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a net reduction in total spending, recipients should report data using audited financials where available.

a. Revenue-reducing Covered Changes:
For each reporting year, a recipient must report the value of covered changes that the recipient predicts will have the effect of reducing tax revenue in a given reporting year (revenue-reducing covered changes), similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Estimation approaches should not use dynamic methodologies that incorporate the projected effects of the policies on macroeconomic growth. In general and where possible, reported values should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Recipients must maintain records regarding the identification and predicted effects of revenue-reducing covered changes.

b. Baseline Revenue:
Baseline has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

Whether the revenue-reducing covered changes are in excess of the *de minimis*.
Recipients must determine whether the aggregate value of the revenue-reducing covered changes in the reporting year is less than one percent of baseline revenue.

c. Actual Tax Revenue:
Actual tax revenue means the actual tax revenue received by the recipient government in the reporting year. Tax revenue has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

d. Reduction in Net Tax Revenue:
The reduction in net tax revenue is equal to baseline revenue minus actual tax revenue in each reporting year. If this value is zero or negative, there is no reduction in net tax revenue.

e. Any revenue-increasing covered changes:
A recipient must report the value of covered changes that have had or that the recipient predicts will have the effect of increasing tax revenue in a given reporting year (revenue-increasing covered changes), similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Estimation approaches should not use dynamic methodologies that incorporate the projected effects of the policies on macroeconomic growth. In general and where possible, reporting should be produced by the agency of the recipient responsible for estimating the costs and effects of fiscal policy changes.

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Recipients should maintain records regarding revenue-reducing covered changes and estimates of such changes.

f. Net reduction in total spending, and tables of specific spending cuts:
Recipients must report on spending cuts. To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). As in the Interim Final Rule, 35 CFR 35.3, net reduction in total spending is measured as the recipient government's total spending for a given reporting year excluding Fiscal Recovery Funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States. If that subtraction yields a positive value, there has been a net reduction; if it yields zero or a negative value, there has not been a net reduction. If there has been no net reduction in total spending, a recipient will have no spending cuts to offset a reduction in net tax revenue.

Next, a recipient must determine and aggregate the value of spending cuts in each "reporting unit," as defined below. For each reporting unit, the recipient must report (1) the amount of the reduction in spending in the reporting unit relative to its inflation-adjusted FY 2019 level, (2) the amount of any Fiscal Recovery Funds spent in the reporting unit, and (3) the amount by which the reduction in spending exceeds the Fiscal Recovery funds spent in the reporting unit. If a recipient has not spent amounts received from the Fiscal Recovery Funds in a reporting unit, the full amount of the reduction in spending counts as a covered spending cut and may be included in aggregate spending cuts. If the recipient has spent amounts received from the Fiscal Recovery Funds, such amounts generally would be deemed to have replaced the amount of spending cut, and only reductions in spending above the amount of Fiscal Recovery Funds spent on the reporting unit would be eligible to offset a reduction in net tax revenue. Only such amounts above the amount of Fiscal Recovery Funds spent on the reporting unit should be included in the aggregate of spending cuts.

To align with existing reporting and accounting, the Interim Final Rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent amounts received from the Fiscal Recovery Funds on that same department, agency, or authority. Recipients may also choose to report at a more granular sub-department level. Recipients are encouraged to define and report spending in departments, sub-departments (e.g., bureaus), agencies, or authorities (each a "reporting unit") in a manner consistent with their existing budget process and should, to the extent possible, report using the same reporting unit in each reporting year. For example, if a State health department maintains separate budgets for different units (e.g., medical and public health units), those units may be reported and considered separately. Spending cuts must be reported relative to FY 2019 spending levels, adjusted for inflation, and excluding Fiscal Recovery Funds from reporting year spending levels.

Recipients should maintain records regarding spending cuts. As discussed in the Interim Final Rule, in order to help ensure governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. Evasions of the Tax Offset Provision may be subject to recoupment.

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Appendix 1: Expenditure Categories

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term "Expenditure Category" refers to the detailed level (e.g., 1.1 COVID-10 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

1: Public Health	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
2: Negative Economic Impacts	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*
2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
3: Services to Disproportionately Impacted Communities	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^

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3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
4: Premium Pay	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
5: Infrastructure[27]	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: "Last Mile" projects
5.17	Broadband: Other projects
6: Revenue Replacement	
6.1	Provision of Government Services
7: Administrative	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disadvantaged communities (see Project Demographic Distribution section above for details)

[27] Definitions for water and sewer Expenditure Categories can be found in the EPA's handbooks. For "clean water" expenditure category definitions, please see: https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf. For "drinking water" expenditure category definitions, please see: https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports.

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Appendix 2: Evidenced-Based Intervention Additional Information

What is evidence-based?
For the purposes of the SLFRF, evidence-based refers to interventions with strong or moderate evidence as defined below:

Strong evidence means the evidence base that can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. This consists of one or more well-designed and well-implemented experimental studies conducted on the proposed program with positive findings on one or more intended outcomes.

Moderate evidence means that there is a reasonably developed evidence base that can support causal conclusions. The evidence base consists of one or more quasi-experimental studies with positive findings on one or more intended outcomes OR two or more non-experimental studies with positive findings on one or more intended outcomes. Examples of research that meet the standards include: well-designed and well-implemented quasi-experimental studies that compare outcomes between the group receiving the intervention and a matched comparison group (i.e., a similar population that does not receive the intervention).

Preliminary evidence means that the evidence base can support conclusions about the program's contribution to observed outcomes. The evidence base consists of at least one non-experimental study. A study that demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include: (1) outcome studies that track program beneficiaries through a service pipeline and measure beneficiaries' responses at the end of the program; and (2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome.

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Revision Log

Version	Date Published	Summary of changes
1.0	June 17, 2021	Initial publication
1.1	June 24, 2021	• Pg. 12, removed references to "summary" level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 13, revised the coverage period end date for the Interim Report from June 30, 2021 to July 31, 2021 to align with the IFR. • Pg. 13, removed references to "summary" level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 31, removed references to "summary level" with respect to Expenditure Categories in Appendix 1 to avoid confusion.

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ATTACHMENT "E"

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

1) As required by Federal Executive Order 12549, and prescribed by federal regulations, including 48 C.F.R. Subpart 9.4, the Subrecipient certifies that it, and its principals:

(a) Are not presently disbarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, including any violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) above; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the Subrecipient is unable to certify to any of the statements in this paragraph, the Subrecipient shall attach an explanation to this certification.

Date:_____

_____
Signature

_____
Title

_____
Organization

ATTACHMENT "F"

QUARTERLY REPORT FORM

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING
OFFICE OF THE COMMISSIONER

SUBRECIPIENT'S QUARTERLY REPORT

1. Name of Subrecipient: _____
2. Erie County Document No.: _____
3. Date of Quarterly Report: _____
4. Covered Period: _____

I CERTIFY

(1) That the following constitute all expenditures during the period covered by this quarterly report:

DESCRIPTION OF EXPENSE	ADDRESS	AMOUNT

(4) That the total amount of funds expended under the Agreement to date is:_____; and

(5) A copy of all invoices, cancelled checks and/or other proof of payment are attached hereto.

Dated: _____ SUBRECIPIENT:_____

BY:_____

TITLE:_____

State of New York}
County of Erie }

_____being duly sworn, deposed and says, that he is the
_____of the above company; that he has read the above statement:
that he knows the contents thereof, and that the same is true of his own knowledge.

_____
Commissioner of Deeds or Notary Public, Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "G"

APPRENTICESHIP CERTIFICATION – QUARTERLY REPORT

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING
OFFICE OF THE COMMISSIONER

APPRENTICESHIP UTILIZATION CERTIFICATION FOR QUARTERLY REPORT

1. Name of Subrecipient: _____
2. Erie County Document No.: _____
3. Date of Quarterly Report: _____
4. Covered Period: _____

STATE OF NEW YORK

COUNTY OF ERIE

_____ being duly sworn, deposes and says that he is the Subrecipient for the Services associated with _____ for the COUNTY OF ERIE, the Owner.

Deponent certifies that in accordance with Erie County Local Law 3-2018, ____% is the total percentage of persons participating in an apprenticeship program that the undersigned employed to date in the performance of this Subrecipient Agreement.

Deponent further states that he has read the above statement and knows the content thereof, and that the same is true of his own knowledge.

Dated: _____

SUBRECIPIENT:_____

BY:_____

TITLE:_____

State of New York}
County of Erie }

_____being duly sworn, deposed and says, that he is the _____of the above company; that he has read the above statement: that he knows the contents thereof, and that the same is true of his own knowledge.

_____

Commissioner of Deeds or Notary Public, Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "H"

STANDARD INSURANCE PROVISIONS

INSTRUCTIONS FOR COUNTY OF ERIE STANDARD INSURANCE CERTIFICATE

I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.

II. CERTIFICATES OF INSURANCE

A. Shall be made to the "County of Erie, 95 Franklin St, Buffalo NY, 14202"

B. Coverage must comply with all specifications of the contract.

C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.

III. Forward the completed certificate to: County of Erie, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

Vendor Classification	A Construction and Maintenance	B Purchase or Lease of Merchandise or Equipment	C Professional Services	D Property Leased To Others Or Use Of Facilities Or Grounds	E Concession-aires Services	F Livery Services	G All Purpo Publi Entity Con
Commercial Gen. Liab.	$1,000,000 per occ.	$1,000,000 CSL	$1,000,000 CSL	$1,000,000	$1,000,000 CSL	$1,000,000	$1,000,00(
General Aggregate	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,(
Products Completed Operations Liability	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,(
Blanket Broad Form Contractual Liability	INCLUDE						
Contractual Liability		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUI
Broad Form P.D.	INCLUDE						
X.C.U. (explosion, collapse, Underground)	INCLUDE						
Liquor Law				INCLUDE	INCLUDE		
Auto Liab.	$1,000,000 CSL		$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,000 CSL	$1,000,00(
Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUI
Hired	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUI
Non-Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUI
Excess/Umbrella Liab.	$5,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$5,000,000	$1,000,(
Worker's Compensation & Employer's Liability	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUT(
Disability Benefits	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUT(
Professional Liability			$5,000,000				
Erie County, To Be Named Add'l Insd.	Gen. Liab., Auto Liab., & Excess	Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab. Liab., & E

V. Construction contracts require excess Umbrella Liability limits of $5,000,000.

VI. Coverage must be provided on a primary-noncontributory bases.

VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.

VIII. If the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.

IX. Waiver of Subrogation: Required on all lines unless noted.

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

X. Transportation of people in buses, vans or station wagons requires $5,000,000 excess liability.

XI. Workers Compensation: State Workers' Compensation / Disability Benefits Law --- Use Applicable Certificates Below:

Workers Compensation Forms

CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

CE-200	Exemption
DB-120.1	Insurers
DB-155	Self Insured

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "I"

MINORITY/WOMEN OWNED BUSINESS ENTERPRISE UTILIZATION – QUARTERLY REPORT

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

MINORITY AND WOMAN BUSINESS ENTERPRISE (M/WBE) UTILIZATION QUARTERLY REPORT

Prime Contractor Name: _____

Contract Name: _____

Date: _____ Quarter (ex: 3rd/2022): _____

Time Period of Work: _____

Total Contract Amount (including amendments): $ _____

Amount Documented: $ _____

Total Amount of Work Completed to Date: $ _____

Total MBE Utilization % to date: _____ %

Total WBE Utilization % to date: _____ %

MBE Utilization

	Contract Amount	Invoice Amount
MBE Contractor Name: _____	$ _____	$ _____
MBE Contractor Name: _____	$ _____	$ _____
MBE Contractor Name: _____	$ _____	$ _____

Amount of MBE utilization in this Quarter: $ 0.00

Total amount of MBE utilization to date: $ _____

WBE Utilization

	Contract Amount	Invoice Amount
WBE Contractor Name: _____	$ _____	$ _____
WBE Contractor Name: _____	$ _____	$ _____
WBE Contractor Name: _____	$ _____	$ _____

Amount of WBE utilization in this Quarter: $ 0.00

Total amount of WBE utilization to date: $ _____

Submitted by: _____

(name and title)

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING

MINORITY AND WOMAN BUSINESS ENTERPRISE (M/WBE) UTILIZATION QUARTERLY REPORT - STATEMENT

Complete a new copy of this form for each M/WBE Contractor listed in the Quarterly Report

1. Name of Subrecipient: _____
2. Erie County Document No.: _____
3. Date of Quarterly Report: _____
4. Covered Period: _____

STATE OF NEW YORK

COUNTY OF ERIE

_____ states that he/she has read the above statement and knows the content thereof, and that the same is true of his/her own knowledge.

Dated: _____ SUBRECIPIENT: _____

BY: _____

TITLE: _____

State of New York}
County of Erie }

_____ being duly sworn, deposed and says, that he/she is the _____ of the above company; that he/she has read the above statement: that he/she knows the contents thereof, and that the same is true of his/her own knowledge.

_____

Commissioner of Deeds or Notary Public, Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "J"

Certification Regarding
Drug-Free Workplace Requirements
Grantees Other Than Individuals

This certification is required by regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988, 41 U.S.C. § 701 et seq. *See* 48 C.F.R. Subpart 23.5.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and,

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and,

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraph (a), (b), (c), (d), (e) and (f).

_____

Organization

_____

Authorized Signature Title

Date

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "K"

Certification Regarding Lobbying
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member or Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____
Organization

_____
Authorized Signature Title Date

NOTE: If Disclosure Forms are required, please contact: Mr. Will Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

ATTACHMENT "L"

Erie County Equal Pay Certification

In order to comply with Executive Order 13 dated November 6, 2014, we hereby certify that we are in compliance with federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, Federal Executive Order 11246 of September 24, 1965 and New York State Labor Law Section 194 (together "Equal Pay Law"). The average compensation for female employees is not consistently below the average compensation for male employees, taking into account mitigating factors. We understand that this certification is a material component of this contract. Violation of the provisions of Executive Order 13, which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

We have evaluated wages and benefits to ensure compliance with the Federal Equal Pay Law.

_____
Signature

Verification

STATE OF _____)
COUNTY OF _____) SS:

A)
_____, being duly sworn, states he or she is the owner of (or a partner in) _____, and is making the foregoing Certification and that the statements and representations made in the Certification are true to his or her own knowledge.

B)
_____, being duly sworn, states that he or she is the
(Name of Corporate Officer)
_____, of _____,
(Title of Corporate Officer) (Name of Corporation)

the enterprise making the foregoing Certification, that he or she has read the Certification and knows its contents, that the statements and representations made in the Certification are true to his or her own knowledge, and that the Certification is made at the direction of the Board of Directors of the Corporation.

Sworn to before me this _____ Day of _____, 20____

_____
Notary Public

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY

CLERK'S OFFICE

BUFFALO, N.Y., March 17, 2022

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, *That at the **6th** Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **17th** day of **March, 2022 A.D.**, a Resolution was adopted, of which the following is a true copy:*

WHEREAS, the American Rescue Plan was signed into law on March 11th 2021; and

WHEREAS, the American Rescue plan included State and Local Relief funding to be used to offset lost revenue, provide premium pay to essential workers, respond to COVID-19 and its economic effects, and invest in sewer, water and broadband infrastructure; and

WHEREAS, Erie County has received $89,213,547 in State and Local Relief funding and will receive a second tranche of State and Local Relief Funding in May of 2022; and

WHEREAS, by receiving State and Local Relief Funding the State of New York has eliminated local aid withholding, benefiting Erie County and creating a significant positive budget variance; and

WHEREAS, facing a major possible deficit in 2020, Erie County took significant action through a deficit remediation plan which eliminated positions, cut other costs, and appropriated fund balance and Fiscal Year 2019 surplus funding; and

WHEREAS, Erie County made additional budget cuts in the Adopted 2021 Budget in face of uncertainty regarding Federal assistance and the future of the coronavirus pandemic and its associated economic impacts; and

WHEREAS, American Rescue Plan Funding is eligible to be encumbered through December 31st 2024 and spent through December 31st 2026 allowing for long-term infrastructure projects to be designed and built; and

WHEREAS, Erie County has also prepared numerous "shovel-ready" projects to begin stimulating the economy quickly; and

WHEREAS, funding for this resolution is available through the first tranche of the American Rescue Plan and the elimination of state-aid cuts related to the passage of the American Rescue Plan; and

WHEREAS funding for the projects in this resolution was allocated via Comm. 13E-15 on July 8th 2021; and

WHEREAS, authorization to contract is needed to implement the projects funded via Comm. 13E-15.

NOW, THEREFORE, BE IT

RESOLVED, that Capital Account A.21131, "Town of Hamburg McKinley Parkway Clark Street Intersection and Other Improvements" be modified into three separate capital projects as follows 1) Town of Hamburg McKinley Parkway Clark Street Intersection and Other Improvements, 2) Town of Hamburg Police Vehicle Purchase and 3) Town of Hamburg Nike Base Recreational and other improvements; and be it further

ATTEST

ROBERT M. GRABER

Clerk of the Legislature of Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY

CLERK'S OFFICE

BUFFALO, N.Y., March 17, 2022

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, *That at the **6th** Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **17th** day of **March, 2022 A.D.**, a Resolution was adopted, of which the following is a true copy:*

RESOLVED, that the Town of Cheektowaga – Town of Cheektowaga Museum Project as proposed and authorized in Comm. 13E- 15 (2021) shall be deleted and a portion of the funding allocated to the Project shall be reallocated to the "Resurrection Food Pantry" project; and be it further

RESOLVED, that the "Various Municipalities Christmas Market Infrastructure" Project as proposed and authorized in Comm. 13E - 15 (2021) shall be deleted and the funding shall be transferred to "Town of Amherst – Central Park Improvements" in the amount of $2,400,000; and be it further

RESOLVED, that the County Executive / Deputy County Executive be authorized to execute contracts with the following entities in the amounts indicated, from the capital accounts noted:

Project	Contract Authorized With:	Contract Amount Not to Exceed:	From the following capital account:
Juneteenth Festival	Juneteenth Festival Inc.	$200,000	A.21136
Nanny's Nook Day Care Center	Nanny's Nook Quality Home Daycare, Inc.	$70,000	A.21139
Clark Dance Academy	Clark Academy Dance Center	$32,634	A.21140
Northwest Buffalo Community Center	Northwest Buffalo Community Center Inc.	$350,000	A.21141
Town of Hamburg McKinley Parkway Clark Street Intersection and Other Improvements	Town of Hamburg	$750,000	A.21131 or A.211XX
Town of Hamburg Police Vehicle	Town of Hamburg	$100,000	A.211XX
Town of Hamburg- Nike Base Recreational and other Improvements	Town of Hamburg	$350,000	A.211XX
Mt. Aaron Village	Community Hope Builders CDC Inc.	$100,000	A.21138
New Covenant United Church of Christ Building Improvements	New Covenant United Church of Christ	$26,000	A.21137
Resurrection Food Pantry	Life Impact Inc.	$110,000	A.211XX
City of Buffalo - Shoshone Park Improvements	City of Buffalo	$100,000	A.21179
City of Buffalo - Riverside Park Football Field	City of Buffalo	$100,000	A.21183
City of Buffalo - JH Williams Shelterhouse	City of Buffalo	$100,000	A.21184
City of Buffalo - Hertel Avenue Streetscape Improvements	City of Buffalo	$200,000	A.21185
Town of Amherst - Central Park Improvements	Town of Amherst	$2,400,000	A.211XX

and be it further

ATTEST

ROBERT M. GRABER

Clerk of the Legislature of Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

STATE OF NEW YORK

LEGISLATURE OF ERIE COUNTY

CLERK'S OFFICE

BUFFALO, N.Y., March 17, 2022

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY, *That at the **6th** Session of the Legislature of Erie County, held in the Legislative Chambers, in the City of Buffalo, on the **17th** day of **March, 2022 A.D.**, a Resolution was adopted, of which the following is a true copy:*

RESOLVED, that the Erie County Legislature authorizes the Director of Budget and Management to make any necessary budgetary adjustments as needed to administer these projects; and be it further

RESOLVED, the Erie County Legislature authorizes the Department of Law and County Executive/ Deputy County Executive to execute easements and/or place additional requirements on the aforementioned contracting entities and associated real property (project location) as necessary to implement the projects; and be it further

RESOLVED, that the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive; the Erie County Comptroller; the Director of Budget and Management; and Department of Environment and Planning.

REFERENCE: **COMM. 5E-10 (2022)**

ATTEST

ROBERT M. GRABER

Clerk of the Legislature of Erie County

Attachment: Phase2_TownofAmherst_CentralParkImprovements (RES-2022-562 : American Rescue Plan Act, Subrecipient Agreement with Erie

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Economic Development
Initiated by: **Angela Rossi**
Co-Sponsored by:

DOC ID: 25897 **RESOLUTION 2022-563** **ADOPTED**

Authorize Travel to 2022 NYSEDC Basic Economic Development Course

Please approve travel for Angela Rossi and Emily Melski of the Economic Development Department to attend the 2022 NYSEDC Basic Economic Development Course in Albany, New York, June 26, 2022 thru June 30, 2022, at a total estimated cost not to exceed $2,200 each. This training is not available locally. Funds are available in the Economic Development 2022 budget.

6/6/2022
Consent

FINANCIAL IMPACT:

A1230 Various Accounts; Not to exceed $4,400.00

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

☒ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

Revised 12/22/2021

NAME	Employee #	Department	Phone Number
Angela Rossi	4447	Eco Dev	716-631-7035

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
01/26/22	06/30/22	Albany	NYSEDC Economic Development Course

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.585			
Tolls			
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
4 # nights @ $ 135.00	$615.60	A1230 4040	
Meals:			
IRS Per Diem Per Day: $ 69.00			
1st & Last Day of Travel @ 75%	$103.50	A1230 4040	
3 # Breakfasts @ $ 16.00	$48.00	A1230 4040	
3 # Lunches @ $ 17.00	$51.00	A1230 4040	
3 # Dinners @ $ 31.00	$93.00	A1230 4040	
3 # Incidentals @ $ 5.00	$15.00	A1230 4040	
Registration/Conference Fee	$700.00	A1230 4120	
Other			
Subtotal	$1,626.10		
Contingency - 10% of subtotal or $200	$ 162.61		N/A
TOTAL	$1,788.71		N/A

Request Approved By:

Department Head Signature

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area For Expense Reimbursement

Attachment: Travel 2022 (RES-2022-563 : Authorize Travel to 2022 NYSEDC Basic Economic Development Course)

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
Emily Melski	9345	Economic Development	716-631-7067

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
06/26/22	06/30/22	Albany	NYSEDC Economic Development Course

Expenses	Estimated	Budget A/C #	Actual
Transportation:			
Mileage @ $0.585	$339.30	A1230 4040	
Tolls	$24.36	A1230 4040	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
4 # nights @ $ 135.00	$615.00	A1230 4040	
Meals:			
IRS Per Diem Per Day: $ 69.00			
1st & Last Day of Travel @ 75%	$103.50	A1230 4040	
3 # Breakfasts @ $ 16.00	$48.00	A1230 4040	
3 # Lunches @ $ 17.00	$ 51.00	A1230 4040	
3 # Dinners @ $ 31.00	$ 93.00	A1230 4040	
3 # Incidentals @ $ 5.00	$ 15.00	A1230 4040	
Registration/Conference Fee	$700.00	A1230 4120	
Other			
Subtotal	$1989.74		N/A
Contingency - 10% of subtotal or $200	$198.98		N/A
TOTAL	$2,188.74		

Request Approved By:

Department Head Signature

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area For Expense Reimbursement

E:\Travel Expense Reimbursement Form 12.21.21.xlsx

Attachment: Travel 2022 (RES-2022-563 : Authorize Travel to 2022 NYSEDC Basic Economic Development Course)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25939 **RESOLUTION 2022-564** **ADOPTED**

2022-2027 CIP Amendment Recreation Complex Improvements CIP No. YR-9A

The Engineering Department is recommending amendment of the 2022-2027 CIP for the above project. Due to the current economic climate and the added costs associated with supply-chain equipment and materials as well as labor cost increases, the scope of the Map, Plan & Report (MPR) that was approved for bonding by the Town Board on February 28, 2022 (Res-2022-202) must be revised as per the attached revised MPR, which outlines improvements at Mathewson / McCarthy Little League, North Amherst Recreation Center and the Central Amherst Little League complexes. Improvements shown within the original MPR for Paradise Park and the North French Soccer Complex will unfortunately need to be pushed off until 2023 due to funding limitations. Please note that the proposed amendment is budget neutral.

CIP No.	Project Description	2022 CIP Allocation	Amend To
YR-9A	**Recreation Complexes Concessions / Restroom Improvments** North French Soccer Complex, Paradise Park Restroom	$1,300,000 LA	$0
YR-9A	**Recreation Complex Improvments** Mathewson / McCarthy Little League, North Amherst Rec. Center, Central Amherst Little League	$0	$1,300,000 LA

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

6/6/2022
Consent

FINANCIAL IMPACT:

Budget Neutral

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

Town of Amherst
Youth & Recreation Department

Recreation Complex Improvements

2022 - 2027 C.I.P. Project YR-9A

Map, Plan & Report

Revised May 2022

Attachment: MPR - Final - Rev May 2022 (RES-2022-564 : 2022-2027 CIP Amendment)

CONTENTS:

- Approved 2022 - 2027 CIP Project YR-9A
- Introductions / Existing Conditions
- Proposed Scope
  - Mathewson/McCarthy Little League Concession Building
  - North Amherst Recreation Center Concession/Restroom/Locker room Building
  - North French Soccer Complex
  - Central Amherst Little League Improvements
- Financial / Taxation Summary
- SEQR Determination

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

TOWN OF AMHERST
Recreation Complex Improvements

Summary of Approved 2022 – 2027 Capital Improvement Program (10-25-21)

Youth & Recreation (cont'd) — *Recommended Schedule (X $1,000)*

Project ID	Project Title/Description	2022	2023	2024	2025	2026	2027	Total Cost
YR-8A	**North Amherst Recreation Center Turf:** Install field turf inside of the North Amherst Recreation Center in partnership with Amherst Soccer Association. *(2022)*	185 LA						**$185,000**
YR-9A	**Recreation Complexes Concession / Restroom Facility Improvements:** New concessions, restrooms, and parking at North French Soccer Complex, new restrooms and shelter at Paradise Park, new cricket grounds, and various Garnet Park facility improvements. *(2022)*	1,300 LA						**$1,300,000**
YR-10A	**Northtown Center Parking Reconfiguration and Curb Installation:** Parking reconfiguration and installation of 4,850 LF of curbs in the parking lots at the Northtown Center, along with a traffic study of the existing parking lot. *(2020)*		121 LA					**$121,000**
YR-11A	**Northtown Center Floor & Mechanical System Replacement:** Replace the existing mechanical system and renovate the ice surface to remove the sand and install concrete. *(2022)*			3,900 LA				**$3,900,000**
YR-12A	**Northtown Center Sound System and Scoreboard Replacement:** Replacement of the old sound system and scoreboards at the Northtown Center. *(2020)*		75 LA	125 LA				**$200,000**
YR-13A	**Northtown Center Storage Facility:** Construct a 1,500 sq. ft. storage facility at the Northtown Center as a garage and storage area for equipment. *(2019)*				200 LA			**$200,000**
YR-14A	**Northtown Center Ice Expansion:** Add an additional sheet of ice to expand the Northtown Center to five sheets. *(2016)*			750 LA	10,750 LA			**$11,500,000**
YR-15A	**Northtown Center Rubber Floor Replacement:** Replace approximately 40,000 sq. ft. of rubber flooring on the first floor at the Northtown Center. *(2019)*	200 LA	100 LA	100 LA				**$400,000**

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

INTRODUCTION / EXISTING CONDITIONS:

The Town of Amherst owns and maintains dozens of facilities for many different purposes. These facilities are all located within the town boundaries in many locations. Due to a decentralized system of maintenance budgeting and repair activities, the current physical condition of all Townwide facilities can vary significantly from new and well-maintained to poorly maintained. As such, existing facilities will be improved via capital maintenance improvements and in other cases, entirely new facilities will be designed and constructed at Town-owned sites.

Attachment: MPR - Final - Rev May 2022 (RES-2022-564 : 2022-2027 CIP Amendment)

TOWN OF AMHERST
Recreation Complex Improvements

PROPOSED SCOPE:

Mathewson / McCarthy Baseball Facility Concessions / Restroom Building

This facility is located at 1995 Wehrle Drive and is made up of 5 baseball fields of various little league sizes and is owned by the Town. The facility includes a dedicated asphalt parking lot, associated asphalt walkways, dugouts, storage sheds, and a concession / clubhouse building. During the course of the last few seasons, the clubhouse / restroom / maintenance / storage building envelope has exhibited various levels of degradation and failure and numerous fixes have been employed on a temporary basis to allow for continued use of the building. Unfortunately, the building requires replacement in order to ensure the long term viability of the overall facility and programs that utilize the facility.

It is anticipated that the entire main clubhouse/concession/storage building located at the center of the complex will be demolished and replaced within a similar footprint, where most, if not all of the existing utility connections may be reemployed to service a new, single-story, ADA-compliant building that will allow for similar, yet enhanced functionality of the building for its users. In addition and where funding permits, the existing satellite restroom building, located near the parking lots, will be evaluated, updated and capital improvements made so as to ensure the long term functionality of those facilities. Further and where funding permits, the existing wood-framed pavilion shelter will have its asphalt-shingled roof replaced in an effort to address ongoing leaking and deterioration of the shingles and the roof sheathing. It is also anticipated that new surveillance elements will be procured and installed in an effort to provide a higher level of safety and security for this facility. Lastly, the field lighting system associated with this facility may be improved as needed to potentially include poles, fixtures and associated electrical improvements.

North Amherst Recreation Center Concessions / Restroom / Locker Room Building

The Town of Amherst owns and maintains the North Amherst Recreation Center located at 4415 Millersport Highway within the Town of Amherst. The facility is currently utilized year-round for a variety of recreation and sports activities. The main arena portion of the facility measures approximately 245 feet by 115 feet with a 45 foot tall ceiling height. The front portion of the building includes offices and common-area, locker and restrooms and conference room spaces.

In addition, the facility also includes a grass, multi-use recreational field that was recently improved to include two (2) football fields. In order to accommodate the new football fields, this subject project seeks to construct a new building that will function as a single-story, ADA-compliant combination concession / restroom / locker rooms / storage building to be located south of the adjacent recreation building and at a distance significantly more than 250 feet from the property line of any nearby parcels with residential zoning classifications. This building will also be in proximity to the other outdoor recreation facilities associated with this recreation complex. Lastly, new surveillance elements will be procured and installed in an effort to provide a higher level of safety and security for this facility.

Central Amherst Little League Improvements

This facility is located at 400 Wehrle Drive and is made up of numerous baseball/softball fields of various little league sizes and is owned by the Town. During the course of recent improvements at this facility, a new ADA-compliant single-story concession / restroom / storage building was completed this year. In additional to the above structure, a new wood-framed, open-sided community shelter was also constructed adjacent to the new building in order to provide congregation space for patrons of the facility as well as shelter from the elements.

Attachment: MPR - Final - Rev May 2022 (RES-2022-564 : 2022-2027 CIP Amendment)

TOWN OF AMHERST
Recreation Complex Improvements

In order to more adequately protect the patrons and participants of this facility, the existing undersized backstop of the field that is directly adjacent to the new concessions building and shelter will be removed and replaced with a more protective structure that will utilize either chain-link or netting construction or a combination of both with taller support posts. Additional ancillary improvements may also be considered and employed at this facility as funding permits.

North French Soccer Concessions / Restroom Building

This facility is located at 1681 North French Road and is made up of an asphalt parking area and numerous soccer fields. While the facility is owned by the Town, the Amherst Soccer Association is the dedicated user of the facility. Currently, no permanent restrooms or other structures are located onsite so temporary, portable toilets are placed at this facility during the summer months and removed during the winter months. There is also currently no concession or storage space located at this facility and all equipment and supplies for soccer must be brought to the facility per use.

In an effort to enhance the user experience of this facility, a new single-story concession / restroom / storage building will be designed in 2022 and built in 2023. This new structure will be located just south of the existing parking area, between the parking area and the fields. The new building will be classified as a "Class C" building and constructed at-grade and will be fully ADA-compliant. In order to provide sanitary services within the building, a new sanitary lateral will be installed and connected to the existing sanitary system along North French Road that is also owned by the Town. In addition to the above structure, the existing parking area will likely be expanded with a new asphalt parking area to be located just east of the existing lot. Lastly, new surveillance elements will be procured and installed in an effort to provide a higher level of safety and security for this facility.

The improvement projects described above will allow for studies, evaluations, designs and construction during 2022 and 2023. It is anticipated that all of the above referenced improvements will be completed by the end of 2023. The above project will be bonded against the Town of Amherst General Fund at a *total project cost* of $1,300,000.00, financed entirely with serial bonds. The improvements completed within the scope of this project will have minimum lifecycles that will exceed 15 years.

FINANCIAL SUMMARY:

Estimated Professional Services Costs	$ 75,000
Estimated Construction Costs	$ 1,218,500
Legal / Administrative	$ 6,500
Total Amount to be Bonded	**$ 1,300,000**

TAXATION SUMMARY:

Total Bond Amount:	$ 1,300,000.00
Bond Term:	15 Years
Annual Tax Impacts:	$0.0109 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$2.19 per $200,000 property

Attachment: MPR - Final - Rev May 2022 (RES-2022-564 : 2022-2027 CIP Amendment)

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

Attachment: MPR - Final - Rev May 2022 (RES-2022-564 : 2022-2027 CIP Amendment)

MEMORANDUM May 31, 2022

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer
Engineering Department

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

RE: SEQR Determination
Recreation Complexes Concessions/Restroom Improvements
2022-2027 C.I.P. Project YR-9A

The Planning Department has reviewed the revised 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)\February 2022_Recreation Complexes Concessions_Restroom Improvements - CIP_YR-9A.docx

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

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25930 **RESOLUTION 2022-565** **ADOPTED**

Fire Hydrant Installation Red Oak Drive Waterline Replacement

We are hereby requesting authorization to have four (4) additional fire hydrants installed at the above location.

The Erie County Water Authority and Erie County Department of Health require the installation of four (4) additional fire hydrants at the above locations during the course of construction to satisfy current design standards regarding hydrant spacing on a public potable water distribution system. The hydrants will be the property of the Town of Amherst. Under the Lease Management Agreement, a Resolution from the Town Board is required for Erie County Water Authority to approve the installation of the referenced hydrants. The Town is to pay the annual maintenance fee of $160.80ea for a total of $643.20.

May we have your approval for the installation of four (4) additional fire hydrants?

6/6/2022
Consent

FINANCIAL IMPACT:

$643.20

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: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25931 **RESOLUTION 2022-566** **ADOPTED**

Cryogenic Plant Service Extension Agreement Mohawk Cryo, Inc. CRS No. 3414

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Mohawk Cryo, LLC. The terms and conditions within TOA Project 2017.002G Cryogenic Plant 5 year Service Agreement will remain the same. This extension will be effective from June 16, 2022 through June 14, 2027.

Funds for this request are available in G9916-4960.

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

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

TBD; G9916-4960

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 Mohawk Cryo, LLC and the Town of Amherst permitting the Town of Amherst to extend their existing contract with Mohawk Cryo LLC. Both parties agree that the terms and conditions specified in the executed contract, TOA Project Number 2017.002G Town of Amherst Cryogenic Oxygen Generating Plant 5 year Service Agreement remain the same. The term of this contract extension will be from June 15, 2022 through June 14, 2028 and effective the date of Town Board approval by the Town of Amherst.

Agreed to and Accepted by:
MOHAWK CRYO, LLC

By: David Martin
Signature

David Martin
Printed name

Managing Member
Title

Date: 5/17/22

Agreed to and Accepted by:
TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Mohawk Agreement (RES-2022-566 : Cryogenic Plant Service Extension Agreement)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25932 **RESOLUTION 2022-567** **ADOPTED**

Auto Analyzer Contract Extension Skalar, Inc. CRS No. 3411

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Skalar, Inc. The terms and conditions within TOA Bid 2020012 Auto Analyzer will remain the same. This extension will be effective from June 08, 2022 through June 07, 2024.

Funds for this request are available in G9916-4860

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

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

TBD; 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 Skalar, Inc. and the Town of Amherst permitting the Town of Amherst to extend their existing contract with Skalar Inc. Both parties agree that bid items 1 and 2 have been fulfilled and not part of this extension. The terms and conditions specified in the executed contract that relate to bid items 3, 4, and 5 on TOA Bid 2020012 Auto Analyzer shall remain the same. The term of this contract will be from June 06, 2022 through June 07, 2024.

Agreed to and Accepted by:

SKALAR, INC.

By: _____
Signature

Leo Strugcken
Printed name

President
Title

Date: March 24, 2022

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Skalar Agreement (RES-2022-567 : Auto Analyzer Contract Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25933 **RESOLUTION 2022-568** **ADOPTED**

Purchase of Bare Lead SubAv HUB Assembly TecSmith, Inc.

We are requesting Town Board approval to purchase a 50ft Bare Lead SubAv HUB Assembly from TecSmith, Inc. (quote attached). This is to replace the current HUB Assembly which has failed at our Sheridan Drive flowmeter location. The total cost for this purchase is $3,854.00.

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

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

G9000-2600; $3,854.00

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

TECsmith

P.O. Box 95
Clarence, NY 14031
(716) 462-0382

DATE May 24, 2022
Quotation # 478
Customer ID AMH052422

Name/Address:

Vaishali Reberholt, PE, CPESC
Assistant Municipal Engineer, Town of Amherst
vreberholt@amherst.ny.us
716-631-7154

Description	Qty	AMOUNT
50ft Bare Lead SubAv, AV9000, HUB Assembly, J-Box	1	$ 3,854.00
	TOTAL	**$ 3,854.00**

Shipping and any applicable taxes not included in this quote

Our terms are net 30 with a 1.5% charge for each additional month

If you have any questions or concerns contact, Ethan Smith, (716) 462-0382, tecsmithinc@outlook.com

THANK YOU FOR THIS OPPORTUNITY!

Signature_____

Attachment: 50ft Bare Lead Sensor Quote (RES-2022-568 : Purchase of Bare Lead SubAv HUB Assembly)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25934 **RESOLUTION 2022-569** **ADOPTED**

WPCF De-IonizeWPCF De-Ionized Water System Service Contract Evoqua Water Technologies CRS No. 3409

The WPCF is requesting that the Town Board authorize the Supervisor to sign a service agreement with Evoqua Water Technologies. Evoqua is the sole source, factory authorized service provider for the WPCF's De-Ionized Water Production System, which is critical to the lab at the WPCF. The term of this contract will be from date of execution by the Town of Amherst through February 28, 2023.

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

Funds will be available in G9916-4860.

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

TBD; 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 Evoqua Water Technologies and the Town of Amherst permitting the Town of Amherst to enter into a one year service contract according to the attached renewal request. The term of this contract will be from date of Town Board approval by the Town of Amherst through February 28, 2023.

Agreed to and Accepted by:

Evoqua Water Technologies

By: Matthew Preusse Digitally signed by Matthew Preusse DN: cn=Matthew Preusse, c=US, o=Evoqua Water Technologies LLC, email=matthew.preusse@evoqua.com Date: 2022.03.04 08:04:29 -05'00'

Signature

Matt Preusse

Printed name

Regional GM

Title

Date: March 4, 2022

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____

Brian J. Kulpa
Supervisor

Date: _____

Attachment: Evoqua Water Agreement (RES-2022-569 : WPCF De-Ionized Water System Service Contract)

EVOQUA WATER TECHNOLOGIES

24hr Customer Service: (800) 466-7873
Tax ID Number: 80-0909020

Sign and return this *with your account number* via fax to (724)-572-0210 or email to porenewal@evoqua.com

Date: January 5, 2022
To: CRYSTAL RUSSELL
CITY OF AMHERST
WASTEWATER TREATMENT 16
455 TONAWANDA CREEK RD
AMHERST, NY 14228-1230

Net Terms: N30 days
Phone: (716) 691-9771 X-8010
Fax: (716) 691-4496
Email: **CRUSSELL@AMHERST.NY.US**

Branch: 030 Upstate NY 40464175

Reference: **Acct:** 0302096448 **Current PO: 22110898** **Current Pricing Expires: 02/28/2022**
>>> PLEASE NOTE: Completed Renewal letter or hard copy PO receipt required prior to expiration date referenced above <<<

Dear valued customer,

Thank you for being an Evoqua customer, as well as for allowing us to fulfill your water treatment needs. As your current purchase order will run out of funds soon, we look forward to extending our current engagement. The prices listed below will apply for the **12 Month** period immediately following the date above. If you do not currently issue blanket PO's to Evoqua for the services we provide, prices are subject to change without notice. Upon completion of this document, Evoqua Water Technologies LLC's Terms & Conditions will apply. The link is located at https://www.evoqua.com/en/about-us/terms-conditions-sale-products-services. For additional services or labor not included here, please call for rates. The schedule below is based on the systems current **minimum annual** service frequency. **We appreciate your continued use of Evoqua's water services.**

See Page 2

AUTO RENEWAL: This agreement will automatically renew using the payment method selected below or (if blank) as previously provided unless buyer expressly wishes to opt-out of this agreement. Evoqua Water Technologies, LLC will notify you of any price changes to allow an opportunity to authorize additional funds if required.

(X) I DO NOT WISH TO AUTORENEW

Payment selection:

( ) PLEASE AUTO-RENEW MY ACCOUNT WITH THE SAME PO REFERENCED ABOVE

( ) VISA / MASTER CARD / AMEX: CIRCLE ONE PLEASE. If paying by credit card, an additional usage fee may apply per invoice.

EXP DATE:_____ **CARD #**_____ **NAME ON CARD:**_____

( ) PURCHASE ORDER: Service will be performed at the estimated frequency above or sooner and an invoice referencing the purchase order will be sent.

PO (# or authorized name if no purchasing system) **EXPIRATION DATE:**

To speak with your representative, contact Michelle Williams via PH 281-227-2847 or Michelle.Williams@evoqua.com

PRINT NAME / DATE **PHONE NUMBER**

CUST SIGNATURE / TITLE **EMAIL ADDRESS**

IF TAX-EXEMPT, please provide a certificate issued to: Evoqua Water Technologies, LLC

Attachment: Evoqua Water Agreement (RES-2022-569 : WPCF De-Ionized Water System Service Contract)

Reference: **Acct:** 0302096448 **Current PO: 22110898** **Current Pricing Expires: 02/28/2022**

THIS IS NOT AN INVOICE

Schedule of Services

Part Number	Description	Qty	Frequency	Unit Price	Minimum Yearly Total
W3TSP3006	FUEL/ENERGY SURCHARGE - SERVICE	1	12 Months	$104.00	$104.00
W3TSP3011	PM CONTRACT RECURRING - PARTS & LABOR	1	12 Months	$8,627.23	$8,627.23
W2T149194	FILTER CTRDG,20" 0.2UM CDE F POLYSUL N	1	6 Months	$0.00	$0.00
W2T149194	FILTER CTRDG,20" 0.2UM CDE F POLYSUL N	1	Over Annual Qty	$138.59	Varies
W2T149272	MEMBRANE USF BW30-4040 DRY w/COUPLER	1	12 Months	$0.00	$0.00
W2T149272	MEMBRANE USF BW30-4040 DRY w/COUPLER	1	Over Annual Qty	$292.79	Varies
W2T159653	CART 20" X 4.5 BB 5UM CODE F PP STR	1	3 Months	$0.00	$0.00
W2T177748	O-RING, SILICONE FOR GLASS BS118	2	12 Months	$0.00	$0.00
W2T182120	CLEANER,MINNCARE QUART	4	12 Months	$0.00	$0.00
W2T182120	CLEANER,MINNCARE QUART	1	Over Annual Qty	$67.34	Varies
W2T182518	UV,LAMP BRK DWN PHOTO-OXI ORG-CONT;	1	12 Months	$0.00	$0.00
W2T182518	UV,LAMP BRK DWN PHOTO-OXI ORG-CONT;	1	Over Annual Qty	$344.10	Varies
W2T183545	TUBE, QUARTZ CENTRA/MEDICA	1	12 Months	$0.00	$0.00
W2T187407	VENT,FLTR HIGH FLOW CENTRA LC173	1	6 Months	$0.00	$0.00
W2T187407	VENT,FLTR HIGH FLOW CENTRA LC173	1	Over Annual Qty	$635.98	Varies
W3TSP4449	INSP & RECORD LAB POU PERFORMANCE DATA	1	3 Months	$0.00	$0.00
W3TSP4607	PERFORM & REPLCE VENT FLTR MAINT PER PMI	1	6 Months	$0.00	$0.00
W3TSP4678	PERFORM & REPLACE UV LAMP MAINT PER PMI	1	12 Months	$0.00	$0.00
W3TSP4693	PERFORM & SANITIZE STORAGE TANK PER PMI	1	12 Months	$0.00	$0.00
W3TSP4814	REPLACE INTERNAL PRE-TREATMENT FILTER	1	3 Months	$0.00	$0.00
W3TSP5225	PREVENTATIVE MAINTENANCE	1	3 Months	$0.00	$0.00
W3TSP5755	TAKE TOC WATER SAMPLE FINAL PROD WATER	1	12 Months	$0.00	$0.00
W3TSP5756	COND PROD WATER SAMPLE & TEST (OFFSITE)	1	12 Months	$0.00	$0.00
W5TDIMB10120FSP	SDI MIXBED1 1.2CF FBGLS STD POT	1	12 Months	$0.00	$0.00
W5TDIMB10120FSP	SDI MIXBED1 1.2CF FBGLS STD POT	1	Over Annual Qty	$275.00	Varies
W5TDIMB10360FSP	SDI MIXBED1 3.6CF FBGLS STD POT	1	6 Months	$0.00	$0.00
W5TDIMB10360FSP	SDI MIXBED1 3.6CF FBGLS STD POT	1	Over Annual Qty	$275.00	Varies
W5TDIRAC0360FSP	SDI REACT CARBON 3.6CF FBGLS STD PO	1	6 Months	$0.00	$0.00
W5TDIRAC0360FSP	SDI REACT CARBON 3.6CF FBGLS STD PO	1	Over Annual Qty	$275.00	Varies

***A fuel/energy surcharge of $26.00 per service visit is in effect. A chemical surcharge based on tank size will be applied to each tank exchanged for SDI and WWIX service visits. Surcharge pricing may change throughout the engagement period (subject to market conditions). Failure to provide a purchase order for this renewal notice, will result in a $75 administration fee for the processing of an alternate form of payment**.*

**For SDI customers; Tanks that are included in the exchange items listed above are leased and remain the property of Evoqua. Tanks will be exchanged every six months or sooner (unless digitally monitored), per terms of the tank lease*.*

Attachment: Evoqua Water Agreement (RES-2022-569 : WPCF De-Ionized Water System Service Contract)

EVOQUA
WATER TECHNOLOGIES

May 23, 2022

Town of Amherst NY
Attn: Mr. Thomas Dean
455 Tonawanda Creek Rd
Amherst, NY 14228

RE: Sole Source Letter

Dear Mr. Dean,

The Deionized water systems in your facilities consist of Regenerable Ion Exchange Tanks which remain the property of Evoqua Water Technologies, LLC. These tanks contain a cation and anion mixed bed resin which exhaust based on water influent quality as the io exchange process takes place. Once exhausted, the tanks need to be regenerated with a chemical solution. Evoqua has a proprietary process conditioning the resin during chemical regeneration. As the resins and tanks remain the property of Evoqua Water Technologies LLC, we are the only company authorized to perform any service on these tanks.

The price charged to the Town of Amherst NY is no less favorable than the price charged to other city, state, or federal agencies for a comparable system, in the same or substantially the same quantities, governed by the same or substantially the same terms and conditions.

With kind regards,

Matthew Preusse
Regional General Manager, Evoqua

12000 Indian Creek Court, Ste D
Beltsville, MD 20705

Tel: +1 (301) 837-1427
Fax: +1 (301) 210-7746

evoqua.com

Attachment: Evoqua Water Agreement (RES-2022-569 : WPCF De-Ionized Water System Service Contract)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25935 **RESOLUTION 2022-570** **ADOPTED**

Lift Station Communication Hosting Agreement Extension Colacino Industries, Inc. CRS No. 3434

The Engineering Department, WPCF division, is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Colacino Industries, Inc. The terms and conditions within the current Lift Station hosting agreement will remain the same. This extension will be effective from July 10, 2022 through July 09, 2023.

Funds for this request are available in G9916-4110.

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

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

G9916-4110; TBD

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 Colacino Industries, Inc. and the Town of Amherst to extend their current Lift Station Communication Hosting Agreement, executed on July10, 2014 with TOA RES 2014-763, for a period of 12 months. It is mutually agreed by both parties to remove the language within the paragraph marked by the letter "O" and that the remaining terms and conditions will remain the same and the TOA will be invoiced at $65.00 / Site / Month as stated in the original agreement. This extension will run from July 10, 2022 through July 9, 2023.

Agreed to and Accepted by:

Colacino Industries, Inc.

By: _____
Signature

JAMES R. COLACINO
Printed name

PRESIDENT
Title

Date: 5/25/2023

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Colacino Agreement (RES-2022-570 : Lift Station Communication Hosting Agreement Extension)

COLACINO INDUSTRIES
QUALITY SINCE 1948

Customer Service Agreement

This Customer Service Agreement (this "Agreement") is entered into by and between Colacino Industries Inc. ("Company") and the entity utilizing Colacino Industries, Inc.'s products and services, including its web site and database information identified on the signature page hereto Town of Amherst, NY, (the "Town") and is effective as of Town of Amherst, NY's first use of Colacino Industries, Inc.'s products and services (the "Effective Date").

WHEREAS, the Colacino Industries, Inc. is engaged in the business of providing wireless communications and database systems for managing and monitoring remote equipment in a supervisory manner, including such industrial applications as water and wastewater systems; and

WHEREAS, the Town desires to use and benefit from Colacino Industries, Inc.'s communications and database system, on and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual promises contained herein, and other good and valuable consideration, including Town's use of Colacino Industries, Inc.'s products and services, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

A. Subject to, and conditioned upon Town's compliance with the terms and conditions of this Agreement, Colacino Industries, Inc. hereby grants to Town a non-exclusive, non-transferable, non-sublicensable, limited license to use its services during the term of this Agreement. Town acknowledges and agrees Colacino Industries, Inc. is providing a license and is not selling any of its software or intellectual property to Town. Town further acknowledges that it shall not acquire any ownership interest in such property, or any improvements thereof, which shall be retained exclusively by Colacino Industries, Inc., Town understands that Colacino Industries, Inc. is selling a service provided via multiple public and private facilities, some of which are not within its control. Colacino Industries, Inc. does not guarantee Town's subscribed services will be active and available 100% of the time and will not be held liable for any of losses which are not directly under the control of Colacino Industries, Inc. in the event that there is a service failure.

B. Town agrees to pay Colacino Industries, Inc. on a per site basis as follows:

$65.00 per month per site that is active and fully operational. The Town shall be credited on a pro-rated basis for any communication outages experienced for any reason for services not delivered to the Town. The Town may add or remove sites from service at this monthly rate at any time during this contract term. Under this agreement it is understood that Colacino Industries, Inc. shall supply all necessary goods and services required to provide the Town with a fully functional Lift Station Communication System of transmitting and storing operational data from all lift station control panels to the hosted website.

The monthly per site fee described above includes all hardware, monthly monitoring, and data storage fees. Colacino Industries, Inc. agrees to provide Town with monitoring and notification services by utilizing automated calling, paging, e-mailing, faxing or TCP/IP transfer of data to Town's designated destinations on a best efforts basis. Colacino Industries, Inc. agrees to keep all equipment and services fully updated with the latest software and hardware, maintained, and properly licensed.

C. Town understands that Colacino Industries, Inc. will not, with its own personnel, respond to or take action related to those events about which Colacino Industries, Inc. provides monitoring

Attachment: Colacino Agreement (RES-2022-570 : Lift Station Communication Hosting Agreement Extension)

and notification services. Town further understands that he/she/it is solely responsible for the final entries and schedules set forth in Colacino Industries, Inc. database, notwithstanding the fact that Colacino Industries, Inc. may have obtained and entered the monitoring and notification information in that database on the Town's behalf.

D. Town also understands that the data entries and schedules, residing in Colacino Industries, Inc.'s database, can be changed by the Town. Town further understands and agrees to bear the risk of loss or damage that may result from changes to Colacino Industries, Inc. database made by, or at the direction of the Town, and that such changes may impair or prevent Colacino Industries, Inc. notification system from providing timely and successful notifications of detected events to Town's designated destinations.

E. Town further understands that Colacino Industries, Inc. makes no representations, promises, warranties, or guarantees that there will be no interruptions in service or delays in performing service, or as to the quality, usefulness, completeness and reliability of such service, and further that Colacino Industries, Inc. provides no assurances that such service will be free of errors. Town acknowledges that Colacino Industries, Inc. utilizes wireless data services that may be provided by various participating carriers, and that such providers disclaim any and all liability arising from the Town's use of Colacino Industries, Inc.'s products and services. Town further understands that Colacino Industries, Inc. has no control of, or responsibility for, the paging, cellular, radio, telephone, internet, or other communication medium which the Town may rely upon for delivery of any messages or alerts sent by Colacino Industries, Inc..

F. Town and Colacino Industries, Inc. understand that in addition to transmitting the lift station data to the hosted data center, Colacino Industries, Inc. is also responsible for storage, maintenance, and providing reliable transmission of all data collected. All data collected and transmitted will be securely stored in a minimum of three (3) geographically seperated data center locations and will be made available to the Town at all times. In the event that this contract is terminated for any reason, all data collected and stored on the Colacino Industries, Inc hosted network will remain the property of the Town and will be transmitted to the Town immediately. All of Colacino Industries, Inc's hosted network equipment will be maintained, licensed, with the latest versions of software available by Colacino Industries, Inc. All costs included in the maintenance, upgrading, and licensing of any equipment is included in the monthly service fee paid to Colacino Industies, Inc.

G. Colacino Industries, Inc. represents and guarantees that they will respond to errors or failures of their provided equipment or service within 4 hours of notice, or discovery of the failure.

H. In further consideration of being granted the right to utilize Colacino Industries, Inc.'s monitoring and notification service, Town, on behalf of himself/herself/itself, and any employees, agents, personal representatives, assigns, heirs, next of kin and any third party, agrees:

1. To indemnify, defend and hold harmless Colacino Industries, Inc., its owners, directors, officers, employees, agents, suppliers or affiliated companies, against any and all claims, demands or actions based upon any losses, liabilities, damages or costs, whether direct or indirect, special or consequential, including attorneys fees, that may result from the operation of Colacino Industries, Inc.'s products and services, or from the failure of Colacino Industries, Inc. system to report a given event or condition.

2. To release, waive, discharge and covenant not to sue Colacino Industries, Inc., its owners, directors, officers, employees, agents, suppliers or affiliated companies, for any and all liabilities potentially arising from any claim, demand or action based upon any losses, liabilities, damages or costs, whether direct or indirect, special or consequential, including attorneys fees, that may result from operation of Colacino Industries, Inc.'s products and services, or from the failure of Colacino Industries, Inc. system to report a given event or condition.

Attachment: Colacino Agreement (RES-2022-570 : Lift Station Communication Hosting Agreement Extension)

3. That in the event Colacino Industries, Inc. is found to be liable for any loss or damage arising out of mistakes, interruptions, delays, errors or defects in Colacino Industries, Inc.'s products or services, such liability shall not exceed the total amount paid by the Town to Colacino Industries, Inc. for the latter's services in the twelve month period immediately preceding the date of the action or event giving rise to a claim.

4. That Colacino Industries, Inc. hardware includes a warranty that the product is free from defects in materials and workmanship for the entire term of this contract. Colacino Industries, Inc.'s obligation under this warranty shall be to repair or replace the product, at Colacino Industries, Inc.'s option, unless the product has been misused or improperly repaired or serviced by any party other than authorized Colacino Industries, Inc. personnel, in which case the warranty is voided. Without limiting the generality of the foregoing, Colacino Industries, Inc. hereby disclaims any liability relating to any data security breach, except of the obligation to provide Town with an immediate notice thereof.

5. That neither Colacino Industries, Inc. nor its owners, directors, officers, employees, or agents is an insurer and that the Town is to maintain his/her own insurance coverage sufficient to provide compensation for any loss, damage, or expense that may arise in connection with the use of Colacino Industries, Inc.'s products or services.

H. **Town understands and agrees that Colacino Industries, Inc.'s products and services are intended to monitor and notify Town of events only relating to Town's mechanical and electrical equipment and are not intended to be used, and are not a replacement for a primary life-safety, burglary or fire detection and reporting system.**

I. Town is responsible for the ongoing, periodic testing of Colacino Industries, Inc. system, and shall notify Colacino Industries, Inc. immediately if any failures are found. Colacino Industries, Inc. shall immediately use all reasonable efforts to identify and resolve the perceived failures, but shall be limited in their obligation to travel to the Town's premises to perform diagnostic or corrective actions to failures of equipment or services provided in this agreement.

J. Should the Town choose to utilize Colacino Industries, Inc. equipment and services to perform manual or automatic control for external equipment such as pumps, wells, or valves, Town acknowledges that Colacino Industries, Inc. performs this service on a best efforts basis. Colacino Industries, Inc. recommends that Town not rely on Colacino Industries, Inc. solely for the control of remote relay activated devices.

K. The Town understands the intended uses of Colacino Industries, Inc.'s products and services and will ensure that they are used in a safe manner and as intended. In addition, it is agreed that Colacino Industries, Inc. personnel will be contacted if the Town does not know how to utilize Colacino Industries, Inc.'s products and services.

L. This Agreement shall commence on the Effective Date and unless terminated earlier pursuant to any of its express provisions, shall continue thereafter for a period of five (5) years. This Agreement shall automatically renew for additional one (1) year terms, unless either party provides written notice of non-renewal at least 60 days prior to the end of the applicable anniversary of the Effective Date (the "Term").

M. This Agreement may be terminated prior to the expiration of the Term (i) by either party on 60 days' notice. The expiration of termination of this Agreement shall not release either party of their obligations hereunder. Upon termination or expiration of this Agreement, Town shall immediately discontinue its use of Colacino Industries, Inc.'s products and services and return or destroy any Colacino Industries, Inc.'s proprietary information or materials in its possession.

N. The Town acknowledges that he/she/it has read and understands this Customer Service Agreement, and that he/she/it agrees to its terms and intends to be bound by them. The Town further understands that this Agreement is intended to be as broad and inclusive as is permitted by law and that if any portion thereof is held invalid, it is agreed that the balance of the agreement shall, notwithstanding, continue in full legal force and effect.

Attachment: Colacino Agreement (RES-2022-570 : Lift Station Communication Hosting Agreement Extension)

6. The parties hereto acknowledge and agree that this Agreement contains the entire agreement between Colacino Industries, Inc. and the Town, and that there are no other representations, inducements, promises, or agreements, verbal or otherwise, which are not embodied herein; provided the Town acknowledges and understands that by activating and utilizing Colacino Industries, Inc.'s products, services, web site and/or data based information, the Town is agreeing to be bound by the following terms contained in this Agreement, in addition to Colacino Industries, Inc.'s standard terms and conditions of sale, which are available upon request.

I, the undersigned, have fully read, understood and accept this Agreement.

Name:	Barry A. Weinstein, MD	Signature:	Barry A Weinstein
Position:	Supervisor	Date:	7/10/2014
Organization:	Town of Amherst		

Attachment: Colacino Agreement (RES-2022-570 : Lift Station Communication Hosting Agreement Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25936 **RESOLUTION 2022-571** **ADOPTED**

Aqua Diamond Opti-Fiber ClothsAqua Aerobics Systems, Inc. CRS No. 3412 Contract Extension

The Engineering Department, WPCF division is requesting that the Town Board authorize the Supervisor to sign the attached contract extension agreement with Aqua Aerobics Systems, Inc. The terms and conditions within TOA Bid 2020016 Aqua Diamond Opti Fiber Filter Cloths will remain the same. This extension will be effective from July 20, 2022 through July 19, 2024.

Funds for this request are available in KP2026-1972 and G9916-2600.

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

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2026-1972 and G9916-2600

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 Aqua-Aerobics Systems, Inc. and the Town of Amherst permitting the Town of Amherst to extend their existing contract with Aqua-Aerobics Systems, Inc. Both parties agree that the terms and conditions specified in the executed contract, TOA Bid 2020016 AquaDiamond OptiFiber PES-13 Filtration Cloth shall remain the same. The term of this contract will be from date of execution by the Town of Amherst through July 19, 2024.

Agreed to and Accepted by:
AQUA-AEROBICS SYSTEMS, Inc.

By: Paul Klebs Barb Kinroth
Signature

Paul Klebs Barb Kinroth
Printed name

AMS Manager Contract Administrator for Paul Klebs
Title

Date: 4/22/22 4/28/2022 .

Agreed to and Accepted by:
TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Aqua Aerobics Agreement (RES-2022-571 : Aqua Diamond Opti-Fiber Cloths Contract Extension)

EXP JULY 19 2022

Town of Amherst

Contract Compliance & Administration Department

INVITATION TO BID # 2020016

AquaDiamond OptiFiber PES-13 Filtration Cloth

Bids, as stated below, will be received and publicly opened by the Contract Compliance & Administration Department in accordance with the attached specifications. FAX / electronically submitted bids will not be accepted.

Bid Instructions:

- **Four (4) copies of the proposal are required.**
- **All four (4) bid packets may be placed in one sealed envelope.**
- **In each of the four (4) bid packets being submitted, EACH page requiring a signature, must be an original signature, and must be signed in BLUE INK.**
- **If you are submitting bids for more than one job, please put in separate envelopes, marked with the Bid number.**

Please submit to:

Town of Amherst
Contract Compliance & Administration – 2nd Floor
5583 Main Street
Williamsville, New York 14221

NOTE: Lower left hand corner of envelope MUST indicate the following:

BID NUMBER: 2020016

OPENING DATE March 26, 2020 TIME: 12:00 PM

FOR: AquaDiamond OptiFiber PES-13 Filtration Cloth

NAME OF BIDDER: Aqua-Aerobic Systems, Inc.

If you are submitting other Invitations to Bid, each bid must be enclosed in a separate envelope. Following EXHIBITS are attached to and made a part of the bid specifications, and part of any agreement entered into pursuant to this Invitation to Bid:

X	EXHIBIT "A"	- Assignment of Public Contracts
N/A	EXHIBIT "D"	- Bid Bond (Formal Bid) 5%
X	EXHIBIT "F"	- Agreement Addendum
X	EXHIBIT "G"	- Non-Collusive Bidding Certification
X	EXHIBIT "I"	- Certification of Compliance with the Iran Divestment Act
N/A	EXHIBIT "W"	- Prevailing Wage Schedule

Attachment: Aqua Aerobics Agreement (RES-2022-571 : Aqua Diamond Opti-Fiber Cloths Contract Extension)

NOTICE TO BIDDERS

Town of Amherst
Contract Compliance & Administration Department

Bid #2020016
AquaDiamond OptiFiber PES-13 Filtration Cloth

Sealed proposals for the above mentioned project in the Town of Amherst, NY will be received by the Contract Compliance & Administration Office in the Municipal Building, Williamsville, NY 14221 on or before 12:00 PM local time on March 26, 2019.

Specifications may be obtained via e-mail to khalton@amherst.ny.us or examined at the Contract Compliance & Administration Office of the Town of Amherst between the hours of 8:00 AM and 4:00 PM through the bid opening date, excluding Saturdays, Sundays and Holidays.

By Order of the Town Board
Town of Amherst, New York

Lynda L. Juul
Director of Finance

March 11, 2020

Attachment: Aqua Aerobics Agreement (RES-2022-571 : Aqua Diamond Opti-Fiber Cloths Contract Extension)

Town of Amherst

Contract Compliance & Administration Department

BID SPECIFICATIONS

Ship to: Town of Amherst
Attention:
Address:

ITEM NO	QTY	U/M	CATALOG NO/DESCRIPTION	UNIT PRICE	TOTAL PRICE
			Price Per NYS Contract **If Applicable**		
			NYS Contract #_____		
1	11	Each	Aqua Diamond® OptiFiber® PES-13 Part Number 2967063-24 Or Equivalent product that meets or exceeds the specifications and wastewater design requirements of the product being requested.	$6,186.38	$68,050.18
			If offering an equivalent, please fill in the lines below and include a product specification sheet with the bid submission. _____ Equivalent Manufacturer _____ Equivalent Part Number		
			Total Net Bid		$68,050.18
			No Additional Charges Will Be Allowed		

NAME OF BIDDER: Aqua-Aerobic Systems, Inc.

Attachment: Aqua Aerobics Agreement (RES-2022-571 : Aqua Diamond Opti-Fiber Cloths Contract Extension)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25937 **RESOLUTION 2022-572** **ADOPTED**

Kingsgate Park CALL Improvements - Change Order No. 3 & Final CRS No. 3430

We are requesting the Town Board consider approval of this resolution authorizing the Supervisor to sign the above referenced Change Order, which increases the overall contract by $5,088.16. This final quantities adjustment will cover the costs associated with additional landscape boulders, installing shelter fascia trim and anti-nesting bird-blocking and to also install the user-group supplied under counter concession storage cabinets.

Please also note that we are also requesting approval of a no-cost time extension of the substantial completion date of this contract to be extended by 35 days, through April 1, 2022. This item is contingent upon successful completion of the contract review process.

Funding for this contract shall be from project account KP2101.4972.

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2101-4972; $5,088.16

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

AIA® Document G701™ – 2017

Change Order

PROJECT:	CONTRACT INFORMATION:	CHANGE ORDER INFORMATION:
Central Amherst Little League Concession/Restroom Improvements Project #840127A	*Contract For: General Construction* *Date: June 6, 2022*	Change Order Number: 3 & Final

OWNER:	ENGINEER:	CONTRACTOR:
Town of Amherst 5583 Main St. Williamsville, NY 14221	Town of Amherst Engineering 1100 North Forest Rd. Williamsville, NY 14221	Willett Builders, Inc. 180 Genesee Street Corfu, NY 14036

The Contract is changed as follows:

Final quantity adjustment related to the Contractor furnishing and installing custom color-matched aluminum fascia flashing trim surrounding the perimeter of the new picnic shelter and also wooden bird-blocking to avoid nesting under this shelter. Contractor shall also provide all ancillary materials and labor to install make-up air louver controls and also concession area cabinets as supplied by the user-group. Additional landscaping boulders will also be furnished and placed. Lastly, the substantial completion date shall be extended until April 1, 2022.

The original Contract Sum was	$ 875,500.00
The net change by previously authorized Change Orders	$ (48,790.96)
The Contract Sum prior to this Change Order was	$ 826,709.04
The Contract Sum will be increased by this Change Order in the amount of	$ 5,088.16
The new Contract Sum, including this Change Order, will be	$ 831,797.20
The Contract Time will be changed) by	(35) days.
The new date of Substantial Completion shall now be:	April 1, 2022

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT/ENGINEER *(Town Engineer)*	CONTRACTOR *(Willett Builders, Inc.*	OWNER *(Town of Amherst)*
SIGNATURE	SIGNATURE	SIGNATURE
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

WILLETT BUILDERS, INC.

Contracting | Construction Management | Fabrication | Service
180 Genesee St. Corfu, NY 14036
Office: (585)599-7001 | Web: www.willettbuilders.com

Proposal

Customer: Town of Amherst	Job Location: Central Amherst Little League - 400 Wherle Dr. Amherst, NY	Date: 3/14/2022

Project Name	Authorized By:	Service Date
Central Amherst Little League Concession & Restroom	Steve Wagner	March 14, 2022

Labor

Quantity	Description	Project	Each	Line Total
4.00	Carpenter Foreman	C.A.L.L.	$ 93.23	$372.92
4.00	Carpenter Journeyman	C.A.L.L.	$ 83.55	$334.20

Equipment

Quantity	Description	Project	Each	Line Total

Material

3.00	1/2" 4x8 sheets of treated plywood	C.A.L.L.	$ 70.38	$211.14

Subcontractors

Quantity	Description	Project	Each	Line Total
			Sub Total	$918.26
			OHP 15%	$137.74
			Total	$1,056.00

*Does not include the following:
1. NYS sales tax
2. Building Permits
3. Overtime costs or shift premium labor rate
4. Architecturl and Engineering Design
5. Paing and Staining

This proposal is valid for 15 days from the date of quote.

Authorized by Date

Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

WILLETT BUILDERS, INC.

Contracting | Construction Management | Fabrication | Service
180 Genesee St. Corfu, NY 14036
Office: (585)599-7001 | Web: www.willettbuilders.com

Proposal

Customer: Town of Amherst	Job Location: Central Amherst Little League - 400 Wherle Dr. Amherst, NY	Date: 5/2/2022

Project Name	Authorized By:	Service Date
Central Amherst Little League Concession & Restroom	Steve Wagner	May 2, 2022

Labor

Quantity	Description	Project	Each	Line Total

Equipment

Quantity	Description	Project	Each	Line Total

Material

Subcontractors

Quantity	Description	Project	Each	Line Total
1.00	Supply and install of 6 boulders by the landscaper	C.A.L.L.	$ 960.00	$960.00

Quantity	Description	Project	Each	Line Total
			Sub Total	$960.00
			OHP 5%	$48.00
			Total	$1,008.00

*Does not include the following:
1. NYS sales tax
2. Building Permits
3. Overtime costs or shift premium labor rate
4. Architecturl and Engineering Design
5. Paing and Staining

This proposal is valid for 15 days from the date of quote.

Authorized by Date

Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

WILLETT BUILDERS, INC.

Contracting | Construction Management | Fabrication | Service
180 Genesee St. Corfu, NY 14036
Office: (585)599-7001 | Web: www.willettbuilders.com

Proposal

Customer: Town of Amherst	Job Location: Central Amherst Little League - 400 Wherle Dr. Amherst, NY	Date: 3/7/2022

Project Name	Authorized By:	Service Date
Central Amherst Little League Concession & Restroom	Steve Wagner	March 7, 2022

Labor

Quantity	Description	Project	Each	Line Total
8.00	Carpenter Foreman	C.A.L.L.	$ 93.23	$745.84
8.00	Carpenter Journeyman	C.A.L.L.	$ 83.55	$668.40
2.00	Carpenter Foreman (bracket install)	C.A.L.L.	$ (93.23)	-$186.46
2.00	Carpenter Journeyman (bracket install)	C.A.L.L.	$ (83.55)	-$167.10

Equipment

Quantity	Description	Project	Each	Line Total

Material

Quantity	Description	Project	Each	Line Total

Subcontractors

Quantity	Description	Project	Each	Line Total
			Sub Total	$1,060.68
			OHP 15%	$0.00
			Total	$1,060.68

*Does not include the following:
1. NYS sales tax
2. Building Permits
3. Overtime costs or shift premium labor rate
4. Architecturl and Engineering Design
5. Paing and Staining

This proposal is valid for 15 days from the date of quote.

Authorized by Date

Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

WILLETT BUILDERS, INC.

Contracting | Construction Management | Fabrication | Service
180 Genesee St. Corfu, NY 14036
Office: (585)599-7001 | Web: www.willettbuilders.com

Proposal

Customer: Town of Amherst	Job Location: Central Amherst Little League - 400 Wherle Dr. Amherst, NY	Date: 5/26/2022

Project Name	Authorized By:	Service Date
Central Amherst Little League Concession & Restroom	Steve Wagner	May 26, 2022

Labor

Quantity	Description	Project	Each	Line Total
2.00	Carpenter Foreman	C.A.L.L.	$ 93.23	$186.46

Equipment

Quantity	Description	Project	Each	Line Total

Material

5.00	12X6 Louver Transfer Grille	C.A.L.L.	$ 39.40	$197.00

Subcontractors

Quantity	Description	Project	Each	Line Total
			Sub Total	$383.46
			OHP 15%	$57.52
			Total	$440.98

*Does not include the following:
1. NYS sales tax
2. Building Permits
3. Overtime costs or shift premium labor rate
4. Architecturl and Engineering Design
5. Paing and Staining

This proposal is valid for 15 days from the date of quote.

Authorized by Date

WILLETT BUILDERS, INC.

Contracting | Construction Management | Fabrication | Service
180 Genesee St. Corfu, NY 14036
Office: (585)599-7001 | Web: www.willettbuilders.com

Proposal

Customer: Town of Amherst Added Divider Wall in Storage Room.	Job Location: Central Amherst Little League - 400 Wherle Dr. Amherst, NY	Date: 4/29/2022

Project Name	Authorized By:	Service Date
Central Amherst Little League Concession & Restroom	Steve Wagner	April 28, 2002

Labor

Quantity	Description	Project	Each	Line Total

Equipment

Quantity	Description	Project	Each	Line Total

Material

Quantity	Description	Project	Each	Line Total

Subcontractors

Quantity	Description	Project	Each	Line Total
1	Supply and Install of custom color fascia around pavilion	C.A.L.L.	$ 1,450.00	$1,450.00

Sub Total	$1,450.00
OHP 5%	$72.50
Total	$1,522.50

*Does not include the following:
1. NYS sales tax
2. Building Permits
3. Overtime costs or shift premium labor rate
4. Architecturl and Engineering Design
5. Paing and Staining

This proposal is valid for 15 days from the date of quote.

Authorized by Date

Attachment: Change Order 3 - Willett - Agenda Docs (RES-2022-572 : Kingsgate Park CALL Improvements - Change Order No. 3 & Final)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25938 **RESOLUTION 2022-573** **ADOPTED**

Amherst Street Light Purchase and Upgrade Amendment No. 1 CRS No. 3435

On July 6, 2020, the Town entered into a Project Development Agreement (PDA) with Wendel Energy Services, LLC to provide design and development services in connection with a street lighting improvement project. Fees for the Comprehensive Energy Audit are based on a percentage of estimated unburdened construction cost of the project. During course of the project, the construction estimate increased $139,890.00 to a total of $10,806,557. According to the PDA, the Project Development Fee is 3.75% of the unburdened construction cost. As such, an additional $5,245.89 is being requested by the attached Amendment No. 1.

The Engineering Department is therefore requesting the Town Board approve an additional expenditure of $5,245.89 as proposed by Wendel Energy Services, LLC as described in Amendment No. 1 to Project Development Letter Agreement. Funding is available from project account KP-2034-4971. This request is pending the successful completion of the contract review process. Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

$5,245.89; KP2034-4971

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

AMENDMENT NO. 1 TO PROJECT DEVELOPMENT LETTER AGREEMENT

This Amendment Number one to the Project Development Agreement (the "PDA") between Wendel Energy Services, LLC (hereinafter "Wendel") and Town of Amherst (hereinafter "Owner"), collectively the "Parties", entered into on July 6, 2020 for design and development services in connection with a streetlighting improvement project (the "Project") is hereby entered into effective on _____, 2022.

WHEREAS, Wendel has conducted a Comprehensive Energy Audit ("CEA") and developed a project scope of work, and

WHEREAS, Owner now desires to proceed with additional services for the Project and possesses the necessary approvals to proceed therewith, and

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree that the PDA is hereby amended as follows:

1. **DELETE:** Delete Attachment A in its entirety.

2. **AMEND:** Amend PDA section entitled "Project Development (Investment Grade Audit) Fees". Replace the unburdened construction cost estimate of $10,666,667 with a revised unburdened construction cost of $10,806,557.

   The Project Development Fee is therefore: $10,806,557 x 3.75% = $405,245.89.

3. **FULL FORCE AND EFFECT; REAFFIRMATION**

   Except to the extent expressly provided for in this Amendment, the terms and conditions of the PDA shall remain in full force and effect.

(continued on next page)

Attachment: Wendel Lighting Amendment (RES-2022-573 : Amherst Street Light Purchase and Upgrade Amendment No. 1)

AMENDMENT NO. 1 TO PROJECT DEVELOPMENT LETTER AGREEMENT

Wendel

_____
Signature

Joseph DeFazio
Printed Name

Vice President Energy Services
Title

_____
Date

Town

_____
Signature

Brian J. Kulpa
Printed Name

Town Supervisor
Title

_____
Date

Acknowledgement taken in New York State

State of New York, County of
_____ , ss:

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared

_____
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged tome 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

Acknowledgement taken in New York State

State of New York, County of
_____ , ss:

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared

_____
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged tome 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

Attachment: Wendel Lighting Amendment (RES-2022-573 : Amherst Street Light Purchase and Upgrade Amendment No. 1)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25940 **RESOLUTION 2022-574** **ADOPTED**

Award of Bid - NARC Football Fieldhouse - Mechanical Parise Mechanical, Inc.

On May 12, 2022, bids were received for the above referenced project. After review of the two (2) bids received (bid tabulation attached), we recommend award of this contract to Parise Mechanical, Inc., 1106 Sheridan Dr., Tonawanda, NY 14150, in the amount of $31,000.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2207-4972; $31,000.00

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

North Amherst Recreation Center

Football Fieldhouse

Bid Tabulation / May 12, 2022

T.O.A. Job No. 2021.044

Mechanical Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total
1	Parise Mechanical, Inc.	Y	$31,000.00
2	John W. danforth Company	Y	$48,800.00
3			
4			
5			

Attachment: Bid Tabulation - Mechanical - NARC (RES-2022-574 : Award of Bid - NARC Football Fieldhouse - Mechanical)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25941 **RESOLUTION 2022-575** **ADOPTED**

Award of Bid - NARC Football Fieldhouse - Electrical Goodwin Electric Corp.

On May 12, 2022, bids were received for the above referenced project. After review of the five (5) bids received (bid tabulation attached), we recommend award of this contract to Goodwin Electric Corp., 201 S. Youngs Rd., Williamsville, NY 14221, in the amount of $124,300.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2207-4972; $124,300.00

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

North Amherst Recreation Center

Football Fieldhouse

Bid Tabulation / May 12, 2022

T.O.A. Job No. 2021.044

Electrical Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total
1	Goodwin Electric Corp.	Y	$124,300.00
2	Frey Electric Construction Co., Inc.	Y	$144,000.00
3	O'Connell Electric Company, Inc.	Y	$159,000.00
4	CIR Electric Construction Corp.	Y	$161,300.00
5	Industrial power and Lighting Corp.	Y	$185,000.00

Attachment: Bid Tabulation - Electrical - NARC (RES-2022-575 : Award of Bid - NARC Football Fieldhouse - Electrical)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25942 **RESOLUTION 2022-576** **ADOPTED**

Award of Bid - NARC Football Fieldhouse - Plumbing MKS Plumbing Corp

On May 12, 2022, bids were received for the above referenced project. After review of the four (4) bids received (bid tabulation attached), we recommend award of this contract to MKS Pluming Corp., 19 Ransier Drive, West Seneca, NY 14224, in the amount of $128,000.00 to include the Base Bid. Funding for this contract shall be from account KP2207.4972.

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2207-4972; $128,000.00

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

North Amherst Recreation Center

Football Fieldhouse

Bid Tabulation / May 12, 2022

T.O.A. Job No. 2021.044

Plumbing Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total
1	MKS Plumbing Corp.	Y	$128,000.00
2	J.R. Swanson Plumbing Co., Inc.	Y	$145,700.00
3	Mollenberg-Betz, Inc.	Y	$146,000.00
4	John W. Danforth Company	Y	$158,800.00
5			
6			
7			
8			
9			
10			

Attachment: NARC Bid Tabulation - Plumbing (RES-2022-576 : Award of Bid - NARC Football Fieldhouse - Plumbing)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25943 **RESOLUTION 2022-577** **ADOPTED**

Award of Bid - NARC Football Fieldhouse - General Montante Construction

On May 12, 2022, bids were received for the above referenced project. After review of the six (6) bids received (bid tabulation attached), we recommend award of this contract to Montante Construction, 2760 Kenmore Avenue, Buffalo, NY 14150, in the amount of $1,083,900.00 to include the Base Bid. Funding for this contract shall be from account KP2101.4972. Additionally and in the interest of funding consolidation, we are also requesting that $7,500.00 be transferred from KP2101.4971 and into KP2101.4972.

Thank you for considering these requests.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2101-2972; $1,083,900.00

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

North Amherst Recreation Center

Football Fieldhouse

Bid Tabulation / May 12, 2022

T.O.A. Job No. 2021.044

General Construction Contract

No.	Bidder	Bid Bond (Y / N)	Base Bid Total	Alternate GC-1: Metal Roof	Total
1	Montante Construction	Y	$1,083,900.00	$100,037.00	$1,183,937.00
2	Sicoli Construction Services, Inc.	Y	$1,184,600.00	$59,000.00	$1,243,600.00
3	Walter S. Johnson Bldg. Co., Inc.	Y	$1,255,000.00	$55,000.00	$1,310,000.00
4	Rodriguez Construction Group, Inc.	Y	$1,297,000.00	$35,000.00	$1,332,000.00
5	34 Group, Inc.	Y	$1,334,000.00	$27,000.00	$1,361,000.00
6	Javen construction Co., Inc.	Y	$1,249,000.00	$250,000.00	$1,499,000.00

Attachment: Bid Tabulation - NARAC General (RES-2022-577 : Award of Bid - NARC Football Fieldhouse - General)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 25944 **RESOLUTION 2022-578** **ADOPTED**

Award of Bid - Red Oak Drive Waterline Replacement 716 Site Contracting, Inc.

Bids were received on May 5, 2022 for the above referenced project. After review of the bids (tabulation attached), we recommend award be made to 716 Site Contracting, Inc., PO Box 120, N. Boston, NY 14110, based on their low base bid of $1,399,475.00 from project accounts KP2024.4972 and KP2119.4972.

As per the Town Comptroller's directive and in order to create adequate funding for the referenced project, please transfer the following funds which are available within the same bond.

Project	Current Account	Transfer To	Amount
Robinhill Waterline	KP2120.4972	KP2119.4972	$510,975.00
Red Oak Waterline	KP2024.4979	KP2024.4972	$ 10,000.00

Thank you for considering this request.

6/6/2022
Consent

FINANCIAL IMPACT:

KP2024-4972 & KP2119-4972; $1,399,475.00

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

Red Oak Drive Waterline Replacement

Bid Tabulation / May 5, 2022

T.O.A. Job Nos. 2020.017

No.	BIDDER	TOTAL BASE BID	ALT. BID #1
1	716 Site Contracting	$1,399,475.00	$48,650.00
2	Sergi Construction	$1,413,410.00	$560,400.00
3	Fairway Contracting	$1,507,230.05	$642,600.00
4	DJM Contracting, Inc.	$1,550,351.00	$630,120.00
5	4th Generation Construction	$1,584,840.00	$139,500.00
6			
7			
8			

Attachment: Red Oak Bid Tab (RES-2022-578 : Award of Bid - Red Oak Drive Waterline Replacement)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25880 **RESOLUTION 2022-579** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc - CRS #3408

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback with County of Erie contract with GEITER DONE OF WNY INC, 300 Greene Street, Buffalo, NY 14206 to purchase the services for the disposal of scrap tires.

The Erie County and Geiter Done of WNY Inc is Bid Reference # 222102-004 for services for the disposal of scrap tires. Contract term is 4/1/22 through 3/31/2024.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is subject to the Contract Routing System (CRS#3408) and the approval of the Town Attorney.

6/6/2022
Consent

FINANCIAL IMPACT:

Town Wide

Various

TBD

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

AGREEMENT

Let this document stand as an Agreement between GEITER DONE OF WNY INC, 300 Greene Street, Buffalo, NY 14206 and the Town of Amherst permitting the Town of Amherst to participate in the purchase of services for the disposal of scrap tires from GEITER DONE oF WNY, INC. under the County of Erie BID # 222102-004 for the 2 year period of 4/1/2022 through 3/31/2024.

Agreed to and Accepted by:

GEITER DONE OF WNY, INC.

By: _____
Signature

Michael Honor
Print Name

President
Title

Date: 5/12/22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: DOC052422-05242022085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

TO: All Using Departments

FROM: Tricia Pierce, Buyer

DATE: April 1, 2022

SUBJECT: DISPOSAL OF SCRAP TIRES
BID NO.: 222102-004.

There is a new contract for the ***Disposal of Scrap Tires.*** The Awarded vendor is Geiter Done Company of Western New York. The new contract period is April 1, 2022 through March 31, 2024.

Your department may issue a requisition on an as needed basis, or a blanket order for the year. When processing your orders, please use Material Group 962V and Purchasing Group 004. Please reference Bid No. 222102-004 on all orders.

For departments that utilize this contract, please look to see if there are any scrap tires that can be disposed of. Spring is here and this is a good way to start getting rid of scrap tires and planning on removing any surplus items and equipment.

For your convenience the information is listed on the attached sheets.

Attachment: DOC052422-0524022085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

1. GEITER DONE OF WNY, INC. VENDOR #120108
300 Greene Street
Buffalo, NY 14206
Telephone No.: 716-895-8121
DEC #9A-750

PART I. – VENDOR TO PICK UP:

TIRE SIZE	PRICE PER TIRE	PRICE PER TON	VENDOR
Automobile	$2.84/each	$167.00/ton	Geiter Done
Truck	$9.50/each	$167.00/ton	Geiter Done
Over Sized	$250.00/each	$300.00/ton	Geiter Done

PART II. – DELIVERED BY ERIE COUNTY TO VENDOR:

TIRE SIZE	PRICE PER TIRE	PRICE PER TON	VENDOR
Automobile	$2.50/each	$165.00/ton	Geiter Done
Truck	$9.00/each	$165.00/ton	Geiter Done
Over Sized	$225.00/each	$225.00/ton	Geiter Done

**Drop off minimum 1 ton charge.

ROLLOFF SERVICE:
$175.00 PER DROP OFF
$175.00 PER PICKUP
MONTHLY RENTAL $75.00

Attachment: DOC052422-0524022085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

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: DOC052422-052422085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

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:

Geiter Done of WNY Inc.
Print Name of Company

By: _____
Signature

Michael Horan
Printed name

Date: 5/12/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: DOC052422-0524022085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New Yor provision was added to the State Finance Law (SFL), Section 165-a, effective April 12, 2012. Under Act, the Commissioner of the Office of General Services (OGS) will develop a list (prohibited entities l of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). T list is posted on the OGS website.

By submitting a response to this solicitation, or by assuming the responsibility under Contract/Lease awarded hereunder, Bidder/Contractor/Vendor (or any assignee) certifies that it will n utilize on such Contract/Lease any subcontractor that is identified on the prohibited entities list.

Additionally, Bidder/Contractor/Vendor is advised that any Bidder/ Contractor/Vendor seeki to renew or extend a Contract/Lease (or assume responsibility of a Contract/Lease awarded must cert at the time the Contract/Lease is renewed, extended or assigned that it is not included on the prohibit entities list.

During the term of the Contract/Lease, should the Town of Amherst (Town) receive informati that a person is in violation of the above-referenced certification, the Town will offer the person opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in t investment which is in violation of the Act within 90 days after the determination of such violation, th the Town shall take such action as appropriate including, but not limited to, imposing sanctions, seeki 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 enti that appears on the prohibited entities list prior to the award of a Contract/Lease, and to pursue responsibility review with respect to any entity that is awarded a Contract/Lease and appears on tl prohibited entities list after Contract/Lease award.

Company Name: Geiter Done of WNY Inc.

Signature: [signature]

Print Name: Michael Honer

Title: President

Date: 5/13/22

Sworn To Before Me This

13 Day of May, 2022

[signature]

Notary Public

KIMBERLY ANN MARRON
Notary Public - State of New York
NO. 01MA6416378
Qualified in Erie County
My Commission Expires Apr 12, 2025

Revised 4.201

Attachment: DOC052422-0524022085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

GEITDON-01 WTROXEL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/13/2022

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), AUTHORIZ REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endors If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 1009544 Lawley Construction Solutions 361 Delaware Avenue Buffalo, NY 14202	CONTACT NAME: Dawn Croft PHONE (A/C, No, Ext): (716) 849-4315 4315 FAX (A/C, No): (716) 849-829 E-MAIL ADDRESS: dcroft@lawleyinsurance.com
INSURED Geiter Done of WNY Inc 300 Greene Street Buffalo, NY 14206-1025	INSURER(S) AFFORDING COVERAGE — NAIC INSURER A : National Interstate Insurance Co — 32620 INSURER B : Merchants Mutual Ins Co — 23329 INSURER C : Great Divide Insurance Co — 25224 INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERI INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TI CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	X		LJG 5500007-00	1/17/2022	1/17/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,00 $ 10 $ $ 1,00 $ 2,00 $ 2,00
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			CAW 5500007-00	1/17/2022	1/17/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,00 $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			CUP0003384	4/27/2022	1/27/2023	EACH OCCURRENCE AGGREGATE	$ 2,000 $ 2,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
C	Pollution Liability			CPP203753110	4/28/2022	1/17/2024	1,000,000 Occurence	1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
See ACORD 101

CERTIFICATE HOLDER

Town of Amherst
5583 Main St.
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED I ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: DOC052422-052422085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

AGENCY CUSTOMER ID: GEITDON-01 WTROXEL
LOC #: 1

ACORD

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 1009544	NAMED INSURED
Lawley Construction Solutions		Geiter Done of WNY Inc 300 Greene Street Buffalo, NY 14206-1025 ERIE
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	EFFECTIVE DATE: SEE PAGE 1
SEE PAGE 1	SEE P 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

When Required by Executed Written Contract the folowing endorsements apply:

General Liability:
CG2404 (05/09) - Blanket Waiver of Subrogation
CG2001 (04/13) - Primary Non Contributory
CG2037 (04/13) - Blanket Additional Insured - Completed Operations
CG2010 (04/13) - Blanket Additional Insured

Auto:
NICA 5957 (0614) - Blanket Additional Insured Endorsement - New York
NICA 7034 (01/14) – Commercial Auto "Propel" Endorsement
CA0444 (10/13) – Waiver of Transfer of Rights of Recovery Against Others

Umbrella Liability:
CU2480 (12/19) - Waiver of Transfer or Rights of Recovery Against Others to Us
MU8622 (05/09) - Primary and Non-Contributing Insurance

Pollution:
CPP9005 (09/19)- Additional Insured

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Attachment: DOC052422-052422085508 (RES-2022-579 : Authorize Supervisor to Sign Contract to Piggyback for Geiter Done of WNY Inc -

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25883 **RESOLUTION 2022-580** **ADOPTED**

Award of 2022 - 2023 Purchasing Maintenance Materials Additional Bids Sections 2, 5 and 7

The Highway Department respectfully requests that the Purchasing Maintenance Materials Bids, Sections 2, 5 and 7 be awarded to the lowest bidders within specifications as follows:

Section 2: Pipe, Various sizes, including concrete, metal, HDPE, Pipe Liner, Fittings, Couplers and Flexible Ferncos:

2-A CRS # 3403 K & S Contractors Supply Inc
2-B CRS # 3404 Lock City Supply Inc

Section 5: Concrete Building Materials:

5-C CRS # 3405 VCNA United Materials (Scratons)

Section 7: Sign Material (Alum, sheeting), stop signs, sign poles, 3M Products, traffic control equipment (electrical systems) and traffic safety signs and cones and bars:

7-D CRS # 3406 Eastern Metal of Elmira Inc
7-E CRS # 3407 Traffic Systems Inc

Additional specifications and details are provided and attached per each section and bidder tab.

NOW THEREFORE BE IT RESOLVED, that the AMHERST TOWN BOARD authorizes the Amherst Town Supervisor to sign each contract listed above and approval of these contracts are contingent upon the successful completion of the Contract Routing System (CRS) and the Town Attorney approval.

6/6/2022
Consent

FINANCIAL IMPACT:

TOWN WIDE

VARIOUS

TBD

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

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25887 **RESOLUTION 2022-581** **ADOPTED**

Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co CRS #3429

NOW THEREFORE BE IT RESOLVED, that the Town of Amherst is approved to piggyback on the County of Erie -Construction and Maintenance Materials contract with Pavilion Drainage Supply Co for guide railing, median barrier and concrete barriers.

The Erie County and Pavilion Drainage Supply Co is Bid Reference #222105-004, Sections 568, 587 and E606 for guide railing, median barriers and concrete barriers. Contract term is 4/1/2022 through 3/31/2023.

NOW THEREFORE BE FURTHER RESOLVED, that the Town Board authorizes the Supervisor to sign this contract. This contract is contingent upon the successful completion of the Contract Routing System (CRS #3429) and the Town Attorney approval.

6/6/2022
Consent

FINANCIAL IMPACT:

KP 1919 : 4972

NTE $79,000.00

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 PAVILION DRAINAGE SUPPLY CO., INC. And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE-CONSTRUCTION AND MAINTENANCE MATERIALS
BID REFERENCE # 222105-004
4/1/2022 through 3/31/2023

SECTION 568 AND 587 - BRIDGE RAILING AND RECONSTRUCTION
SECTION E606 - Guide Railing, Median Barrier and Concrete Barrier
Pages 24, 25, 33, 35 AND 36.

from Pavilion Drainage Supply Co., Inc. under Erie County Construction and Maintenance Specifications of BID REFERENCE #222105-004 for the period from 4/1/2022 TO 3/31/2023.

Agreed to and Accepted by:

PAVILION DRAINAGE SUPPLY CO., INC.

By: Philip J Plossl
Signature

Philip J Plossl
Print Name

President
Title

Date: May 26, 2022

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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: Pavilion Drainage Co., Inc

Signature: Philip J Plossl

Print Name: Philip J Plossl

Title: President

Date: May 26, 2022

DENISE S. RADER
#01RA6215695
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN GENESEE COUNTY
MY COMMISSION EXPIRES JAN. 04, 20 26

Sworn To Before Me This
26th Day of May, 2022
Denise S Rader
Notary Public

Revised 4.2017

Attachment: DOC052722-052722022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Attachment: DOC052722-052722022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Addendum to Contract VENDOR ON SITE Major

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

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: DOC052722-052722022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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:

Pavilion Drainage Co., Inc.
Print Name of Company

By: Philip J Plossl
Signature

Philip J Plossl
Printed name

Date: May 26, 2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: DOC052722-0527022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

PAVIDRA-01

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY): 12/6/2021

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), AUTHORIZ REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endors If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Vanner Insurance Agency 90A John Muir Dr, Suite 100 Amherst, NY 14228	CONTACT NAME: PHONE (A/C, No, Ext): (716) 688-8888 FAX (A/C, No): (716) 688-900 E-MAIL ADDRESS: info@vannerinsurance.com
INSURED Pavilion Drainage Supply PO Box 219 Pavilion, NY 14525-0219	INSURER(S) AFFORDING COVERAGE — NAIC INSURER A : Travelers Indemnity Co — 25658 INSURER B : Travelers Indemnity Co of Amer — 25666 INSURER C : Travelers Cas Ins Co of Amer — 19046 INSURER D : West American Insurance Co — 44393 INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERI INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TI CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	CLAIMS-MADE X OCCUR	X		DT1NCO3K09218IND21	12/1/2021	12/1/2022	EACH OCCURRENCE	$ 1,00
	X Contractual Liab						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 30
	X XCU Included						MED EXP (Any one person)	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 1,00
	POLICY X PRO-JECT LOC						GENERAL AGGREGATE	$ 2,00
	OTHER:						PRODUCTS - COMP/OP AGG	$ 2,00
								$
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,00
	X ANY AUTO			BA1L2670412126G	12/1/2021	12/1/2022	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			CUP9S1523662126	12/1/2021	12/1/2022	EACH OCCURRENCE	$ 5,00
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 5,00
	DED X RETENTION $ 10,000							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N/A		UB3K0577932126G	12/1/2021	12/1/2022	E.L. EACH ACCIDENT	$ 1,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000
D	Build Risk/Floater			BMW59037560	12/1/2021	12/1/2022	Limit	1,000
D	Lease/Rented Equip			BMW59037560	12/1/2021	12/1/2022	Limit	250

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The Town of Amherst is named as additional insured on a primary and non-contributory basis when required by written contract or agreement.

Workers Compensation includes owners.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED I ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: DOC052722-052722124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) Pavilion Drainage Supply Co., Inc. PO Box 219 Pavilion NY 14525 **Work Location of Insured** *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	**1b. Business Telephone Number of Insured** 575-584-3261 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** 79120968 **1d. Federal Employer Identification Number of Insured or Social Security Number** 161125876
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville, NY 14221	**3a. Name of Insurance Carrier** Travelers Casualty Ins Co of America **3b. Policy Number of entity listed in box "1a"** UB3K0577932126G **3c. Policy effective period** 12/01/2021 to 12/01/2022 **3d. The Proprietor, Partners or Executive Officers are** ☑ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.***

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Ralph J. Vanner, Jr., CPCU
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: [signature] 12/06/2021
(Signature) (Date)

Title: CEO

Telephone Number of authorized representative or licensed agent of insurance carrier: (716) 688-8888

Please Note: *Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.*

Attachment: DOC052722-052722124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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)
PAVILION DRAINAGE SUPPLY CO INC

PO BOX 219
PAVILION, NY 14525

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
716-584-3261

1c. Federal Employer Identification Number of Insured or Social Security Number
161125876

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL53400

3c. Policy effective period
01/01/2021 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 12/6/2021 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: DOC052722-052722124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

COUNTY OF ERIE
DIVISION OF PURCHASE
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202

Bids for Construction and Maintenance Materials
For use by Erie County Department of Public Works,
Division of Highways

Submitted in accordance with New York State Specification
For the Year From April 1, 2022 – March 31, 2023

BID NO.: 222105-004

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Pat Roberts & Sons, Inc 1995 Woodward Road PO Box 125 Elma, New York 14059	716.863.3615	72, 75, 78, 81, 84, 87, 90, 93
Pavilion Drainage Supply Co., Inc. PO Box 219 6630 Ellicott Street Rd Pavilion, New York 14525	585.584.3261	24, 25, 33, 34, 35, 36
Redland Quarries of New York, Inc. dba Lafarge 75 Pineview Dr. Suite 100 Amherst, New York 14228	716.505.5300	3, 9, 10, 11, 12, 13, 23, 37, 67, 69, 71, 74, 75, 77, 80, 83, 86, 89, 92
Robinson Paving, Inc. PO Box 266 11525 Big Tree Road East Aurora, New York 14052	716.687.1045	46, 72, 78, 81, 84, 87, 90, 93
SJB Services, Inc 5167 South Park Avenue Hamburg, New York 14075	716.649.8110	54

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Section 416	Cold Recycling	416 – 1
Section 417	Heater Scarification of Hot Mix Asphalt Pavement	417 – 1
Section 490	Cold Milling	490 – 1
Section 550	**Structures**	
Section 555	Structural Concrete	555 – 1
Section 556	Reinforcing Steel for Concrete Structures	556 – 1
Section 568	Bridge Railing	568 – 1
Section 587	Bridge Railing Reconstruction	587 – 1
Section 600	**Incidental Construction**	
Section 603	Culverts and Storm Drains	603 – 1
Section 604	Drainage Structures	604 – 1
Section 605	Underdrains	605 – 1
Section 606	Guide Railing, Median Barrier, and Concrete Barrier	606 – 1
Section 608	Sidewalks, Driveways, Bicycle Paths and Vegetation Control Strips	608 – 1
Section 609	Curb and Curb & Gutter	609 – 1
Section 610	Ground Vegetation – Preparation, Establishment and Management	610 – 1
Section 614	Pruning, Improving and Removing Existing Vegetation	614 – 1
Section 619	Work Zone Traffic Control	619 – 1
Section 620	Bank and Channel Protection	620 – 1
Section 621	Cleaning Culverts, Drainage Structures and Existing Roadside Sections	621 – 1
Section 627	Cutting Pavement	627 – 1
Section 635	Cleaning and Preparation of Pavement Surfaces for Pavement Markings	635 – 1
Section 636	Emergency Repairs and As Directed	636 – 1
Section 640	Reflectorized Pavement Marking Paints	640 – 1

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 568			
Item No.	Item	Pay Unit	Pavillion Drainage Supply Co.
568.50	Steel Bridge Railing (Two-Rail)	Foot	$282.00
568.51	Steel Bridge Railing (Four-Rail)	Foot	$480.00
568.52	Steel Bridge Railing (Five-Rail)	Foot	$555.00
568.53	Steel Bridge Railing (Two-Rail) with Handrail	Foot	$362.00
568.54	Steel Bridge Railing (Three-Rail)	Foot	$380.00
568.70	Transition Bridge Railing	Foot	$370.00
568.70020002	Resetting Transition Bridge Railing	Foot	--

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 587			
Item No.	Item	Pay Unit	Pavillion Drainage Supply Co.
587.01	Bridge Railing Removal and Disposal	Foot	--
587.05010015	Bridge Steel Bridge Railing Replacement Clamp	Each	$665.00
587.1001	Box Beam Bridge Rail, One Rail	Foot	$196.00
587.1002	Box Beam Bridge Rail, Two Rail	Foot	$255.00

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
E203.99	Windrow Excavation & Removal	Bid in Section 203		
E606.10A	Box Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	--	$73.45
E606.10B	Box Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	--	$62.95
E606.10C	Box Beam Guide Railing (Furnished & Installed) 501' - 1,000'	LF	--	$57.70
E606.10D	Box Beam Guide Railing (Furnished & Installed) over 1000'	LF	--	$56.40
E606.10F	Box Beam Guide Railing (Furnish Only)	LF	$55.00	$41.10
606.100002	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnished and Instaled)	LF	--	$74.00
E606.100002F	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnish Only)	LF	$66.25	$56.25
E606.11A	Box Beam Median Barrier (Furnished & Installed) 1' - 100'	LF	--	$92.00
E606.11B	Box Beam Median Barrier (Furnished & Installed) 101' - 500'	LF	--	$80.85
E606.11C	Box Beam Median Barrier (Furnished & Installed) 501' - 1000'	LF	--	$75.60
E606.11D	Box Beam Median Barrier (Furnished & Installed) over 1000'	LF	--	$74.30
606.120101	Box Beam End Piece	EA	$726.25	$745.00
606.120102	Box Beam Guide Railing End Assembly Type I (Furnish & Install)	EA	--	$5,325.00
E606.120102F	Box Beam Guide Railing End Assembly Type I (Furnish Only)	EA	$4,732.50	$3,820.00
606.120201	Box Beam Guide Railing End Assembly Type IIA (Furnish & Install)	EA	--	$2,625.00
E606.120201F	Box Beam Guide Railing End Assembly Type IIA (Furnish Only)	EA	$6,212.50	$1,850.00
606.1203	Box Beam End Assembly Type III	EA	--	$7,540.00
E606.18A	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	--	$48.60
E606.18B	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	--	$29.55
E606.18C	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 501' - 1000'	LF	--	$28.00
E606.18D	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) over 1000'	LF	--	$26.25
E606.18F	Weak-Post, Corrugated Beam Guide Railing (Furnish Only)	LF	$24.37	$19.55
606.22	Anchorage Units for Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$1,490.00
606.23	Anchorage Units for Corrugated Beam Guide Railing (Driveways, Walkways and Other Openings) (Furnish & Install)	EA	--	$1,440.00

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.26	Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	--	$6,250.00
606.27	HPBO (Mod.) Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	--	$4,665.00
E606.2701A	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 1' - 100'	LF	--	$61.75
E606.2701B	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 101' - 500'	LF	--	$37.90
E606.2701C	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 501' - 1000'	LF	--	$35.50
E606.2701D	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) over 1000'	LF	--	$33.85
606.270101	HPBO (Mod.) Corrugated Beam Guide Railing Shop Curved (Furnish & Install)	LF	--	$42.00
606.2703	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$2,090.00
606.2704	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing Buried in Back Slope (Furnish & Install)	EA	--	$2,210.00
E606.32A	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 1'-100'	LF	--	$60.65
E606.32B	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 101'-500'	LF	--	$38.80
E606.32C	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 501'-1,000'	LF	--	$34.40
E606.32D	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) over 1000'	LF	--	$32.75

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.4805	I-Beam Posts for Existing Corrugated Beam Guide Railing (Furnish and Install)	EA	--	$115.00
E606.480501	I-Beam Post Installations for Corrugated Beam Guide Railing (Furnish Only)	EA	--	$55.00
E606.480502	I-Beam Post Installations for Corrugated Beam Guide Railing (Install Only)	EA	--	$90.50
E606.4818	I-Beam Posts for Existing HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$115.00
E606.5148A	Resetting Corrugated Beam Guide Railing (New Posts) 1'-100'	LF	--	$40.60
E606.5148B	Resetting Corrugated Beam Guide Railing (New Posts) 101'-500'	LF	--	$24.25
E606.5148C	Resetting Corrugated Beam Guide Railing (New Posts) Over 500 ft.	LF	--	$18.60
E606.5348A	Resetting Box Beam Guide Railing (New Posts) 1'-100'	LF	--	$57.60
E606.5348B	Resetting Box Beam Guide Railing (New Posts) 101'-500'	LF	--	$36.70
E606.5348C	Resetting Box Beam Guide Railing (New Posts) Over 500 ft.	LF	--	$31.30
E606.5501A	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 1'-100'	LF	--	$48.95
E606.5501B	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 101'-500'	LF	--	$26.30
E606.5501C	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 501'-1000'	LF	--	$20.40
E606.5501D	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) over 1000'	LF	--	$17.00
E606.550101	Resetting HPBO Corrugated Beam Guide Railing (Heavy Posts and Blockouts Furnished by Others)	LF	--	$25.00
E606.5601	Resetting HPBO Corrugated Beam Median Barrier (New 12" Blockouts)	LF	--	$52.25
E606.560101	Resetting HPBO Corrugated Beam Median Barrier (New 12" Blockouts) (Furnished by others)	LF	--	$48.10
606.5910	Resetting Anchorage Units for Corrugated Beam Guide Railing or Median Barrier	EA	--	$730.00
606.86	Guide Rail Transition Corrugated Beam to Thrie Beam	EA	--	$7,325.00
606.8701	Corrugated Beam Guide Railing Transition Assembly to Two Rail Steel Bridge Railing	EA	--	--

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.8702	Corrugated Beam Guide Railing Transition Assembly to Four Rail Steel Bridge Railing	EA	--	--
606.8703	Corrugated Beam Guide Railing Transition Assembly to Discontinuous Steel Bridge Railing	EA	--	--
606.8704	Corrugated Beam Guide Railing Transition Assembly to Concrete Parapets or Concrete Barrier	EA	--	$1,700.00
606.8801	Box Beam Guide Rail Transition to Concrete Barrier (One or Two Way Operation)	EA	--	$7,900.00
606.8802	Box Beam Guide Rail Transition to Concrete Barrier (One Way - Trailing End)	EA	--	$5,600.00
606.8901	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Box Beam Guide Railing	EA	--	$6,900.00
606.8902	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Weak Post Corrugated Beam Guide Railing	EA	--	$3,600.00
E606.9905	Guiderail Removal	LF	--	$2.50
E606.9906	Asphalt Concrete Mowing Strips	Ton	--	$730.00
E606.9909	Maintenance & Protection of Traffic	LF	--	$2.50
E636.0105	As Directed: Guide Railing Maintenance and Repair Work	Bid in Section 636		

Attachment: DOC052722-05272022124602 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

AGREEMENT

Let this document stand as an Agreement between PAVILION DRAINAGE SUPPLY CO., INC. And the Town of Amherst permitting the Town of Amherst to participate in the purchase of :

COUNTY OF ERIE-CONSTRUCTION AND MAINTENANCE MATERIALS
BID REFERENCE # 222105-004
4/1/2022 through 3/31/2023

SECTION 568 AND 587 - BRIDGE RAILING AND RECONSTRUCTION
SECTION E606 - Guide Railing, Median Barrier and Concrete Barrier
Pages 24, 25, 33, 35 AND 36.

from Pavilion Drainage Supply Co., Inc. under Erie County Construction and Maintenance Specifications of BID REFERENCE #222105-004 for the period from 4/1/2022 TO 3/31/2023.

Agreed to and Accepted by:

PAVILION DRAINAGE SUPPLY CO., INC.

By: Philip J Plossl
Signature

Philip J Plossl
Print Name

President
Title

Date: May 26, 2022

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian Kulpa
Supervisor

Date: _____

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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: Pavilion Drainage Co., Inc

Signature: Philip J Plossl

Print Name: Philip J Plossl

Title: President

Date: May 26, 2022

DENISE S. RADER
#01RA6215695
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN GENESEE COUNTY
MY COMMISSION EXPIRES JAN. 04, 20 26

Sworn To Before Me This
26th Day of May, 2022
Denise S. Rader
Notary Public

Revised 4.2017

Attachment: DOC052722-052722134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Attachment: DOC052722-052722022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Addendum to Contract VENDOR ON SITE Major

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

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: DOC052722-052722022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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:

Pavilion Drainage Co., Inc.
Print Name of Company

By: Philip J Plossl
Signature

Philip J Plossl
Printed name

Date: May 26, 2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

PAVIDRA-01 CBLAIR

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. THI CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIE BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZE REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorse If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement o this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Vanner Insurance Agency 90A John Muir Dr, Suite 100 Amherst, NY 14228	CONTACT NAME: PHONE (A/C, No, Ext): (716) 688-8888 FAX (A/C, No): (716) 688-9001 E-MAIL ADDRESS: info@vannerinsurance.com
INSURED Pavilion Drainage Supply PO Box 219 Pavilion, NY 14525-0219	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Travelers Indemnity Co — 25658 INSURER B : Travelers Indemnity Co of Amer — 25666 INSURER C : Travelers Cas Ins Co of Amer — 19046 INSURER D : West American Insurance Co — 44393 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 PERIO INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THI CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Contractual Liab X XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		DT1NCO3K09218IND21	12/1/2021	12/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000, $ 300, $ 5, $ 1,000, $ 2,000, $ 2,000,
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			BA1L2670412126G	12/1/2021	12/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000, $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			CUP9S1523662126	12/1/2021	12/1/2022	EACH OCCURRENCE AGGREGATE	$ 5,000, $ 5,000,
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		UB3K0577932126G	12/1/2021	12/1/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000, $ 1,000, $ 1,000,(
D	Build Risk/Floater			BMW59037560	12/1/2021	12/1/2022	Limit	1,000,(
D	Lease/Rented Equip			BMW59037560	12/1/2021	12/1/2022	Limit	250,(

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The Town of Amherst is named as additional insured on a primary and non-contributory basis when required by written contract or agreement.

Workers Compensation includes owners.

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: DOC052722-052722134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) Pavilion Drainage Supply Co., Inc. PO Box 219 Pavilion NY 14525 **Work Location of Insured** *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	**1b. Business Telephone Number of Insured** 575-584-3261 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** 79120968 **1d. Federal Employer Identification Number of Insured or Social Security Number** 161125876
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst 5583 Main Street Williamsville, NY 14221	**3a. Name of Insurance Carrier** Travelers Casualty Ins Co of America **3b. Policy Number of entity listed in box "1a"** UB3K0577932126G **3c. Policy effective period** 12/01/2021 to 12/01/2022 **3d. The Proprietor, Partners or Executive Officers are** ☑ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.***

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Ralph J. Vanner, Jr., CPCU
(Signature of authorized representative or licensed agent of insurance carrier)

Approved by: [signature] 12/06/2021
(Signature) (Date)

Title: CEO

Telephone Number of authorized representative or licensed agent of insurance carrier: (716) 688-8888

Please Note: *Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are* ***NOT*** *authorized to issue it.*

Attachment: DOC052722-052722022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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)
PAVILION DRAINAGE SUPPLY CO INC

PO BOX 219
PAVILION, NY 14525

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
716-584-3261

1c. Federal Employer Identification Number of Insured or Social Security Number
161125876

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)
Town of Amherst
5583 Main Street
Williamsville, NY 14221

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL53400

3c. Policy effective period
01/01/2021 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 12/6/2021 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: DOC052722-052722134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

COUNTY OF ERIE
DIVISION OF PURCHASE
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202

Bids for Construction and Maintenance Materials
For use by Erie County Department of Public Works,
Division of Highways

Submitted in accordance with New York State Specification
For the Year From April 1, 2022 – March 31, 2023

BID NO.: 222105-004

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Pat Roberts & Sons, Inc 1995 Woodward Road PO Box 125 Elma, New York 14059	716.863.3615	72, 75, 78, 81, 84, 87, 90, 93
Pavilion Drainage Supply Co., Inc. PO Box 219 6630 Ellicott Street Rd Pavilion, New York 14525	585.584.3261	24, 25, 33, 34, 35, 36
Redland Quarries of New York, Inc. dba Lafarge 75 Pineview Dr. Suite 100 Amherst, New York 14228	716.505.5300	3, 9, 10, 11, 12, 13, 23, 37, 67, 69, 71, 74, 75, 77, 80, 83, 86, 89, 92
Robinson Paving, Inc. PO Box 266 11525 Big Tree Road East Aurora, New York 14052	716.687.1045	46, 72, 78, 81, 84, 87, 90, 93
SJB Services, Inc 5167 South Park Avenue Hamburg, New York 14075	716.649.8110	54

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Section 416	Cold Recycling	416 – 1
Section 417	Heater Scarification of Hot Mix Asphalt Pavement	417 – 1
Section 490	Cold Milling	490 – 1
Section 550	**Structures**	
Section 555	Structural Concrete	555 – 1
Section 556	Reinforcing Steel for Concrete Structures	556 – 1
Section 568	Bridge Railing	568 – 1
Section 587	Bridge Railing Reconstruction	587 – 1
Section 600	**Incidental Construction**	
Section 603	Culverts and Storm Drains	603 – 1
Section 604	Drainage Structures	604 – 1
Section 605	Underdrains	605 – 1
Section 606	Guide Railing, Median Barrier, and Concrete Barrier	606 – 1
Section 608	Sidewalks, Driveways, Bicycle Paths and Vegetation Control Strips	608 – 1
Section 609	Curb and Curb & Gutter	609 – 1
Section 610	Ground Vegetation – Preparation, Establishment and Management	610 – 1
Section 614	Pruning, Improving and Removing Existing Vegetation	614 – 1
Section 619	Work Zone Traffic Control	619 – 1
Section 620	Bank and Channel Protection	620 – 1
Section 621	Cleaning Culverts, Drainage Structures and Existing Roadside Sections	621 – 1
Section 627	Cutting Pavement	627 – 1
Section 635	Cleaning and Preparation of Pavement Surfaces for Pavement Markings	635 – 1
Section 636	Emergency Repairs and As Directed	636 – 1
Section 640	Reflectorized Pavement Marking Paints	640 – 1

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 568			
Item No.	Item	Pay Unit	Pavillion Drainage Supply Co.
568.50	Steel Bridge Railing (Two-Rail)	Foot	$282.00
568.51	Steel Bridge Railing (Four-Rail)	Foot	$480.00
568.52	Steel Bridge Railing (Five-Rail)	Foot	$555.00
568.53	Steel Bridge Railing (Two-Rail) with Handrail	Foot	$362.00
568.54	Steel Bridge Railing (Three-Rail)	Foot	$380.00
568.70	Transition Bridge Railing	Foot	$370.00
568.70020002	Resetting Transition Bridge Railing	Foot	--

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 587			
Item No.	Item	Pay Unit	Pavillion Drainage Supply Co.
587.01	Bridge Railing Removal and Disposal	Foot	--
587.05010015	Bridge Steel Bridge Railing Replacement Clamp	Each	$665.00
587.1001	Box Beam Bridge Rail, One Rail	Foot	$196.00
587.1002	Box Beam Bridge Rail, Two Rail	Foot	$255.00

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
E203.99	Windrow Excavation & Removal	Bid in Section 203		
E606.10A	Box Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	--	$73.45
E606.10B	Box Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	--	$62.95
E606.10C	Box Beam Guide Railing (Furnished & Installed) 501' - 1,000'	LF	--	$57.70
E606.10D	Box Beam Guide Railing (Furnished & Installed) over 1000'	LF	--	$56.40
E606.10F	Box Beam Guide Railing (Furnish Only)	LF	$55.00	$41.10
606.100002	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnished and Instaled)	LF	--	$74.00
E606.100002F	Box Beam Guide Railing (Shop Bent or Shop Mitered) (Furnish Only)	LF	$66.25	$56.25
E606.11A	Box Beam Median Barrier (Furnished & Installed) 1' - 100'	LF	--	$92.00
E606.11B	Box Beam Median Barrier (Furnished & Installed) 101' - 500'	LF	--	$80.85
E606.11C	Box Beam Median Barrier (Furnished & Installed) 501' - 1000'	LF	--	$75.60
E606.11D	Box Beam Median Barrier (Furnished & Installed) over 1000'	LF	--	$74.30
606.120101	Box Beam End Piece	EA	$726.25	$745.00
606.120102	Box Beam Guide Railing End Assembly Type I (Furnish & Install)	EA	--	$5,325.00
E606.120102F	Box Beam Guide Railing End Assembly Type I (Furnish Only)	EA	$4,732.50	$3,820.00
606.120201	Box Beam Guide Railing End Assembly Type IIA (Furnish & Install)	EA	--	$2,625.00
E606.120201F	Box Beam Guide Railing End Assembly Type IIA (Furnish Only)	EA	$6,212.50	$1,850.00
606.1203	Box Beam End Assembly Type III	EA	--	$7,540.00
E606.18A	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 1' - 100'	LF	--	$48.60
E606.18B	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 101' - 500'	LF	--	$29.55
E606.18C	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) 501' - 1000'	LF	--	$28.00
E606.18D	Weak-Post, Corrugated Beam Guide Railing (Furnished & Installed) over 1000'	LF	--	$26.25
E606.18F	Weak-Post, Corrugated Beam Guide Railing (Furnish Only)	LF	$24.37	$19.55
606.22	Anchorage Units for Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$1,490.00
606.23	Anchorage Units for Corrugated Beam Guide Railing (Driveways, Walkways and Other Openings) (Furnish & Install)	EA	--	$1,440.00

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.26	Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	--	$6,250.00
606.27	HPBO (Mod.) Corrugated Beam Guide Railing End Terminal (Energy-Absorbing) (Furnish & Install)	EA	--	$4,665.00
E606.2701A	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 1' - 100'	LF	--	$61.75
E606.2701B	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 101' - 500'	LF	--	$37.90
E606.2701C	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) 501' - 1000'	LF	--	$35.50
E606.2701D	HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install) over 1000'	LF	--	$33.85
606.270101	HPBO (Mod.) Corrugated Beam Guide Railing Shop Curved (Furnish & Install)	LF	--	$42.00
606.2703	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$2,090.00
606.2704	Anchorage Units for HPBO (Mod.) Corrugated Beam Guide Railing Buried in Back Slope (Furnish & Install)	EA	--	$2,210.00
E606.32A	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 1'-100'	LF	--	$60.65
E606.32B	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 101'-500'	LF	--	$38.80
E606.32C	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) 501'-1,000'	LF	--	$34.40
E606.32D	Heavy Post Blocked-Out Corrugated Beam Guide Railing (Furnished and installed) over 1000'	LF	--	$32.75

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.4805	I-Beam Posts for Existing Corrugated Beam Guide Railing (Furnish and Install)	EA	--	$115.00
E606.480501	I-Beam Post Installations for Corrugated Beam Guide Railing (Furnish Only)	EA	--	$55.00
E606.480502	I-Beam Post Installations for Corrugated Beam Guide Railing (Install Only)	EA	--	$90.50
E606.4818	I-Beam Posts for Existing HPBO (Mod.) Corrugated Beam Guide Railing (Furnish & Install)	EA	--	$115.00
E606.5148A	Resetting Corrugated Beam Guide Railing (New Posts) 1'-100'	LF	--	$40.60
E606.5148B	Resetting Corrugated Beam Guide Railing (New Posts) 101'-500'	LF	--	$24.25
E606.5148C	Resetting Corrugated Beam Guide Railing (New Posts) Over 500 ft.	LF	--	$18.60
E606.5348A	Resetting Box Beam Guide Railing (New Posts) 1'-100'	LF	--	$57.60
E606.5348B	Resetting Box Beam Guide Railing (New Posts) 101'-500'	LF	--	$36.70
E606.5348C	Resetting Box Beam Guide Railing (New Posts) Over 500 ft.	LF	--	$31.30
E606.5501A	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 1'-100'	LF	--	$48.95
E606.5501B	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 101'-500'	LF	--	$26.30
E606.5501C	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) 501'-1000'	LF	--	$20.40
E606.5501D	Resetting HPBO Corrugated Beam Guide Railing (New 12 in. Blockouts) over 1000'	LF	--	$17.00
E606.550101	Resetting HPBO Corrugated Beam Guide Railing (Heavy Posts and Blockouts Furnished by Others)	LF	--	$25.00
E606.5601	Resetting HPBO Corrugated Beam Median Barrier (New 12" Blockouts)	LF	--	$52.25
E606.560101	Resetting HPBO Corrugated Beam Median Barrier (New 12" Blockouts) (Furnished by others)	LF	--	$48.10
606.5910	Resetting Anchorage Units for Corrugated Beam Guide Railing or Median Barrier	EA	--	$730.00
606.86	Guide Rail Transition Corrugated Beam to Thrie Beam	EA	--	$7,325.00
606.8701	Corrugated Beam Guide Railing Transition Assembly to Two Rail Steel Bridge Railing	EA	--	--

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

2022 Summer Maintenance Bid

SECTION 606				
Item No.	Item	Pay Unit	Chemung Supply Inc.	Pavillion Drainage Supply Co.
606.8702	Corrugated Beam Guide Railing Transition Assembly to Four Rail Steel Bridge Railing	EA	--	--
606.8703	Corrugated Beam Guide Railing Transition Assembly to Discontinuous Steel Bridge Railing	EA	--	--
606.8704	Corrugated Beam Guide Railing Transition Assembly to Concrete Parapets or Concrete Barrier	EA	--	$1,700.00
606.8801	Box Beam Guide Rail Transition to Concrete Barrier (One or Two Way Operation)	EA	--	$7,900.00
606.8802	Box Beam Guide Rail Transition to Concrete Barrier (One Way - Trailing End)	EA	--	$5,600.00
606.8901	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Box Beam Guide Railing	EA	--	$6,900.00
606.8902	Transition: Heavy Posts Blocked Out (MOD.) Corrugated Guide Railing to Weak Post Corrugated Beam Guide Railing	EA	--	$3,600.00
E606.9905	Guiderail Removal	LF	--	$2.50
E606.9906	Asphalt Concrete Mowing Strips	Ton	--	$730.00
E606.9909	Maintenance & Protection of Traffic	LF	--	$2.50
E636.0105	As Directed: Guide Railing Maintenance and Repair Work	Bid in Section 636		

Attachment: DOC052722-05272022134638 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

Prevailing Wage

PRC#: 2022001272
Type of Contracting Agency: Town

Acceptance Status: Accepted Article 8

Contracting Agency

TOWN OF AMHERST
TODD SYKES
Working Crewchief
1042 NORTH FOREST RD
AMHERST NY 14221

(716) 631-7117
TSYKES@AMHERST.NY.US

Send Reply To

Project Information

Project Title	CONSTRUCTION
Description of Work	Construction on various roads within the Town of Amherst
Contract Id No.	
Project Locations(s)	VARIOUS ROADS
Route No / Street Address	1042 NORTH FOREST RD
Village / City	AMHERST
Town	AMHERST
State / Zip	NY 14221
Nature of Project	Heavy and Highway Construction (New and Repair)
Approximate Bid Date	02/23/2022
Checked Occupation(s)	Construction (Building, Heavy & Highway, Sewer, Water, Tunnel)

Applicable Counties

Erie

Attachment: DOC052722-05272022124336 (RES-2022-581 : Authorize Supervisor to Sign Contract to Piggyback - Pavilion Drainage Supply Co

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 25914 **RESOLUTION 2022-582** **ADOPTED**

Highway CIP Budget Amendment

The Highway Department respectfully requests that the 2022 Capital Improvement Program be amended from $750,000 LD to $830,000 LD. The increase is for an additional $80,000 LD for the Project H-2, Highway Vehicles and Equipment.

The increase reflects two (2) additional vehicles (pick-ups trucks) to be added to the list of replacement vehicles and equipment for 2022.

Thank you for your time and consideration!

6/6/2022
Consent

FINANCIAL IMPACT:

PROJECT ID H-2 HIGHWAY VEHICLES AND EQUIPMENT

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

Engineering Department (cont'd)

Recommended Schedule (X $1,000)

Project ID	Project Title/Description	2022	2023	2024	2025	2026	2027	Total Cost
E-49	**Casey Road Bicycle & Pedestrian Improvements – Phase 2:** Installation of bike lanes and sidewalk along Casey between Paradise Park and Transit Road; a 'Complete Streets' approach. Completes a multi-use trail connection through Williamsville School District property and to the Hopkins Road Trail. *(2018)*		250 LA 1,500 F/S	250 LA				**$2,000,000**
E-50	**North Bailey Road Expansion:** Study and engineering of North Bailey Road from Maple Rd to Ridge Lea Rd for expansion to accommodate traffic. *(2022)*							
E-51	**Engineering Department Building Improvements:** Phase 1 includes updating generators, replacing existing siding, and adding a privacy fence behind Plant 1. Phase 2 includes demolition of the existing LAB building at Plant 1 and installing a storage building. *(2022)*		325 LA	185 LA				**$510,000**

TOTAL 2022 ENGINEERING BONDING: $8,432,000

Highway Department

Recommended Schedule (X $1,000)

Project ID	Project Title/Description	2022	2023	2024	2025	2026	2027	Total Cost
H-1	**Paving:** Repave various Town roads. *(2012)*	2,000 LD	2,000 LD	2,250 LD	2,250 LD	2,250 LD	2,250 LD	**$13,000,000**
H-2	**Highway Vehicles & Equipment:** Replacement of various vehicles and equipment. *(2018)*	750 LD	750 LD	750 LD	750 LD	750 LD	750 LD	**$5,250,000**
H-3	**Town-wide Road Striping:** Striping of various Town roads. *(2020)*	75 LD	101.9 LD	101.9 LD	101.9 LD	101.9 LD	101.9 LD	**$584,500**
H-4	**Town-wide Curbing Replacement:** Replacement of Town curbs as needed based on complaints received. *(2020)*	75 LD	201.3 LD	201.3 LD	201.3 LD	201.3 LD	201.3 LD	**$1,081,250**

Key:

Funding Source
T – Tax
L – Bond
S – Surplus
E – Encumbered
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
L – Water District
W – Water Pollution Control Facility
– Special District Number
NS – None Submitted

Attachment: DOC060122-06012022100558 (RES-2022-582 : Highway CIP Budget Amendment)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25946 **RESOLUTION 2022-583** **ADOPTED AS AMENDED**

Architect/Facilities

Please create and appoint an Architect to the Facilities Department. Provisional, pending satisfactory completion of a Civil Service Examination. Effective June 21, 2022, at an annual salary of $113,457.18, Grade 1, Step K of the Exempt Non-Department Head Salary Schedule for Anne Dafchik.

Set a six (6) month residency waiver.
Contingent upon completing all pre-employment requirements.

6/6/2022
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

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25893 **RESOLUTION 2022-584** **ADOPTED**

Laborer/Youth & Recreation

Please appoint a Laborer to the Youth & Recreation Department. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective June 7, 2022, at an hourly rate of $17.06, Step A for Ian Mills.

Replacing an employee who transferred to another department.

6/6/2022
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: 06/06/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 25901 **RESOLUTION 2022-585** **ADOPTED**

Cleaner - PT/Police Department

Please appoint a Cleaner - PT to the Police Department, Temporary, Effective June 7, 2022, $13.20 ph, Step 1 for James Eichinger.

Contingent upon completing all pre-employment requirements.

Replacing an employee who resigned.

6/6/2022
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: 06/06/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25873 **RESOLUTION 2022-586** **ADOPTED**

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

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

WHEREAS, a household on Capen Boulevard had substantial work done to their home including a roof replacement, garage, driveway and installation of drain tile in basement; and

WHEREAS, the household needs rehabilitation work done to the bathroom; and

WHEREAS, Community Development is requesting permission to extend additional housing rehabilitation loan funds to this household not to exceed $55,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town of Amherst authorizes Community Development to exceed the $40,000 loan limit using CDBG funding for this household, not to exceed $55,000.

6/6/2022
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution utilizes federal funds and will have no impact on the Town Budget or tax rate.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	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, AICP
Planning Director
Daniel J. Ulatowski, AICP
Assistant Planning Director

May 20, 2022

Agenda of June 6, 2022

Honorable Town Board
5583 Main Street
Williamsville, NY 14221

Subject: Request to exceed $40,000 loan limit on a Capen Boulevard Household

Honorable Members:

The Community Development Program is requesting permission to exceed the $40,000 loan limit to assist a household on Capen Boulevard. The household had rehabilitation work done to their home through the rehabilitation program in 2008 & 2017 that included a demolition of the garage and replacement; roof replacement, a new boiler, a new concrete driveway and basement drain tile. Now, the household needs the bathroom rehabilitated, which will exceed the $40,000 loan limit of the program.

Community Development requests permission to provide up to, but not to exceed $55,000 in CDBG loan funds. The household has over $73,000 in equity on the property. The CDBG funds are allocated to the Town by the U.S. Department of Housing & Urban Development and are not part of the Town's overall operating budget. The expenditure of these funds in accordance with federal regulations has no direct fiscal impact on the Town.

We would appreciate an indication from the Board of its willingness to extend additional housing rehabilitation loan funds to this household before we authorize the homeowner to commence with the proposed work. Attached is a resolution for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

X:\Community Development\Housing_Rehabilitation_Program\Letters\Exceed\159_Capen_TB_letter_6.6.22.doc

Attachment: signed TB letter 159 Capen (RES-2022-586 : Request to Exceed the $40,000 Loan Limit on Capen Boulevard)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25899 **RESOLUTION 2022-587** **ADOPTED**

To Authorize Community Development to Exceed the $40,000 Loan Limit for a Household on Eggert Road

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

WHEREAS, a household on Eggert Road had substantial work done to their home in 2006 including a roof replacement, window replacement, garage door replacement, new electrical service; and

WHEREAS, the household needs additional rehabilitation work done to their home which includes basement drain tile, window replacement and bathroom repair including new tile and flooring; and

WHEREAS, Community Development is requesting permission to extend additional housing rehabilitation loan funds to this household not to exceed a total amount of $77,000;

NOW THEREFORE, BE IT RESOLVED THAT the Town Board authorizes Community Development to exceed the $40,000 loan limit using CDBG funding for this household, not to exceed $77,000.

6/6/2022
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution utilizes federal funds and will have no impact on the Town Budget or tax rate.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	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, AICP
Planning Director
Daniel J. Ulatowski, AICP
Assistant Planning Director

May 31, 2022

Agenda of June 6, 2022

Honorable Town Board
5583 Main Street
Williamsville, NY 14221

Subject: Request to exceed $40,000 loan limit on an Eggert Road Household

Honorable Members:

The Community Development Program is requesting permission to exceed the $40,000 loan limit to assist a household on Eggert Road. Previous rehabilitation work done to the home through the Town's Rehabilitation Program (2006) included roof and window replacement, garage door replacement, new electrical service, and glass block windows. Now, the household requires basement drain tile, new windows and rehabilitation work for the bathroom, which will exceed the $40,000 loan limit of the program.

Community Development requests permission to provide up to, but not to exceed a total of $77,000 in cumulative CDBG loan funds. With this increase, the property will still have over $47,000 in remaining equity. CDBG funds are allocated to the Town by the U.S. Department of Housing & Urban Development and are not part of the Town's overall operating budget. The expenditure of these funds in accordance with federal regulations has no direct fiscal impact on the Town.

We would appreciate an indication from the Board of its willingness to extend additional housing rehabilitation loan funds to this household before we authorize the homeowner to commence with the proposed work. Attached is a resolution for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

X:\Community Development\Housing_Rehabilitation_Program\Letters\Exceed\836_Eggert_Rd_TB_letter_6.6.22.doc

Attachment: eggert-05312022144929 (RES-2022-587 : Request to Exceed the $40,000 Loan Limit on Eggert Road)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 25916 **RESOLUTION 2022-588** **ADOPTED**

To Request the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) to Acquire Certain Properties on Behalf of the Town of Amherst

WHEREAS, in July 2011 in recognition of the growing problem of distressed, vacant, abandoned, and tax-delinquent properties, New York State passed the Land Bank Act, as Article 16 of the New York State Not-for-Profit Corporation Law, which authorizes and Foreclosing Governmental Unit (FGU) to create a land bank to strategically acquire, improve, assemble, and sell these properties; and

WHEREAS, under this law, the Buffalo Erie Niagara Land Improvement Corporation (BENLIC) was formed in May 2012 via an inter-municipal agreement among the county's four FGUs: Erie County and the Cities of Buffalo, Lackawanna, and Tonawanda; and

WHEREAS, BENLIC (the land bank) seeks to work collaboratively with the cities, towns, and villages within Erie County to address the growing problem of distressed, vacant, abandoned, and tax-delinquent properties; and

WHEREAS; the Town of Amherst**,** Erie County, has recognized the need to address the growing issue of distressed, vacant, abandoned, and tax-delinquent properties and desires to partner with BENLIC to address the problem, now therefore be it

RESOLVED, that the Town of Amherst hereby officially requests that BENLIC acquire the properties identified herein:

135 Halwill Drive, Amherst, NY, SBL#68.140-1-22.00; and be it further

RESOLVED, that the Town of Amherst has completed the required Acquisition Applications for each property listed above and has attached the Acquisition Applications to this resolution; and be it further

RESOLVED, that the Town of Amherst agrees to reimburse Erie County for the costs associated with foreclosure of this property; and be it further

RESOLVED, that certified copies of this resolution will be sent to the Executive Director of the Buffalo Erie Niagara Land Improvement Corporation; the Commissioner of the Erie County Department of Environment and Planning; the Director of the City of Buffalo's Office of Strategic Planning; and the Mayors of the cities of Lackawanna and Tonawanda.

6/6/2022
Consent

FINANCIAL IMPACT:

Funds required for the foreclosure fee of 135 Halwill Drive are in the Distressed Properties account (T4019.4002).

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, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Directo

May 31, 2022

Agenda of June 6, 2022

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

Subject: Buffalo Erie Niagara Land Improvement Corporation Request to Acquire 135 Halwill Drive, Amherst NY 14226

Honorable Members:

The Buffalo Erie Niagara Land Improvement Corporation (BENLIC) was formed for the purpose of addressing distressed, vacant, abandoned, and tax-delinquent properties. BENLIC can acquire property on behalf of a municipality to assist in returning vacant or blighted properties to the tax rolls.

On behalf of the Town of Amherst we request that BENLIC acquire 135 Halwill Drive, Amherst NY 14226 at the upcoming Erie County Tax Auction. The structure is a vacant single-family home and a reoccurring problem with code enforcement. The Planning Department is requesting BENLIC to acquire this property for their Note & Mortgage process to rehab it for sale to a new owner-occupant.

The only cost to the Town is the foreclosure fee on the property, totaling $1,400 and to be paid out of the Distressed Properties Trust Account. Once BENLIC rehabs and sells the property, the Town will be entitled to a share of the proceeds, depending upon the final proceeds received. Any proceeds received up to $1,400 will be paid back to the Distressed Properties Trust Account.

A draft resolution for BENLIC to acquire 135 Halwill is attached for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Attachment: tb benlic-060120220917 21 (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town of Amherst)

Request for Foreclosure (RFF)
Structure Acquisition Application
Buffalo Erie Niagara Land Improvement Corporation (BENLIC)

STRUCTURES

SECTION I: APPLICANT INFORMATION

Date: 5/31/2022

Town of Amherst	5583 Main Street, Williamsville NY 14221
Municipality	Contact Address
James Quinn, Assistant Planner	(716) 631-7104
Contact Person & Title	Contact Number(s)
	jquinn@amherst.ny.us
	Contact Email

SECTION II: INSPECTOR REPORT

135 Halwill Drive, Amherst NY 14226	68.14-1-22
Structure Address (*Please attach photo*)	Section-Block-Lot (SBL)
210	219,000 / $400,000
Property Class Code	Assessed Value / Full Market Value

1.) Please attach the applicable resolution

2.) Please attach Assessment and Inventory Information (e.g. RPS V4 database, real property tax info, etc.)

3.) List any environmental concerns (e.g. asbestos, hazardous waste, lead paint, sewer lateral, septic tank, etc.)

unknown, year built 1963

4.) Structure Condition

	Good	Fair	Poor
Overall Structural	☐	☒	☐
Roof	☐	☒	☐
Siding	☐	☐	☐
Foundation	☐	☐	☐
Accessory Structures	☐	☐	☐
Windows	☐	☐	☒
Porch	☐	☒	☒

Details: Mostly unknown, rear screened porch in poor shape. Foundation condition unknown.

5.) Occupancy Status

		Yes	No	
Vacant	☒ Secured / boarded?	☒	☐	Time Vacant? 3-4 years
Owner Occupied	☐			
Renter Occupied	☐			
Unknown	☐			

6.) List any known code violations or citations? (e.g. chipping paint, missing gutters, etc.)

Broken rear basement windows, boarded up. Tall grass complaints

7.) Are there any active utilities at the structure? ☐ Yes ☐ No

If yes, specify: unknown

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

Request for Foreclosure (RFF)
Structure Acquisition Application
Buffalo Erie Niagara Land Improvement Corporation (BENLIC)

STRUCTURES

SECTION III: MAINTENANCE, DISPOSITION AND REUSE PLAN

A. Maintenance Plan

8.) Once acquired by BENLIC, will the municipality make any of the following in-kind contributions toward the maintenance of this structure?

	Yes	No	
Secure/Board Up	☐	☒	
Mow Lawn	☐	☒	How Often?
Snow Removal	☐	☒	How Often?
Drive-By / Check-ins	☐	☒	How Often?

B. Disposition and Reuse Plan

9.) What the preferred end-use for the structure? (e.g. strike to municipality, stabilize and rehab, demolition, etc.)

Single-family owner occupied residential.

Please provide names and contact info of any parties interested in the end use of this structure.

10.) What is the preferred disposition plan for the structure? (private sale, transfer to non-profit, etc.)

Prefer for BENLIC to acquire and rehab directly through BENLIC's Note and Mortgage Program.

11.) Does this disposition/reuse plan conform with the adopted plans of the municipality?

☒ Yes ☐ No

SECTION IV: Pre-Acquisition Access

12.) Is the municipality able to facilitate interior access to the structure prior to acquisition? (i.e. judicial warrant)

☐ Yes ☒ No

If yes, briefly describe the process

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

135 Halwill Dr
Buffalo, New York
Google
Street View - May 2022
OAKS

INREM BOOK 170

SERIAL NO.	DESCRIPTION OF PROPERTY	NAME OF LAST KNOWN OWNER	YEAR OF LIEN	AMOUNT OF LIEN
000265	CERTIFICATE NO.	142289.68.140-1-22.000	**In the TOWN OF AMHERST**	
	135 HALWILL DR 2171 83	TESLUK ALBERT & TRUSTEE TESLUK IRENE & TRUSTEE 135 HALWILL DR AMHERST NY 14226	2019 2019 2020 2021 Total	$10,119.84 $500.00 $4,712.63 $8,145.29 $23,477.76
	Deed Measure FR-84.00 DP-130.59 AC-0.00 Farmlot Section Town Range			
	MAP COVER BLOCK SUBLOT	SBL 0681400001022000		
000266	CERTIFICATE NO.	142289.68.140-10-18.000	**In the TOWN OF AMHERST**	
	109 DEVON LN E 2028 35 115 X Var	MILLEMACI ROSLYN 109 DEVON LN WILLIAMSVILLE NY 14221-4913	2017 2017 2018 2018 2019 2019 2020 2021 Total	$2,638.34 $500.00 $10,636.04 $500.00 $9,161.82 $500.00 $8,214.52 $7,401.37 $39,552.09
	Deed Measure FR-115.00 DP-187.14 AC-0.00 Farmlot Section Town Range			
	MAP COVER BLOCK SUBLOT	SBL 0681400010018000		
000267	CERTIFICATE NO.	142289.68.150-10-11.000	**In the TOWN OF AMHERST**	
	105 MAYFAIR LN 1676 S 49 5o 88 X Var	DALY RICHARD F 105 MAYFAIR LN WILLIAMSVILLE NY 14221-5065	2019 2019 2020 2021 Total	$11,703.68 $500.00 $11,088.78 $10,014.63 $33,307.09
	Deed Measure FR-88.00 DP-150.37 AC-0.00 Farmlot Section Town Range			
	MAP COVER BLOCK SUBLOT	SBL 0681500010011000		

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

RPS version 4 - [Exemption Update, Group - plan & build, Name - ask]

File Edit View Toolbar Window Help

68.14-1-22
Tesluk, Albert
135 Halwill Dr

142289 Amherst
Roll Year: 2022 Curr Yr
Land Size: 84.00 x 130.59

Active
1 Family Res

R/S: 1

School: Amherst Centra
Land AV: 53,000
Total AV: 219,000

- Parcel 68.14-1-22
  - History
  - Assessment
    - Exempt(s)
    - Spec Dist(s)
  - Description
  - Owner(s)
  - Images
  - Gis
  - Site (1) Res
    - Land(s)
    - Bldg
    - Imprvmt(s)
    - Valuation
  - Sale01/06/04
  - Sale02/09/94

Total 1 Exemptions (Right Click to Add)

Exemption Code	Amount	Pct	Init Year	Term Year	Own Pct
41834 ENH STAR	65,910		2009	2049	

Code: 41834 ENH STAR
Amount: 65,910
Percent:

Term Yr: 2049
Init Year: 2009
Own Pct:

Misc:
Res Pct:
Eq Rate: 88.00
Spec Rate: 0

Exemption Amounts:

County:	
Muni:	
School:	65,910

Taxable Values:

County:	219,000
Muni:	219,000
School:	219,000
Schl after STAR:	153,090

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

RPS Version 4 - [Sale Update, Group - plan & build, Name - ask]

File Edit View Toolbar Window Help

68.14-1-22 | 142289 Amherst | Active | R/S: 1 | School: Amherst Centra
Tesluk, Albert | Roll Year: 2022 Curr Yr | 1 Family Res | Land AV: 53,000
135 Halwill Dr | Land Size: | Total AV: 219,000

- Parcel 68.14-1-22
  - History
  - Assessment
    - Exempt(s)
    - Spec Dist(s)
  - Description
  - Owner(s)
  - Images
  - Gis
  - Site (1) Res
    - Land(s)
    - Bldg
    - Imprvmt(s)
    - Valuation
  - Sale01/06/04
  - Sale02/09/94

Sale | Additional Sales Info /Attorney Info | Owner(s)

Condition Codes: I — View Cond Codes

Deed Date:	01/14/2004	Sale Type:	3 Land & Building
Deed Book:	11066	Deed Type:	W Warranty
Deed Page:	5833	Sales Status:	T Transmitted
Contract Date:	00/00/0000		
Sale Date:	01/06/2004		
Date Last Phy Insp:	00/00/0000		
Full Sale Price:	1		
Personal Prop:			
Net Sale Price:	1		
Valuation Usable:	☐		
No. Parcels:	1 OR Part of a Parcel: ☐		

Corrections Data
Verify:
Condition Code ☐
Sale Date ☐
Sale Price or Personal Property ☐

Rar Excluded: **Yes**
Cod Excluded: **Yes**
Arms Length: **No**

Current Owner(s):	Sale Date:
Albert Tesluk &	01/06/2004
Irene Tesluk &	01/06/2004
William B Tesluk	01/06/2004

Prior Owners:

Last Name:	First Name:	MI:	Jr,Sr,ect
Tesluk	Albert	P	

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

RPS Version 4 - [Description Update, Group - plan & build, Name - ask]

File Edit View Toolbar Window Help

68.14-1-22
Tesluk, Albert
135 Halwill Dr

142289 Amherst | Active | R/S: 1 | School: Amherst Centra
Roll Year: 2022 Curr Yr | 1 Family Res | Land AV: 53,000
Land Size: 84.00 x 130.59 | Total AV: 219,000

- Parcel 68.14-1-22
  - History
  - Assessment
    - Exempt(s)
    - Spec Dist(s)
  - Description
  - Owner(s)
  - Images
  - Gis
  - Site (1) Res
    - Land(s)
    - Bldg
    - Imprvmt(s)
    - Valuation
  - Sale01/06/04
  - Sale02/09/94

Prop Class:	210 1 Family Res	Desc 1:	2171 83
Ownership Code:		Desc 2:	13 12 7
Roll Section:	1 Taxable	Desc 3:	Burroughs Terrace, Pt.2
Roll Subsection:		Desc Print Code:	P = Print on Roll & Bill
School Code:	142201 Amherst Central	Land Com Code:	
Cons. School:		Land Com Year:	
Easement Code:		Ag District:	Ag Dist No:
Allocation Factor:	.0000	Arrears:	SSI Recipient:
Appraisal No:		Date Last Phy Insp:	05/01/2002
Tax Code:			

Run RPS440 Edits: ☑ Major Type: A

Total 14 Roll Years:

Roll Yr	Prop Class	Roll Section	Owner Code	Tax Code
2022	1 Family Res	Taxable		
2021	1 Family Res	Taxable		

Attachment: RFF Packet for Town Board - 135 Halwill Dr. (RES-2022-588 : To Request BENLIC Acquire 135 Halwill Drive on Behalf of the Town

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25844 **RESOLUTION 2022-589** **ADOPTED**

Presenter/Performer Commitment Form CRS #3374

We respectfully request Town Board permission to authorize the Supervisor to sign the Presenter/Performer Commitment Form between the Town of Amherst (Department of Senior Services) and the Alex Rene Big Band (Ashley Cadenhead).

6/6/2022
Consent

FINANCIAL IMPACT:

The cost of $750 per event charged to A6772-4090 and T2100-4002

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

TOWN OF AMHERST

PRESENTER/PERFORMER COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Presenter/Performer Name: Alex Rene Big Band- Ashley Cadenhead

Payment/Check payable to: Alex Rene Big Band

Address: 115 North End Avenue

Kenmore, NY 14217

Program (and any Future Events) : Summer Concert

This is a 5 **year contract.**

Start Date: 7/19/22 **/ Date executed below by the Center Director**

End Date: 7/19/27

Cost Per Event: $750.00

Alex Rene Big Band, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Ashley Cadenhead — 4-7-2022

Presenter/Performer Signature — Date

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Attachment: alex rene big band-05092022105332-0001 (RES-2022-589 : Presenter/Performer Commitment Form CRS#3374)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25845 **RESOLUTION 2022-590** **ADOPTED**

Presenter/Performer Commitment Form CRS #3375

We respectfully request Town Board permission to authorize the Supervisor to sign the Presenter/Performer Commitment Form between the Town of Amherst (Department of Senior Services) and Rick Polinsky/Barnstorm Band.

6/6/2022
Consent

FINANCIAL IMPACT:

The cost of $600.00 per event charged to A6772-4090 and T2100-4002

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

TOWN OF AMHERST

PRESENTER/PERFORMER COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Presenter/Performer Name: Barnstorm Band/Rick Polinsky

Payment/Check payable to: Rick Polinsky

Address: 5196 Shero Road

Hamburg, NY 14075

Program (and any Future Events) : Summer Concert

This is a 5 **year contract.**

Start Date: 9/6/22 **/ Date executed below by the Center Director**

End Date: 9/6/27

Cost Per Event: $600.00

Rick Polinsky, agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.

Presenter/Performer Signature — Date: 4-13-22

Brian J. Kulpa, Supervisor, Town of Amherst — Date

Attachment: barnstorm band-050920221054340001 (RES-2022-590 : Presenter/Performer Commitment Form CRS#3375)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25915 **RESOLUTION 2022-591** **ADOPTED**

Purchase of Coffee & Tea Products Agreement CRS #3428

Pending completion of the contract routing system: We respectfully request Town Board permission to authorize the Supervisor to sign the agreement between the Town of Amherst (Senior Services) and SJ McCullagh Inc, for the purchase of coffee & tea products.

6/6/2022
Consent

FINANCIAL IMPACT:

Amount: per order as needed charged to A6773-4000

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

Amherst Center for Senior Services

370 John James Audubon Pkwy • Amherst, New York • 14228
Phone (716) 636-3050 Fax (716) 636-3060

PURCHASE of Coffee and Tea products AGREEMENT

Let this document stand as an Agreement between SJ McCullagh, Inc, and the Town of Amherst (Senior Services) permitting the Town of Amherst to participate in the purchase of coffee and tea products from SJ McCullagh, Inc. This agreement is valid for the purchase of coffee and tea products per quote which includes coffee makers and Keurig machines that are maintained as needed at no cost. This agreement is valid for 1 year from June 7, 2022 to June 6, 2023. Delivery included.

Agreed to and Accepted by:

SJ McCullagh, Inc

By : _____
Michael Kwietniak
SJ McCullagh, Inc,

Date : 5/8/22

Agreed to and Accepted by:

Town of Amherst

By : _____
Brian J. Kulpa, Supervisor
Town of Amherst

Date: _____

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

BRIAN J. KULPA
Supervisor, Town of Amherst

MELISSA ABEL
Director, Senior Services

Coffee Quotes - Amherst Senior Center 2022

ITEMS	COMPANIES		
	McCullagh	Sysco	
12 oz. reg coffee - cost per bag	$ 4.34	$ 6.77	
12 oz. decafe coffee - cost per bag	$ 5.51	$ 6.90	
2 oz. reg coffee(42 per case, cost per bag)	$ 0.79	$ 1.47	
k-cups - 24/case	$ 37.96	$ 46.69	
cappuchinno 6/2#	$ 34.75	$ 7.80	
Bigelow tea 28 ct.	$ 4.15	$ 3.17	
8 oz. cup and lid 1000 per case (Paper)	$ 78.35	$ 110.00	
Arizona Tea 24/16 oz	$ 15.25	NA	
Arizona Tea lemon	$ 15.35	NA	
Arizona Tea 1/2 & 1/2 12/ 16oz	$ 16.90	NA	
Paper filters U3/18x7.5	no charge	$ 13.74	
paper filters 12 cup/ 4 1/2 inch	no charge	$ 10.80	
paper cup holders		NA	
			$ -
	all equipment is	no equipment	
	included and	provided	
	maintained by		
	McCullagh at		
	no charge		

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

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: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

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: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

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:

SJ McCullagh

Print Name of Company

By: _____

Signature

Michael S. Kwiatkowski

Printed name

Date: 4-13-22.

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

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: SJ McCULLAGH.

Signature: [signature]

Print Name: Michael S. Kwiatniak

Title: Route 5 Area REP.

Date: 4/13/22.

Sworn To Before Me This

13 Day of April, 2022

Tammy Jacobs

Notary Public

TAMMY JACOBS
NOTARY PUBLIC, STATE OF NEW YORK
CERTIFICATE FILED IN ~~NIAGARA~~ Erie CO.
COMMISSION EXPIRES 03/30/2026

Revised 4.2017

Attachment: SJ McCullagh-052720221156l0 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

Client#: 1754678 SJMCC

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (M 7/08/2021

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC 726 Exchange St. Ste 618 Buffalo, NY 14210 716 314-2000	CONTACT NAME: Linda A. Mayflower, ACSR, CPIA PHONE (A/C, No, Ext): 716 314-2060 FAX (A/C, No): 716-314-2199 E-MAIL ADDRESS: Linda.Mayflower@usi.com
INSURED S J McCullagh Inc dba McCullagh Coffee 245 Swan Street Buffalo, NY 14204	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Trumbull Insurance Company — 27120 INSURER B : Hartford Casualty Insurance Company — 29424 INSURER C : Hartford Accident & Indemnity Company — 22357 INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	X	X	01UENFG2125	07/08/2021	07/08/2022	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 $300,000 $10,000 $1,000,000 $2,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY	X	X	01UENFH2813	07/08/2021	07/08/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $10000	X	X	01RHUFG2100	07/08/2021	07/08/2022	EACH OCCURRENCE AGGREGATE	$5,000,000 $5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		01WBAD5PCK	07/08/2021	07/08/2022	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
A	Hired Physical Damage	X		01UENFH2813	07/08/2021	07/08/2022	$50,000 Limit $1,000 Comp Ded. $1,000 Coll Ded	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Insured/Waiver of Subrogation coverage shown above and marked with an X apply only when such coverage is required by written contract signed by the insured prior to a loss

General Liability:
HG00010605 - Commercial General Liability Coverage Form
(See Attached Descriptions)

CERTIFICATE HOLDER	CANCELLATION
Amherst Center for Senior Services 370 John James Audubon Pkwy Buffalo, NY 14228	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED I ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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LAMCF

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

DESCRIPTIONS (Continued from Page 1)

Auto:
CA20011013 - Lessor - Additional Insured and Loss Payee
HA99170614 - Commercial Automobile Broad Form Endorsement - New York
HA99481214 - Commercial Towing and Labor Enhancement Endorsement

Umbrella:
XL24601209 - Following Form Endorsement - Personal and advertising injury

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only) **S J McCullagh Inc.** **245 Swan Street** **Buffalo, NY 14204** Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e. a Wrap-Up Policy)*	1b. Business Telephone Number of Insured **800-753-3473** 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number **160545970**
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) **Amherst Center for Senior Services** **370 John James Audubon Pkwy** **Buffalo, NY 14228**	**3a. Name of Insurance Carrier** **Selective Insurance Co of South Carolina** **3b. Policy Number of entity listed in box "1a":** **01WBAD5PCK** **3c. Policy effective period:** **07/08/2021 – 07/08/2022** **3d. The Proprietor, Partners or Executive Officers are:** X☐ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under **Item 3A** on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box"3c", whichever is earlier.***

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Michael R. Bonetto
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 07/08/21
(Signature) (Date)

Title: Regional Director, Senior Vice President

Telephone Number of authorized representative or licensed agent of insurance carrier: (716)314-2060

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 (9-07) www.wcb/state.ny.us

Attachment: SJ McCullagh-052720221156l0 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: SJ McCullagh-05272022115610 (RES-2022-591 : Purchase of Coffee & Tea Products Agreement CRS#3428)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25920 **RESOLUTION 2022-592** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #3349

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

6/6/2022
Consent

FINANCIAL IMPACT:

$25.00 per hour charged to A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Jennifer Nuwer
(Payment/Check payable to same)

Address: 99 South Seine Drive

Cheektowaga, NY 14227

Class/Activity: Yoga Instructor

This is a -5- **year contract.**

Start Date: June 1, 2022 **Date executed below by the Town Supervisor**

End Date: May 31, 2027

Rate per hr.: $25.00

Jennifer Nuwer, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Jennifer Nuwer
Instructor/Leader Signature

4/8/2022
Date

Brian J. Kulpa, Supervisor, Town of Amherst

Date

Contract Name _____ CRS# _____ Vendor Name _____

Attachment: Nuwer-052720221017500-0001 (RES-2022-592 : Class Instructor/Sub-Contractor Commitment Form CRS#3349)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25925 **RESOLUTION 2022-593** **ADOPTED AS AMENDED**

Amendment CRS #3387 to Contract CRS #877

We respectfully request Town Board approval of the amendment to the contract with Jim Jowsey-Pirate Dreams (CRS #877) to reflect the additional budget line T2100-4002 pending CRS approval.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

Additional budget line of T2100-4002 as payment source

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Shawn Lavin, 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: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25926 **RESOLUTION 2022-594** **ADOPTED**

Class Instructor/Sub-Contractor Form CRS #3348

We respectfully request Town Board permission to authorize the Supervisor to sign the Class Instructor/Sub-Contractor Commitment Form between the Town of Amherst (Senior Services) and Yoga & Fitness Instructor, Christina Phillips.

6/6/2022
Consent

FINANCIAL IMPACT:

$25.00 per hour charged to A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Christina Phillips
(Payment/Check payable to same)

Address: 175 60th Street

Niagara Falls, NY 14304

Class/Activity: Yoga and Fitness Instructor

This is a -5- **year contract.**

Start Date: June 1, 2022 **Date executed below by the Town Supervisor**

End Date: May 31, 2027

Rate per hr.: $25.00

Christina Phillips, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Christina Phillips — Instructor/Leader Signature

4/12/22 — Date

Brian J. Kulpa, Supervisor, Town of Amherst

Date

Contract Name _____ CRS#_____ Vendor Name _____

Contractor Commitment Form 2021

Attachment: Phillips-052722022101728-0001 (RES-2022-594 : Class Instructor/Sub-Contractor Form CRS#3348)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25927 **RESOLUTION 2022-595** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #3347

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

6/6/2022
Consent

FINANCIAL IMPACT:

$28.00 per hour charged to A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Michael P. Harris
(Payment/Check payable to same)

Address: 120 Meyer Road Apt. 418

Amherst, NY 14226

Class/Activity: Class Instructor/Music Appreciation

This is a -5- **year contract.**

Start Date: June 1, 2022 **Date executed below by the Town Supervisor**

End Date: May 31, 2027

Rate per hr.: $28.00

Michael P. Harris, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Michael P. Harris
Instructor/Leader Signature

4/12/22
Date

Brian J. Kulpa, Supervisor, Town of Amherst

Date

Contract Name _____ CRS#_____ Vendor Name _____

Contractor Commitment Form 2021

Attachment: Harris-052720221018O6-0001 (RES-2022-595 : Class Instructor/Sub-Contractor Commitment Form CRS#3347)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Senior Services
Initiated by: **Melissa Abel**
Co-Sponsored by:

DOC ID: 25929 **RESOLUTION 2022-596** **ADOPTED**

Class Instructor/Sub-Contractor Commitment Form CRS #3346

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

6/6/2022
Consent

FINANCIAL IMPACT:

$25.00 per hour charged to A6772-4090

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

TOWN OF AMHERST

CLASS INSTRUCTOR/SUB-CONTRACTOR COMMITMENT FORM

Amherst Center for Senior Services
370 John James Audubon Pkwy.
Amherst NY 14228

Instructor Name: Mary Lou Frost
(Payment/Check payable to same)

Address: 174 Idlewood Drive

Tonawanda, NY 14150

Class/Activity: Photography Instructor

This is a -5- **year contract.**

Start Date: June 1, 2022 **Date executed below by the Town Supervisor**

End Date: May 31, 2027

Rate per hr.: $25.00

Mary Lou Frost, **agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the instructor, its agents and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreements.**

Mary L Frost
Instructor/Leader Signature

4/11/22
Date

Brian J. Kulpa, Supervisor, Town of Amherst

Date

Contract Name _____ CRS#_____ Vendor Name _____

Contractor Commitment Form 2021

Attachment: Frost-052720221017080-0001 (RES-2022-596 : Class Instructor/Sub-Contractor Commitment Form CRS#3346)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25874 **RESOLUTION 2022-597** **ADOPTED**

Market Vendors - CRS #3378, #3386, #3388, #3393

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Wellness Genie, The Schnauzer Candle Company, Moneybags Dumplings LLC, and Tiny House Farms Microgreens for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7145.01980; up to -$80.00 each (revenue)

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

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
450 Maple Road
Amherst, NY 14221
egraczyk@amherst.ny.us

*Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted **after** complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: Wellness Genie

Contact: Benita Lupu

Address: 145 LeBrun Circle, Amherst, NY 14226

Email Address: BenitaLupu@gmail.com Phone: 716-574-6536

Please give a Description of Services and/or Items to be sold:

Health + Wellness Items, Nutrition, etc.

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH.**
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Parks Administration for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 3/11/22

Signature of Town Supervisor _____ Date _____

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7
(f) (716) 631-71
firesafety@amherst.ny
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN Parks

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. **Inspections must be completed prior to use or event, with all the above requirements in place.**

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Benita Lupu

Signature: Benita Lupu Date: 3/1/22

Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M
03/19/2022

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.
125 Ottawa Avenue NW
Suite 400
Grand Rapids, MI 49503
Attn: IBO.Certificates@marsh.com
CN109851231-USA-GUP-21-22 58610

CONTACT NAME: Daniell Lang
PHONE (A/C, No, Ext): **FAX (A/C, No):**
E-MAIL ADDRESS: daniell.d.lang@marsh.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Liberty Mutual Fire Insurance Company	23035
INSURER B : Liberty Insurance Corporation	42404
INSURER C : N/A	N/A
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Independent Business Owners Benefits Association (IBOBA)
Mail Code 56-3S
7575 Fulton Road East
Ada, MI 49355

COVERAGES **CERTIFICATE NUMBER:** CHI-010042535-01 **REVISION NUMBER:** 21

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:			TB2-681-004148-011	09/30/2021	09/30/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000 $ 1,000 $ 10 $ 1,000 $ 2,000 $ EXCLU
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
B	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION $			TH7-681-004148-031	09/30/2021	09/30/2022	EACH OCCURRENCE AGGREGATE	$ 1,000 $ 1,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Ibo# 5861044

Certificate Holder is included as additional insured where required by written contract, but only with respect to their interest in the premises leased to/used by the Independent Business Owners (IBO) 5861044 for the Independent Business Owners function to be held on within policy period. However, in no event is coverage provided for any liability arising out of act, omission or negligence on part of Venue Owner, IBO# 5861044. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured subject to policy terms and conditions.

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

Marsh USA Inc.

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Attachment: Wellness Genie complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: The Schnauzer Candle Co

Contact: Alexandria Palmerton

Address: 31 Klein Road

Email Address: Williamsville Phone: 716 912 6742

Please give a Description of Services and/or Items to be sold:
Candles, Soaps, Lip Balms, Sugar Scrubs, etc.

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 15 Apr 2022

Signature of Town Supervisor _____ Date _____

Q

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7
(f) (716) 631-71
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Alexandria Palmerton

Signature: _____ Date: 15 Apr 2022

Attachment: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M) 04/15/2022

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

Next First Insurance Agency, Inc.
PO Box 60787
Palo Alto, CA 94306

CONTACT NAME:
PHONE (A/C, No, Ext): (855) 222-5919 **FAX (A/C, No):**
E-MAIL ADDRESS: support@nextinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : State National Insurance Company, Inc.	12831
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Alexandria Palmerton
The Schnauzer Candle Co
99 Morgan Pkwy
Buffalo, NY 14221

COVERAGES **CERTIFICATE NUMBER:** 5161138 **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 [ ] LOC OTHER:	X		NXT4P4PF7T-00-GL	04/11/2022	04/11/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000.00 $100,000.00 $15,000.00 $1,000,000.00 $2,000,000.00 $2,000,000.00
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is Town of Amherst. This Certificate Holder is an Additional Insured on the General Liability policy per the Additional Insured Automatic Status Endorsement. All Certificate Holder privileges apply only if required by written agreement between the Certificate Holder and the insured, and are subject to policy terms and conditions.

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: SchnauserCandleCo Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
450 Maple Road
Amherst, NY 14221
egraczyk@amherst.ny.us

*Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted **after** complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: MONEYBAGS DUMPLINGS LLC

Contact: JALI CARROLL

Address: 69 CHENANGO ST, BUFFALO NY 14213

Email Address: hello@moneybagsdumplings.com Phone: (716) 275-4989

Please give a Description of Services and/or Items to be sold:

FROZEN OR COOKED HANDMADE DUMPLINGS WITH VARIETY OF FILLINGS.

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
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4. The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
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5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
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    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

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e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
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☑ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☐ I do NOT intend to use any portable generator and/or other combustible device.

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Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN **Parks**

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General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 02/11/2022

Signature of Town Supervisor _____ Date _____

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-71
(f) (716) 631-71
firesafety@amherst.ny.
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TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

AMHERST TOWN **Parks**

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

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20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

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23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: JALI CARROLL

Signature: [signature]

Date: 02/11/2022

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/10/2021

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.

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PRODUCER	CONTACT NAME:	
Allegiance Portfolio Services 141 Goundry St #1400 N. Tonawanda NY 14120	PHONE (A/C, NO, EXT):	FAX (A/C, NO):
	E-MAIL ADDRESS:	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
MONEYBAGS DUMPLINGS LLC 4093 S PARK AVE BLASDELL NY 14219	INSURER A: Ontario Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME 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	ADDTL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC ☐ OTHER:	Y	Y	15089671	08/05/2021	08/05/2022	EACH OCCURRENCE	$ $1,000,000
							DAMAGE TO RENTED PREMISES (Ea Occurrence)	$ $300,000
							MED EXP (Any one person)	$ $10,000
							PERSONAL & ADV INJURY	$ $1,000,000
							GENERAL AGGREGATE	$ $2,000,000
							PRODUCTS - COMP/OP AGG	$ $2,000,000
								$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/ EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					☐ PER STATUTE ☐ OTHER	$
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER IS LISTED AS AN AUTOMATIC ADDITIONAL INSURED AS REQUIRED BY WRITTEN CONTRACT"

CERTIFICATE HOLDER	CANCELLATION
TOWN OF AMHERST 5583 MAIN ST WILLIAMSVILLE NY 14221	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE John Talarico

Attachment: Moneybags Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

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Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: Tiny House Farms Microgreens, LLC

Contact: Laura Klapper

Address: 4550 Harlem Rd., Buffalo, NY 14226

Email Address: tinyhousefarms@gmail.com Phone: 716-279-7352

Please give a Description of Services and/or Items to be sold:
Pre-harvested and packaged micro greens, herbs, and edible flowers.

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☑ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 3/23/2022

Signature of Town Supervisor _____ Date _____

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7
(f) (716) 631-71
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Laura Klapper

Signature: Laura Klapper Date: 3/23/2022

Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/23/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must 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
Veracity Insurance Solutions, LLC.
260 South 2500 West, Suite 303
Pleasant Grove UT 84062

CONTACT NAME: FLIP Program Support
PHONE (A/C, No, Ext): (844)-520-6992 **FAX (A/C, No):**
E-MAIL ADDRESS: info@fliprogram.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great American Alliance Insurance Co.	26832
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Tiny House Farms Microgreens LLC
4550 Harlem Rd
Buffalo NY 14226

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	X		PLE738466-F148638	03/23/2022	03/23/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG ANIMAL BAILEE	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate holder had been added as additional insured regarding the above mentioned policy per attached Additional Insured - Designated Person or Organization (CG 20 26 Ed. 04 13)

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: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

Town of Amherst

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **SECTION II - WHO IS AN INSURED** is amended to include as an Additional Insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or

2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and

2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to **SECTION III – LIMITS OF INSURANCE:**

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or

2. available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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Attachment: Tiny House Farm Complete (RES-2022-597 : Market Vendors - CRS #3378, #3386, #3388, #3393)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25875 **RESOLUTION 2022-598** **ADOPTED AS AMENDED**

Market Vendor CRS #3394, #3396, #3401, #3402

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Black Barn Bakery, Nick's Spider Venom Inc., Fresh Catch Poke Co., and Kester's Farm for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion to amend was made by Deputy Supervisor Berger, seconded by Councilmember Lavin and unanimously approved 5-0. Amendment removes the possibility of alcohol sales from the contract of Fresh Catch Poke Co. A motion to approve as amended was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

A 7145.01980; up to -$80.00 each (revenue)

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

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
5583 Main Street
Williamsville, NY 14221
egraczyk@amherst.ny.us

*Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted **after** complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: Black Barn Bakery

Contact: Jena Mason

Address: 304 Forest Edge Drive, East Amherst, NY 14051

Email Address: jena@blackbarnbakery.com Phone: 716-9694455

Please give a Description of Services and/or Items to be sold:
baked goods (cookies, cupcakes, cakes, pies, breads)

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN **Parks**

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Parks Administration for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN
Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 4/22/2022

Signature of Town Supervisor _____ Date _____

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7[illegible]
(f) (716) 631-7[illegible]
firesafety@amherst.ny.[illegible]
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN **Parks**

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Jenna Mason

Signature: _____

Date: 4/22/2022

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/28/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Veracity Insurance Solutions, LLC.
260 South 2500 West, Suite 303
Pleasant Grove UT 84062

CONTACT NAME: FLIP Program Support
PHONE (A/C, No, Ext): (844)-520-6992 FAX (A/C, No):
E-MAIL ADDRESS: info@flipprogram.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Great American Alliance Insurance Co.	26832
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Jena Mason, DBA Black Barn Bakery
304 Forest Edge Drive
East Amherst NY 14051

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 SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER X POLICY PRO-JECT LOC	X		PL3403151-F124151	06/21/2021	06/21/2022	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 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						ANIMAL BAILEE COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate holder had been added as additional insured regarding the above mentioned policy per attached Additional Insured - Designated Person or Organization (CG 20 26 Ed. 04 13)
This insurance is primary and non-contributory
Certificate holder is listed as an automatic additional insured as required by written contract

CERTIFICATE HOLDER
Town Of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

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13.S.2.a

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

Town of Amherst

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **SECTION II - WHO IS AN INSURED** is amended to include as an Additional Insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or

2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and

2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to **SECTION III – LIMITS OF INSURANCE:**

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or

2. available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Copyright, ISO Properties, Inc., 2012

Attachment: Black Barn Bakery complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
450 Maple Road
Amherst, NY 14221
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: Nick's Spider Venom

Contact: Nick Notaro

Address: 13 Yvette Dr. Cheektowaga, NY. 14227

Email Address: nicksspidervenom@roadrunner.com Phone: 716-863-8646

Please give a Description of Services and/or Items to be sold:

Hot Sauce

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

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2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
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4. *The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any* reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
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    a. It is the responsibility of the vendor to provide their own tent for the event.
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9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
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☒ I do NOT intend to use any portable generator and/or other combustible device.

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By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined thereir.

Signature of Applicant _____ Date 2/18/22

Signature of Town Supervisor _____ Date _____

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221
(p) (716) 631-7[illegible]
(f) (716) 631-71[illegible]
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

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2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
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AMHERST TOWN Parks

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20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Nick Notaro

Signature: [signature]

Date: 2/18/22

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/03/2022

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

THE CESAR GROUP INC.
354 CAYUGA ROAD,
CHEEKTOWAGA, NY 14225

CONTACT NAME: Cheryl A Radecki
PHONE (A/C, No, Ext): (716)626-0066 FAX (A/C, No): (716)626-0099
E-MAIL ADDRESS: CRadecki@thecesargroup.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : DRYDEN MUTUAL INSURANCE CO.	13919
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Nicks Spider Venom Inc
13 Yvette Dr
Cheektowaga, NY 14227

COVERAGES **CERTIFICATE NUMBER: 00061346-31410** **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	
A	X COMMERCIAL GENERAL LIABILITY			CFL00088827	05/13/2022	05/13/2023	EACH OCCURRENCE	$ 1,000,00
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ Exclude
							MED EXP (Any one person)	$ 1,00
							PERSONAL & ADV INJURY	$ 1,000,00
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,00
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,00
	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	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	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	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is listed as additional insured under the General Liability policy when required by written contract in regards to: Market events at Bassett Park June - September 2022.

CERTIFICATE HOLDER

Town of Amherst
Building Department
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

(CAR)

© 1988-2015 ACORD CORPORATION

Attachment: NicksSpiderVenom Complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: Fresh Catch Poke Co

Contact: Mike Tobin

Address: 5933 Main ST Williamsville, NY 14221

Email Address: mike@freshcatchpoke co Phone: 716-271-7653

Please give a Description of Services and/or Items to be sold:

oysters. clams
Shrimp rolls, possibly alcohol - beer + wine

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH.**
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
   a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☑ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant victoria welsby Date 5/9/2022

Signature of Town Supervisor _____ Date _____

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7
(f) (716) 631-71
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: victoria weldy

Signature: victoriaweldy Date: 5/9/2022

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/11/2022

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
Stahlka Agency, Inc
6724 Main St
Williamsville NY 14221

CONTACT NAME: Amy Prusak
PHONE (A/C, No, Ext): (716) 634-7070 **FAX (A/C, No):** (716) 634-6411
E-MAIL ADDRESS: aprusak@emsinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Erie Insurance Co	26263
INSURER B : Erie Ins Co	16233
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
FRESH CATCH POKE COMPANY LLC & FCPC HOLDINGS INC
DBA FRESH CATCH POKE CO
5933 MAIN ST
WILLIAMSVILLE NY 14221-8700

COVERAGES **CERTIFICATE NUMBER:** 21-22 L W 22-23 **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 [X] Liqour Liability [ ] GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y	Y	Q97-1685673	10/13/2021	10/13/2022	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 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [X] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	Q03-8130357	03/31/2022	03/31/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000	Y	Y	Q34-6370025	10/13/2021	10/13/2022	EACH OCCURRENCE AGGREGATE 	$ 3,000,000 $ 3,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		Q95-7700107	11/27/2021	11/27/2022	PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 100,000 $ 100,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is an additional insured under the General Liability, Auto, and Umbrella policies per form CG2010 and CG2037 on a primary and non-contributory basis if required by written contract.
A wavier of subrogation applies in the favor of Town of Amherst on the General Liability, Auto, and Umbrella policies if required by written contract.

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
Mark E. Stahlka

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Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

ERIE INSURANCE
BUSINESS CATASTROPHE LIABILITY
CAT-166 (Ed. 9/17) UF-4065

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS CATASTROPHE LIABILITY EXTRA COVERAGES

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

A. Incidental Medical Malpractice

1. The following is added to Paragraph **1., - Insuring Agreement** of **Section I - Bodily Injury And Property Damage Liability**:

   We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" arising from "incidental medical malpractice injury".

2. The following is added to Paragraph **2.S. - Exclusions** of **Section I - Coverage A - Bodily Injury And Property Damage Liability**:

   This insurance does not apply to:

   a. Expenses incurred by the insured for first aid to others at the time of an accident.

   b. "Bodily injury" arising from any insured if the insured is engaged in the business or occupation of providing the following services:

      1) Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment or the furnishing of food or beverages in connection with the service or treatment;

      2) Ambulance, paramedical, rescue squad, or other service or treatment conducive to health;

      3) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or

      4) Health or therapeutic service, treatment, advice, or instruction.

   c. "Bodily injury" arising from any indemnitee if the indemnitee is engaged in the business or occupation of providing the following services:

      1) Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment or the furnishing of food or beverages in connection with the service or treatment;

      2) Ambulance, paramedical, rescue squad, or other service or treatment conducive to health;

      3) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or

      4) Health or therapeutic service, treatment, advice, or instruction.

3. The following is added to **Section V - Definitions**:

   "Incidental medical malpractice injury" means injury arising out of the rendering of or failure to render, during the policy period, the following services:

   a. Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment, or the furnishing of food or beverages in connection with the service or treatment; or

   b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

B. Products Redefined

The following is added to the definition of "products-completed operations hazard" of **Section V - Definitions**:

Includes all "bodily injury" and "property damage" arising out of "your product" if your business includes the handling or distribution of "your product" for consumption on the premises you own or rent.

C. Waiver of Subrogation

Transfer Of Rights Of Recovery Against Others To Us of **Section IV – Conditions** is deleted and replaced by the following:

Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. We waive any right of recovery we may

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

have against an additional insured covered under this policy, but this waiver applies only with respect to payments we have made under Section I, Coverage A for "bodily injury" or "property damage" caused by an "occurrence" under this Coverage

D. Primary and Non-Contributory Insurance

When required by a written contract or agreement, this insurance is primary and non-contributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess or non-contributing, whichever applies, with this insurance.

E. Definitions

"Bodily injury" of **Section V – Definitions** is replaced by the following:

"Bodily injury" means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

ERIE INSURANCE
ULTRAPACK PLUS
PK-00-04 (Ed. 5/20) CL-0004

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ULTRAPACK PLUS EXTRA LIABILITY COVERAGES

NEW YORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. Damage To Premises Rented To You - Fire Legal Liability

1. The following is added to Paragraph **1., Insuring Agreement** of **Section I – Coverage A - Bodily Injury And Property Damage Liability:**

   Insuring Agreement

   We will pay those sums that the insured becomes legally obligated to pay as damages because of "property damage" to buildings rented to you or occupied by you.

   The damage must be caused by fire; lightning; windstorm; hail; explosion; riot; civil commotion; vehicle; aircraft; smoke; vandalism; malicious mischief; water damage; or elevator collision.

2. Exclusions **2.c.** through **2.n.** of **Section I - Coverage A - Bodily Injury And Property Damage Liability** do not apply to this coverage. A separate Limit of Insurance applies to this coverage as described in **Section III - Limits of Insurance.**

   We do not cover liability assumed by the insured except in an "insured contract".

3. Paragraph **9.a.** of "Insured contract" of **Section V - Definitions** is replaced by the following:

   9.a. A contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire; lightning; windstorm; hail; explosion; riot; civil commotion; vehicles; aircraft; smoke; vandalism; malicious mischief; water damage; or elevator collision to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

B. Host Liquor Liability Coverage

The following is added to Paragraph **2.c. Exclusions** of **Section I – Coverage A - Bodily Injury And Property Damage Liability:**

This exclusion does not apply to liability of the insured or the indemnitee of the insured arising out of the giving or serving of alcoholic beverages at functions incidental to your business, provided you are not engaged in the business of manufacturing, distributing, selling, or serving of alcoholic beverages.

C. Non-Owned Watercraft

Paragraph **2.g.2)a) Exclusions** of **Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

This exclusion does not apply to a watercraft that you do not own that is less than 51 feet long.

D. Incidental Medical Malpractice

1. The following is added to Paragraph **1., Insuring Agreement** of **Section I – Coverage A - Bodily Injury And Property Damage Liability:**

   We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" arising from "incidental medical malpractice injury".

2. The following is added to Paragraph **2. Exclusions** of **Section I – Coverage A - Bodily Injury And Property Damage:**

   This insurance does not apply to:

   a. Expenses incurred by the insured for first aid to others at the time of an accident.

   b. "Bodily injury" arising from any insured if the insured is engaged in the business or occupation of providing the following services:

      1) Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment or the furnishing of food or beverages in connection with the service or treatment;

      2) Ambulance, paramedical, rescue squad, or other service or treatment conducive to health;

      3) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or

      4) Health or therapeutic service, treatment, advice, or instruction.

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c. "Bodily injury" arising from any indemnitee if the indemnitee is engaged in the business or occupation of providing the following services:

1) Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment, or the furnishing of food or beverages in connection with the service or treatment;

2) Ambulance, paramedical, rescue squad, or other service or treatment conducive to health;

3) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or

4) Health or therapeutic service, treatment, advice, or instruction.

3. The following is added to **Section V - Definitions:**

"Incidental medical malpractice injury" means injury arising out of the rendering of or failure to render, during the policy period, the following services:

a. Diagnostic, medical, surgical, dental, x-ray, or nursing service or treatment, or the furnishing of food or beverages in connection with the service or treatment; or

b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

E. Volunteer Workers - Medical Payments

The following is added to Paragraph **1. Insuring Agreement** of **Section I – Coverages, Coverage C - Medical Payments:**

We will pay medical expenses for "bodily injury" sustained by your volunteer workers caused by an accident while engaged in any of your insured activities.

F. Attorney's Fees

The following is added to **Section I - Supplementary Payments - Coverages A and B:**

All reasonable attorney's fees up to $100 which the insured incurs because of arrest resulting from an accident involving "mobile equipment" covered by this policy.

G. The following is added to the definition of "Products-completed operations hazard" of **Section V - Definitions:**

Includes all "bodily injury" and "property damage" arising out of "your product" if your business includes the handling or distribution of "your product" for consumption on premises you own or rent.

H. Non-Owned Automobile and/or Hired Automobile Liability Insurance Coverage

1. **Insuring Agreement - Non-Owned Auto Liability Coverage**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" resulting from an accident covered by this endorsement.

The accident must arise out of the use of any "non-owned auto" in your business by any person other than you.

b. This insurance applies to "bodily injury" and "property damage" only if:

1) The "bodily injury" or "property damage" is caused by an accident that takes place in the "covered territory"; and

2) The "bodily injury" or "property damage" is caused by an accident during the policy period.

2. **Insuring Agreement - Hired Auto Liability Insurance Coverage**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" resulting from an accident covered by this endorsement.

The accident must arise out of the maintenance or use of "hired autos" by you or your "employees" in the course of your business.

b. This insurance applies to "bodily injury" or "property damage" only if:

1) The "bodily injury" or "property damage" is caused by an accident that takes place in the "covered territory"; and

2) This "bodily injury" or "property damage" is caused by an accident during the policy period.

3. **Exclusions**

This **Non-Owned Auto and/or Hired Auto Liability Insurance Coverage** does not apply to:

a. **Contractual Liability**

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

1) That the insured would have in the absence of the contract or agreement; or

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2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

b. **Damage To Your Product**

"Bodily injury" or "property damage" that results from "your product" arising out of it or any part of it.

c. **Damage To Property**

"Property damage" to:

1) Property owned or transported by you.

2) Personal property in the care, custody, or control of the insured.

d. **Damage To Your Work**

"Bodily injury" or "property damage" that results from "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

e. **Employers' Liability**

"Bodily injury" to:

1) An "employee" of the insured arising out of and in the course of:

a) Employment by the insured; or

b) Performing duties related to the conduct of the insured's business; or

2) The spouse, child, parent, brother, or sister of that "employee" as a consequence of Paragraph 1) above.

This exclusion applies:

1) Whether the insured may be liable as an employer or in any other capacity; and

2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. **Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

g. **Handling of Property**

"Bodily injury" or "property damage" that results from the handling of property:

1) Before it is moved from the place where it is accepted by the insured for loading into or onto a "non-owned auto" or "hired auto"; or

2) After it is unloaded from a "non-owned auto" or "hired auto" to the place it is finally delivered by the insured.

h. **Fellow Employee**

"Bodily injury" to any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

i. **Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

1) The ownership, maintenance, use, or entrustment to others of any "mobile equipment" owned or operated by or rented or loaned to any insured;

2) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

3) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

j. **Pollution**

1) "Bodily injury" or "property damage" arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of "pollutants":

a) At or from any premises, site, or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor, or soot from equipment used to heat that building;

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ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site, or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site, or location and such premises, site, or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

iii) "Bodily injury" or "property damage" arising out of heat, smoke, or fumes from a "hostile fire".

b) At or from any premises, site, or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing, or treatment of waste;

c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or

d) At or from any premises, site, or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site, or location in connection with such operations by such insured, contractor, or subcontractor. However, this subparagraph does not apply to:

i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants, or other operating fluids which are needed to perform the normal electrical, hydraulic, or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants, or other operating fluids escape from a vehicle part designed to hold, store, or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal, or release of the fuels, lubricants, or other operating fluids, or if such fuels, lubricants, or other operating fluids are brought on or to the premises, site, or location with the intent that they be discharged, dispersed, or released as part of the operations being performed by such insured, contractor, or subcontractor;

ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes, or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

iii) "Bodily injury" or "property damage" arising out of heat, smoke, or fumes from a "hostile fire".

e) At or from any premises, site, or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

2) Any loss, cost, or expense arising out of any:

a) Request, demand, order, or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or

b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order, or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

k. **Racing**

Any "auto" while being used in any prearranged or organized racing, speed, or demolition contest, stunting activity, or similar activities, or in practice for any such activities.

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l. **War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion, or revolution. This exclusion applies only to liability assumed under a contract or agreement.

m. **Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

4. **Section II - Who Is An Insured**

For **Non-Owned Automobile and/or Hired Automobile Liability Insurance Coverage** only **- Who Is An Insured** includes the following:

a. You;

b. Any other person using a "hired auto" with your permission;

c. With respect to a "non-owned auto", any partner, member of a limited liability company, or executive officer, but only while such "auto" is being used in your business; or

d. Any other person or organization, but only with respect to liability because of acts or omissions of the insured under a., b., or c. above.

5. The following are not included under **Section II - Who Is An Insured**:

a. Any person, member of a limited liability company, or executive officer with respect to an "auto" owned by such partner, member of a limited liability company, or executive officer, or a member of their household;

b. Any person engaged in the business of their employer, with respect to "bodily injury" to any fellow co-"employee" of such person injured in the course of their employment;

c. Any person while employed in or otherwise engaged in duties in connection with an "auto business" other than an "auto business" you operate;

d. The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner of a "non-owned auto" or any agent or employer of such owner or lessee; or

e. Any person or organization with respect to the conduct of any current or past partnership, joint venture, or limited liability company shown as a Named Insured in the Declarations.

6. The following are added to **Section V - Definitions:**

"Auto business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".

"Covered territory" means the United States of America (including its territories and possessions), Puerto Rico, and Canada.

"Hired auto" means any auto you lease, hire, or borrow.

This does not include any "auto" you lease, hire, or borrow from any of your "employees", any members of a limited liability company, any partner, executive officer, or members of their households.

"Non-owned auto" means any "auto" you do not own, lease, hire, or borrow which is used in connection with your business. This includes any "auto" owned by or registered in the name of:

a. Your "employees" including members of their households;

b. Partners including members of their households if you are a partnership; or

c. Members of a limited liability company including members of their households;

but only while such "auto" is being used in connection with your business.

I. Additional Insured – Managers or Owners of Buildings

The following is added to **Section II - Who Is An Insured:**

The person or organization who owns, maintains, or uses that part of the premises leased to you, but only with respect to their liability arising out of the premises leased to you.

The following is added to Paragraph **2., Exclusions** of **Section I – Coverages, Coverage A - Bodily Injury And Property Damage:**

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant of the premises;

2. Structural alterations, new construction, or demolition operations performed by or on behalf of the person or organization who is the additional insured; or

3. "Bodily injury" to "employees" of the person or organization arising out of and in the course of construction.

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J. Additional Insured – Mortgagee, Assignee, or Receiver

The following is added to **Section II - Who Is An Insured:**

The person or organization but only with respect to their liability as a mortgagee, assignee, or receiver arising out of the ownership, maintenance, or use of the premises by you.

The following is added to Paragraph **2., Exclusions** of **Section I – Coverages, Coverage A - Bodily Injury And Property Damage:**

This insurance does not apply to:

Structural alterations, new construction, and demolition operations performed by or for that person or organization.

K. Additional Insured – Lessor of Leased Equipment

The following is added to **Section II - Who Is An Insured:**

The person or organization but only with respect to liability for "bodily injury", "property damage", or "personal or advertising injury" caused, in whole or in part, by your maintenance, operation, or use of equipment leased to you by such person or organization.

The following is added to Paragraph **2., Exclusions** of **Section I – Coverages, Coverage A - Bodily Injury And Property Damage:**

This insurance does not apply to:

Any "occurrence" which takes place after the equipment lease expires.

The following is added to Paragraph **2., Exclusions** of **Section I – Coverages, Coverage B – Personal and Advertising Injury:**

This insurance does not apply to:

Any "occurrence" which takes place after the equipment lease expires.

L. Auto-Keepers' Liability Coverage

1. The following is added to Paragraph **1., Insuring Agreement** of **Section I – Coverage A – Bodily Injury and Property Damage Liability:**

Insuring Agreement – Auto-Keepers' Liability

Coverage

We will pay those sums that the insured becomes legally obligated to pay as damages because of "property damage" to customers' "autos" and "mobile equipment" parked or stored on the "premises" described in the "Declarations" caused by:

a. Comprehensive Coverage – "Property damage" resulting from any cause except collision or upset. This coverage includes glass breakage and contact with persons, animals, birds, missiles, falling objects, or elevators. Elevator means an auto servicing hoist or jack. When only a windshield is damage, we will not subtract the deductible if you have it repaired and not replaced.

b. Collision or Upset.

Coverage also applies while a customer's "auto" or "mobile equipment" is temporarily away from the "premises" (in connection with the insured's business) or while any insured has control of such "auto" or "mobile equipment".

2. This **Auto-Keepers' Liability Coverage** does not apply to:

a. **Owned, Rented, or Demo Autos**

This insurance does not apply to "property damage" to "autos" or "mobile equipment" owned, rented, or held for demonstration or sale by any insured under the policy.

b. **Employee Dishonesty**

This insurance does not apply to "property damage" arising out of theft by you or your "employees", directors, trustees, authorized representatives, or any insured under the policy.

c. **Use of Auto Elevators or Hoists**

This insurance does not apply to "property damage" arising out of the use of any auto elevator or hoist.

d. **Defective Parts or Faulty Work**

This insurance does not apply to "property damage" as a result of defective parts, accessories, or materials furnished for an "auto" or piece of "mobile equipment". This insurance also does not apply to "property damage" as a result of faulty work performed on an "auto" or piece of "mobile equipment".

e. **Racing, Speed, or Demolition Contests**

This insurance does not apply to "property damage" to an "auto" or piece of "mobile equipment" while operated or being prepared for any prearranged racing, speed or demolition contest, or stunting activity.

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3. For **Auto-Keepers' Liability Coverage**, the following is added to **Section IV – Commercial General Liability Conditions:**

   Deductible

   We will only pay those sums in excess of $200 for all damages sustained by any one person because of "property damage" as a result of any one "occurrence". We may pay all or part of the $200 deductible in order to settle any claim or "suit". If we do so, you must repay us the deductible amount we paid.

4. For **Auto-Keepers' Liability Coverage**, the following definition is added to **Section V - Definitions:**

   "Premises" means the place where you conduct your operations, including the ways immediately adjoining. It does not include any portion of such premises where any other person or organization conducts operations.

M. Waiver of Subrogation

Transfer of Right of Recovery Against Others to Us - Section IV – Commercial General Liability Conditions is replaced by the following:

We waive any right of recovery we may have against the additional insured because of payments we have made under this Coverage Part. However, our rights may only be waived prior to the "bodily injury" or "property damage" caused by the "occurrence" which we have made payments under this Coverage Part.

The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce these rights.

N. The following is added to **Paragraph 4. Other Insurance of Section IV – Commercial General Liability Conditions** in the Commercial General Liability Coverage Form:

Primary and Non-Contributory 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.

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ERIE INSURANCE
COMMERCIAL GENERAL LIABILITY
CG 20 37 (Ed. 4/13) UF-3293

POLICY NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "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".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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ERIE INSURANCE
COMMERCIAL GENERAL LIABILITY
CG 20 10 (Ed. 4/13) UF-9665

POLICY NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The 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.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the 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.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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ERIE INSURANCE
COMMERCIAL AUTO
ACYE01 (Ed. 6/19) UF-B984

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTO ENHANCEMENT ENDORSEMENT

(NEW YORK)

This enhancement endorsement modifies coverage provided in your New York Commercial Auto Policy (NYCAP; Ed. 1/95) and Policy Change Endorsement ACYA02. It provides coverage enhancements to the following portions of your Commercial Auto Policy:

WHEN AND WHERE THIS POLICY APPLIES

The following paragraph is added to this section:

Liability coverage for **hired autos**, as defined in the **Autos We Insure** Section of the policy, is provided for up to 45 days anywhere in the world, but coverage only applies to **hired autos** when the auto is hired, rented or borrowed for use in **your** business without a driver. However, this coverage does not apply if providing such coverage would be in violation of any economic or trade sanctions of the United States of America.

The following subparts are added to this section:

MEDICAL EVACUATION BENEFITS

If an emergency evacuation is required because of injury **you** sustain outside of the United States resulting from an **accident** involving an **auto we insure**, and a physician determines that adequate medical care cannot be performed locally, **we** will pay for the following services and expenses:

1. medical services required for evacuation to the nearest adequate medical facility;
2. escort services if **you** are disabled as recommended by a physician;
3. ambulance service to the nearest airport, including air ambulance service upon departure;
4. special transportation costs to return **you** to the United States, including the cost of a stretcher, oxygen or other supplemental medical devices as deemed necessary by a physician; and
5. any expenses above the cost of a return airfare ticket held by **you**, or in the absence of a ticket the cost of an economy airfare ticket.

The maximum benefit payable under this coverage shall not exceed $50,000. However, this coverage does not apply if providing such coverage would be in violation of any economic or trade sanctions of the United States of America.

REPATRIATION BENEFIT

If **you** die from injuries suffered in a covered **accident** that occurs outside of the United States **we** will pay for expenses incurred for the preparation and transportation of **your** body back to the United States. The maximum benefit payable under this coverage shall not exceed $25,000. However, this coverage does not apply if providing such coverage would be in violation of any economic or trade sanctions of the United States of America.

AUTOS WE INSURE

- **Hired Autos**

The following paragraph is added:

Physical Damage coverage up to $100,000 actual cash value is provided on an excess basis for **hired autos** if hired auto liability coverage has been purchased and if there is an **owned auto we** insure on the policy with physical damage coverage. A $500 deductible applies per loss.

LIABILITY PROTECTION

PERSONS WE PROTECT

The following paragraphs are added at the end of this section:

4. any employee of **yours** while using an **auto you** do not own, borrow or hire in **your** business or personal affairs. *For purposes of this paragraph, item 2.b. under **PERSONS WE PROTECT** in the policy does not apply.*
5. any organization **you** newly acquire or form, other than a partnership, joint venture or limited liability company over which **you** maintain ownership or majority interest if there is no similar insurance available to that organization. Coverage is afforded until the 180th day after you acquire or form the organization or to the end of the policy period, whichever is earlier. Coverage does not apply to bodily injury or property damage resulting from an **accident** that occurred before **you** acquired or formed the organization.

   No person or organization is an insured with respect to the conduct of any current or past partnership, joint

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

venture or limited liability company that is shown as a **Named Insured** in the Declarations.

6. any person or organization with whom **you** agreed in a written contract, written agreement, or written permit to add as an additional insured on **your** policy is an additional insured. Such person or organization is an additional insured only with respect to **your** ownership, maintenance or use of an **auto we insure**. The insurance provided for such additional insureds applies solely to liability arising out of **your** business operations. This coverage is primary and noncontributory with respect to the additional insured.

PHYSICAL DAMAGE COVERAGES

ADDITIONAL PAYMENTS (NO DEDUCTIBLE APPLIES)

The following additional payments are added to this section:

9. reasonable towing and labor costs up to $75 per disablement to any **owned auto** that is insured as a commercial passenger auto, or up to $150 per disablement for any light or medium duty truck not exceeding 26,000 pounds gross vehicle weight. Labor must be done at the sight of the disablement.

10. full replacement cost coverage for any **owned auto** or **trailer** that is involved in a total loss resulting from an **accident** or theft that occurs within 90 days of the purchase date. The **owned auto** or **trailer** must have been purchased new by **you** (never previously titled), and scheduled on the policy **Declarations**.

11. up to $200 per day for loss of income resulting from a Comprehensive or Collision loss to an **auto we insure** if the loss is caused by an interruption of business use of that **auto**. The following provisions apply:

    a. Coverage starts 48 hours after the date of the loss that causes the downtime. Downtime refers to the exact number of days the **auto** is down and cannot be used for business purposes;

    b. Payment ends on the date the **auto** is returned to **you** in useable condition, or a replacement **auto** is made available to **you.** However, this coverage shall not exceed 30 days from the time payment begins**;**

    c. **You** are required to make necessary replacement or repairs to resume operations as soon as possible;

    d. Payment under this coverage will be excess over any payments made under the Comprehensive or Collision coverage section of the policy;

    e. Coverage does not apply if a similar replacement vehicle is available that **you** could use to continue or resume business operations.

ADDITIONAL TRANSPORTATION EXPENSES

The following optional coverage applies only if a premium is shown for COMMERCIAL AUTO ENHANCEMENT COVERAGE W/TRANSPORTATION EXPENSES on **your Declarations**.

Item 2. is deleted from PHYSICAL DAMAGE COVERAGES, ADDITIONAL PAYMENTS (No Deductible Applies) in the policy and policy change endorsement ACYA02 and replaced by the following:

2. transportation expenses resulting from a Comprehensive or Collision loss **we** cover. **We** will pay these expenses until:

    a. the **auto we insure** is returned to **you** in reasonable condition; or

    b. **we** offer settlement;

    whichever comes first. The payment for transportation expenses resulting from a Comprehensive loss will not exceed $65 per day nor total more than $2,925 per loss unless a higher limit is purchased. The payment for transportation expenses resulting from a Collision loss will not exceed $65 per day nor total more than $2,925 per loss unless a higher limit is purchased. No waiting period applies.

    This coverage is in addition to any Transportation Expenses Coverage purchased under this policy.

RIGHTS AND DUTIES – GENERAL POLICY CONDITIONS

WAIVER OF SUBROGATION

The following is added to Condition 12. OUR RIGHT TO RECOVER FROM OTHERS:

We waive any right of recovery **we** may have against a person or organization identified as an additional insured because of payments **we** make for injury or damage arising out of the ownership, maintenance or use of an **auto** under a contract with that additional insured.

Attachment: Fresh Catch Poke Co complete (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
450 Maple Road
Amherst, NY 14221
egraczyk@amherst.ny.us

*Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted **after** complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: Kester's Farm

Contact: Barbara Andres

Address: 821 Northrup Rd Elma NY. 14059

Email Address: Kestersfarm2000@gmail.com Phone: (716) 348-2801 call or Text

Please give a Description of Services and/or Items to be sold:
Alpaca Products. all natural Fibre we raise the animals and enjoy sharing the wonderful products that come made from the fleece

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Parks Administration for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7[illegible]
(f) (716) 631-71[illegible]
firesafety@amherst.ny.[illegible]
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: BARBARA A ANDRES

Signature: _____ Date: 3/28/22

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

AMHERST TOWN Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 3/28/28

Signature of Town Supervisor _____ Date _____

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (M
05/09/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. TH
CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIE
BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZE
REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorse
If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement c
this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Tonya Flickinger
Affordable Insurance Agency Inc. 31 Knox Road East Aurora NY 14052	PHONE (A/C, No, Ext): (716)338-4224 FAX (A/C, No): (855)232-2886 E-MAIL ADDRESS: TONYA@AFFORDABLEINSURANCEINC.NET
INSURED Barbara Andres Dba Kester's Farm 821 Northrup Road Elma NY 14059	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** INSURER A : Burlington Insurance Company — 23620 INSURER B : ERIE INSURANCE COMPANY — 26263 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 PERIC
INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TH
CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM
EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y		241B008565	03/05/2022	03/05/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1000000 $ 100000 $ 5000 $ 1000000 $ 2000000 $ Incl Gen Agg
B	AUTOMOBILE LIABILITY [ ] ANY AUTO [X] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			Q05-7930220	05/29/2022	05/29/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1000000 $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is listed as Additional Insured with respect to General Liaibility as per written contract, subject to the terms and conditions per form CG2011 on the policy.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street

Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR
THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED
ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Fax: Email: edagostino@amherst.ny.us

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Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

POLICY NUMBER: 241B008565

COMMERCIAL GENERAL LIABILITY
CG 20 11 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You): Per written contract
Name Of Person(s) Or Organization(s) (Additional Insured): Town Of Amherst
Additional Premium: **$**
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.

2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

Attachment: KesterFarmsContractFinal (RES-2022-598 : Market Vendors - CRS #3394, #3396, #3401, #3402)

© Insurance Services Office, Inc., 2018

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25917 **RESOLUTION 2022-599** **ADOPTED**

Market Vendor - CRS #3380 & #3381

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and Pour & Penchant and CBD Med Center for participation in the Farmers' Markets at Bassett Park for 2022.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7145.01980; up to -$80.00 each (revenue)

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

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Youth & Recreation/Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 202 events after the contract deadline has passed. Vendors may use this link to complete their registration for an and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: POUR & PENCHANT

Contact: RICK MALONEY

Address: 77 RUSKIN ROAD

Email Address: rick@pourandpenchant.com Phone: (312) 504 35

Please give a Description of Services and/or Items to be sold:

SCENTED CANDLES

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

AMHERST TOWN Parks

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
   a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required*. All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

AMHERST TOWN Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amhers
**Applications and contract must be properly completed and received, insurance certificate filed no later th
March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees t
abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all
liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising fro
injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance
listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agre
to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor rea
and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date MARCH 1 20

Signature of Town Supervisor _____ Date _____

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7140
(f) (716) 631-7192
firesafety@amherst.ny.us
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.
15. Open or exposed flames shall not be permitted inside, or located within 20 ft. of the tent, unless approved by the Fire Inspector per section 3107.4 2020 Fire Code of NYS.
16. Portable fire extinguishers, with current inspection tags, shall be located on site at all times. Quantities and location to be pre-determined by the Fire Inspector per section 3107.9 2020 Fire Code of NYS.

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

AMHERST TOWN Parks

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Rick Maloney

Signature:

Date: 3/18/2022

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/25/2022

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 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
Veracity Insurance Solutions, LLC.
260 South 2500 West, Suite 303
Pleasant Grove UT 84062

CONTACT NAME: Soapguild Program Support
PHONE (A/C, No, Ext): (844)-520-6989 **FAX (A/C, No):** (801)-763-1374
E-MAIL ADDRESS: info@soapguildinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great American Alliance Insurance Company	26832
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Pour & Penchant, DBA Pour and Penchant
77 Ruskin Road
Buffalo NY 14226

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**GENERAL LIABILITY** [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	[X]	[ ]	PLE738446-HSCG028357	04/27/2022	04/27/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG ANIMAL BAILEE	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS	[ ]	[ ]				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	[ ] **UMBRELLA LIAB** [ ] OCCUR [ ] **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $	[ ]	[ ]				EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? Y / N [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A [ ]	[ ]				[ ] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
		[ ]	[ ]					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder has been added as additional insured regarding the above mentioned policy per attached Additional Insured – Designated Person or Organization (CG 20 26 Ed. 04 13)

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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ACORD 25 (2014/01)
INS025 (201401)

The ACORD name and logo are registered marks of ACORD

Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

Town of Amherst

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **SECTION II - WHO IS AN INSURED** is amended to include as an Additional Insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or

2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and

2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to **SECTION III – LIMITS OF INSURANCE:**

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or

2. available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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Attachment: PourAndPenchant Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Parks

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: CBD Med Center

Contact: Joseph DeNisco

Address: 8566 Main St Clarence NY 14031

Email Address: Jmdenisco@yahoo.com Ginad cbdmedcenter@gmail.com Phone: (716) 913-1097

Please give a Description of Services and/or Items to be sold:
We Sell CBD and other Plant based medicine. Our goal is to inform and educate the public about the benifits of cbd

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Parks

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

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4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
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    a. Each vendor is responsible for his/her booth and all items in it.
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    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

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f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
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    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Parks

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General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 3/14/22

Signature of Town Supervisor _____ Date _____

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-71
(f) (716) 631-71
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

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2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

Parks

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Joseph M Dennis

Signature:

Date: 3/14/22

Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 05/23/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	The Getzoni Agency 8427 Main St Williamsville, NY 14221 License #: 771741
CONTACT NAME:	Jamie Amatura
PHONE (A/C, No, Ext):	(716)631-0363
FAX (A/C, No):	(716)631-0595
E-MAIL ADDRESS:	jamie@buffaloinsurance.com
INSURED	Med-center Inc Joe DeNisco 8566 Main St Williamsville, NY 14221-7455

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	Nationwide	10127
INSURER B :	Nationwide	23779N
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER: 00003994-63376** **REVISION NUMBER: 5**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	Y		ACPBPRL3009828585	08/03/2021	08/03/2022	EACH OCCURRENCE	$ 1,000,0
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,0
							MED EXP (Any one person)	$ 5,0
							PERSONAL & ADV INJURY	$ 1,000,0
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,0
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,0
	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 $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N	N / A		ACPWCF3019828585	08/03/2021	08/03/2022	X PER STATUTE OTH-ER	100,0
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	$ 500,0
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 100,0
							E.L. DISEASE - POLICY LIMIT	$ 500,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is named as additional insured on a primary and non-contributory basis.

CERTIFICATE HOLDER

Town of Amherst
5883 Main Street
Williamsville, NY 14222

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFOR THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

(J1A)

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Attachment: CBDMedCenter Complete (RES-2022-599 : Market Vendors - CRS #3380, #3381)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25918 **RESOLUTION 2022-600** **ROLL CALL VOTE (ADOPTED)**

Market Vendors - CRS #3384, #3395, #3419

Authorize the Supervisor to sign contracts between the Town of Amherst (Youth & Recreation Department) and My Buffalo Candle Company, Dated Nutrition, LLC and Life Itself, Inc. for participation in the Farmers' Markets at Bassett Park for 2022, pending successful completion of the Contract Routing Process.

6/6/2022
Supervisor Kulpa made a motion to remove contract #3419, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Supervisor Kulpa made a motion to approve contracts #3384 and #3395, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

Supervisor Kulpa made a motion to approve contract #3419, seconded by Deputy Supervisor Berger and approved via Roll Call vote 4-1 (nay, Bucki).

FINANCIAL IMPACT:

A 7145.01980; up to -$80.00 each (revenue)

RESULT:	**ROLL CALL VOTE (ADOPTED) [4 TO 1]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
AYES:	Kulpa, Berger, Lavin, Szukala
NAYS:	Bucki

Town of Amherst – Parks Administration
General Event Contract

RETAIL VENDOR

The Town of Amherst, Parks Administration, will host several special events in Town parks in 2022. To be considered for participation in any ***Parks Administration*** event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth Graczyk
Resource Coordinator, Parks Administration
450 Maple Road
Amherst, NY 14221
egraczyk@amherst.ny.us

*Upon application acceptance, and event commitment confirmation from the Parks Administration, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted **after** complete application has been accepted and confirmed by the Parks Administration.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

The deadline to submit a contract and COI for 2022 Parks Administration events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Parks Administration will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks Administration staff within 30 days of each event.

For further questions with regard to 2022 Parks Administration events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst – Parks Administration
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator, Parks Administration
egraczyk@amherst.ny.us

Company Name: My Buffalo Candle Company

Contact: Melissa Lorenc

Address: 385 Third Ave Williamsville

Email Address: mybuffalocandlecompany@gmail.com Phone: 716-310-9750

Please give a Description of Services and/or Items to be sold:

Soy candles, wax melts, room sprays

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

Town of Amherst – Parks Administration
General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst, Parks Administration reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Parks Administration for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst, Parks Administration General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 2/10/2022

Signature of Town Supervisor _____ Date _____

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7
(f) (716) 631-71
firesafety@amherst.ny.
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Melissa Lorenc

Signature: MLorenc Date: 2/10/2022

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/26/2022

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
Fetter Agency, Inc.
8810 Main Street
Williamsville, NY 14221

CONTACT NAME:
PHONE (A/C, No, Ext): (716) 634-5097 FAX (A/C, No): (716) 626-5057
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Dryden Mutual Insurance Company	13919
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
My Buffalo Candle Company
385 Third Avenue
Williamsville, NY 14221

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,(
	CLAIMS-MADE X OCCUR	X		CFL00110513	3/25/2022	3/25/2023	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 50,(
							MED EXP (Any one person)	$ 10,(
							PERSONAL & ADV INJURY	$ 1,000,(
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,(
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,(
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Amherst is listed as an additional insured on a primary basis. Insured is selling candles.

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

Attachment: MyBuffaloCandle Complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

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Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Youth & Recreation/Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Resource coordinator will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: Dated Nutrition

Contact: Sarah Heyedus

Address: 840 S. Union Street Olean, NY 14760

Email Address: letstalk@datednutrition.com Phone: 716-378-3625

Please give a Description of Services and/or Items to be sold:
organic snacks and desserts:
raw cinnamon rolls, filled dates, nutritional bars

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

1. **Appearance and presentation** of the booth is critical to the overall aesthetic of the event and to your retail success. The Town of Amherst wants to ensure that everyone has the best possible experience. The **EVENT STAFF** determines booth placement.
2. Events are held **rain or shine.** Please dress and prepare accordingly, with respect to the season and potential weather.
3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
    c. Vendors are responsible for the set-up, maintenance and removal of his/her own booth, merchandise and trash. The booth must be removed and the area cleared of any debris within one hour of the event closing.

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

d. Food items/beverages CANNOT be sold or given away for on-site consumption unless all necessary local, state and Erie County Health Department permits are secured. It is the responsibility of the vendor to find and secure all necessary permits for his/her booth.
e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
    a. Late arrivals will forfeit their space.
9. Parking – All vendor vehicles must be unloaded and parked either behind the vendor space/tent, or parked in in another approved area 30 minutes prior the event start time, no exceptions.

10. **ELECTRICITY, heat, and the use of gas or propane generators is permitted at the Market at Bassett Park and may be considered at other park locations (please contact the Resource Coordinator for information on other locations/events.) Check the appropriate box below if you intend to use a vendor provided portable generator and/or other combustible device. All tents are subject to fire safety and code inspection. All applicants must complete the tent permit memo regardless of intended use of a gas or propane generator.**

☐ I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

☒ I do NOT intend to use any portable generator and/or other combustible device.

11. All vendors must agree to and sign the prepared event fire safety memo, as well as the tent permit procedures document, and submit the reduced-fee payment, *if required.* All vendors must provide and display their own 5lb ABC fire extinguisher for any market they are participating in.

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

*Vendors will be placed on a first come first serve basis or as best fits as determined by the Town of Amherst. **Applications and contract must be properly completed and received, insurance certificate filed no later than March 25, 2022.** Vendors must remain at their spaces assigned at setup, for the duration of the event. All booths will have a 10 foot perimeter, and follow all fire safety/tent permit requirement at all times.

General Release and Acceptance Agreement: This Applicant has read the rules of the event(s) and agrees to abide by them. The Applicant releases The Town of Amherst and its agents and employees from any and all liability for any injury, loss, theft, damages, expenses, causes to action, lawsuits and other claims arising from injury to persons or property. **All vendors are required to file a $1,000,000 Certificate of Liability Insurance listing the Town of Amherst as additional insured with the Town of Amherst prior to the event.**

By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 3/12/22

Signature of Town Supervisor _____ Date _____

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7140
(f) (716) 631-7192
firesafety@amherst.ny.us
amherst.ny.us/firesafety

TENT PERMIT PROCEDURES

1. A Fire Prevention Permit is required for all tents in excess of 400 square ft.
2. All tents must meet the requirements of Chap. 31 of the 2020 Fire Code of NYS and NFPA 102.
3. A detail site and floor plan including means of egress, seating arrangement, location and type of heating and electrical equipment.
4. A Town of Amherst licensed electrician is required for any hardwiring of lights or outlets.
5. A Fire Inspector must inspect prior to occupying. An Electrical Inspector must inspect installed hardwiring.
6. Fire apparatus access roads must be provided, maintained and unobstructed at all times.
7. An unobstructed fire break passageway of not less than 12 ft. wide and free of obstructions shall be maintained on all sides of the tent unless otherwise approved by the Fire Inspector.
8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.
15. Open or exposed flames shall not be permitted inside, or located within 20 ft. of the tent, unless approved by the Fire Inspector per section 3107.4 2020 Fire Code of NYS.
16. Portable fire extinguishers, with current inspection tags, shall be located on site at all times. Quantities and location to be pre-determined by the Fire Inspector per section 3107.9 2020 Fire Code of NYS.

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

Parks

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: Sarah Hogeaves

Signature: _____

Date: 5/12/22

Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M 05/25/2022

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	CONTACT NAME: Bryan O'Connell
Huckleberry Insurance Services, LLC 222 S 15th St Ste 1500N C/O Collections Omaha NE 68102-1656	PHONE (A/C, No, Ext): (855) 255-4825 FAX (A/C, No): E-MAIL ADDRESS: certificate@huckleberry.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Chubb Insurance Company	12777
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Dated Nutrition,LLC
840 S Union Street
Olean NY. 14760

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 [ ] LOC [ ] OTHER:	Y	Y	D97136373	02/08/2022	02/08/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Business Personal Property	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 12,500
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is named as additional insured as per 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

Bryan O'Connell

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Attachment: Dated Nurtrition complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

The Town of Amherst, Youth and Recreation, will host several special events in Town parks in 2022. To be considered for participation in any Town of Amherst Youth & Recreation/Parks event, please complete this contract/application and submit all pages in PDF format to:

Elizabeth M. Graczyk
Resource Coordinator
Town of Amherst, Youth and Recreation Department
1615 Amherst Manor Drive
Williamsville, NY 14221
716-631-7132, Ext. 7550
egraczyk@amherst.ny.us

Upon application acceptance, and event commitment confirmation from the Youth and Recreation Department, the vendor will be required to submit a $20.00 fee, per event. Please be aware, this fee must be submitted ***after*** *complete application has been accepted and confirmed by the department.*

In addition to this contract, all applicants must also submit a valid Certificate of Insurance (COI) naming the Town of Amherst as additional insured. Page 9 of this contract includes a sample of how the COI must be completed. When submitting a general event contract, a valid COI must be included. Any contracts submitted without a valid COI will not be considered. COI may be submitted under separate cover and emailed to egraczyk@amherst.ny.us.

Vendor shall take out and maintain during the life of this Agreement, such general liability and property 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. Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town for approval by submitting at least a Certificate of Insurance OR an Accord 25 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.

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

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.

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.

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.

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.
damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death,

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

The deadline to submit a contract and COI for 2022 Parks events is March 25, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link for all 2022 events after the contract deadline has passed. Vendors may use this link to complete their registration for any and all events included in the link. Vendors may not share the link with any other party and/or vendor(s). Resource coordinator will confirm participation based on qualified vendor submissions prior to April 30, 2022.

Vendors meeting contract and COI requirements will be provided with event information, such as setup instructions, social media promotions, and marketing information from the Parks staff within 30 days of each event.

For further questions with regard to 2022 Parks events, please contact Elizabeth Graczyk via email – egraczyk@amherst.ny.us.

Town of Amherst
General Retail Vendor Contract
Attn: Elizabeth Graczyk, Resource Coordinator
egraczyk@amherst.ny.us

Company Name: LIFE ITSELF

Contact: JOSHUA ZIMMERMAN

Address: 104 YORK ST. APT 4, BUFFALO, NY, 14213

Email Address: HELLO@THISISLIFEITSELF.COM Phone: (716)213-3296

Please give a Description of Services and/or Items to be sold:

CHAGA MUSHROOM PRODUCTS

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

Town of Amherst – Youth and Recreation

General Event Rules and Regulations

Applies to ALL participants.

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3. **Vendor applications/contracts are due no later than March 25, 2022. Vendors will be contacted via phone or email to confirm acceptance of contract.**
4. The Town of Amherst reserves the right to decline registration to vendors for any reason including, but not limited to, incompatibility with our mission, inappropriate retail items for family friendly events, all available spaces have been filled, etc.
    a. Those vendors/exhibitors who do not comply with the Rules and Regulations may be denied participation in future years.
5. The "standard" **VENDOR BOOTH** consists of a 10x10 space:
    a. All vendor activities must be confined to allotted booth space area, including giveaways, petitions, surveys, music, etc.
6. **TENTS are required for each VENDOR BOOTH**.
    a. It is the responsibility of the vendor to provide their own tent for the event.
    b. All tents must be safely secured, in the event of severe weather including high winds.
        i. Other acceptable options: sandbags or cinder blocks – all attached to tent structure.
    c. Tents are not allowed on the walkways, sidewalks, drives, or right of ways. A site map will be provided prior to the event.
7. **VENDORS** are expected to conduct themselves in a professional manner and keep the following in mind:
    a. Each vendor is responsible for his/her booth and all items in it.
    b. Vendors must ensure their space is occupied for the duration of the event, the Town of Amherst is not responsible for booths/tents/vendor spaces left unoccupied before, during, or after event hours. Vendors may not leave events early, except in emergency situations.
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AMHERST TOWN Parks

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e. All samples must comply with Food Vendor Rules, listed in the Food Vendor section below.
f. NO SMOKING anywhere throughout the event/park grounds.

8. Sales tax for items sold at event must be paid by vendors in compliance with local and state tax law.
9. Vendor must abide by all set-up instructions, in particular, set-up hours. Please refer to set-up documentations provided to confirmed vendors for event specifics.
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[redacted] I intend to use a portable generator and/or other combustible device. I have read, understand, and signed the fire safety/tent permit memo attached to this contract.

[redacted] I do NOT intend to use any portable generator and/or other combustible device.

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AMHERST TOWN Parks

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By signing and submitting this registration application and contract, I acknowledge that I have read and agree to follow the Town of Amherst General Vendor Rules and Regulations. It is imperative that each vendor read and understand the event rules and regulations outlined therein.

Signature of Applicant _____ Date 05/23/22

Signature of Town Supervisor _____ Date _____

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

TOWN OF AMHERST
FIRE SAFETY DIVISION
5583 MAIN STREET
WILLIAMSVILLE, NY 14221

(p) (716) 631-7140
(f) (716) 631-7192
firesafety@amherst.ny.us
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8. For tents, access, location and parking shall be per section 3103.8 2020 Fire Code of NYS.
9. Provide a flame resistive certificate at time of application if it is not affixed to the tent.
10. Tents shall be adequately roped, braced and anchored to withstand the elements of weather and to prevent against collapsing. Per section 3103.9 2020 Fire Code of NYS.
11. Means of Egress and number of Exits shall be determined at time of application by using the detailed floor plan per section 3103.12 2020 Fire Code of NYS.
12. Illuminated Exit signs and Emergency lighting is required with an occupant load of 50 or more. This equipment must be operational at the time of inspection. Per section 3103.12.6 and 3103.12.7 2020 Fire Code of NYS.
13. Hay, straw or other combustible material or decorations are prohibited unless approved by the Fire Inspector. Per section 3107.2 2020 Fire Code of NYS.
14. Smoking is prohibited under the tent per section 3107.3 2020 Fire Code of NYS.
15. Open or exposed flames shall not be permitted inside, or located within 20 ft. of the tent, unless approved by the Fire Inspector per section 3107.4 2020 Fire Code of NYS.
16. Portable fire extinguishers, with current inspection tags, shall be located on site at all times. Quantities and location to be pre-determined by the Fire Inspector per section 3107.9 2020 Fire Code of NYS.

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

AMHERST TOWN Parks

17. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable codes and section 3107.12 2020 Fire Code of NYS.

18. LP Gas shall be used, stored and maintained per section 3107.13 2020 Fire Code of NYS.

19. Motor vehicles displayed under tents must meet section 3107.15 2020 Fire Code of NYS.

20. Separation of generators must meet section 3107.16 2020 Fire Code of NYS – Generally 20 ft.

21. Standby personnel, where required, must meet section 3107.17 2020 Fire Code of NYS.

22. Combustible vegetation & waste material must comply with section 3107.18 and 3107.19 2020 Fire Code of NYS – Generally 30 ft. clearance.

23. Inspections must be completed prior to use or event, with all the above requirements in place.

A permit may be revoked because of any false statement or misrepresentation of material fact in the application or because of failure to supply additional information required within a reasonable time, or because of change in activity, operation, location, ownership or use. (Chap 83 Town of Amherst Code)

Print: JOSHUA ZIMMERMAN

Signature:

Date: 05/23/22

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/25/2022

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 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
Veracity Insurance Solutions, LLC.
260 South 2500 West, Suite 303
Pleasant Grove UT 84062

CONTACT NAME: FLIP Program Support
PHONE (A/C, No, Ext): (844)-520-6992 **FAX (A/C, No):**
E-MAIL ADDRESS: info@fliprogram.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great American Alliance Insurance Co.	26832
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Life Itself Inc
104 York St Apt 4
Buffalo NY 14213

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**GENERAL LIABILITY** [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	[X]	[ ]	PLE738466-F147755	05/01/2022	05/01/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG ANIMAL BAILEE	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS	[ ]	[ ]				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	[ ] **UMBRELLA LIAB** [ ] OCCUR [ ] **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $	[ ]	[ ]				EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? Y / N [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A [ ]	[ ]				[ ] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
		[ ]	[ ]					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate holder had been added as additional insured regarding the above mentioned policy per attached Additional Insured - Designated Person or Organization (CG 20 26 Ed. 04 13)

CERTIFICATE HOLDER
The 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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ACORD 25 (2014/01)
INS025 (201401)

The ACORD name and logo are registered marks of ACORD

Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

The Town of Amherst

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **SECTION II - WHO IS AN INSURED** is amended to include as an Additional Insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or

2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and

2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to **SECTION III – LIMITS OF INSURANCE:**

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or

2. available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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Attachment: LifeItselfContract complete (RES-2022-600 : Market Vendors - CRS #3384, #3395, #3419)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25921 **RESOLUTION 2022-601** **ADOPTED**

Market Performer - CRS #3420

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Julian Burgio for a concert at the June 12, 2022 Farmers' Market at Bassett Park, pending successful completion of the contract routing process.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7142.4150; $225.00

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

TOWN OF AMHERST
YOUTH & RECREATION DEPARTMENT
ERIE COUNTY, NEW YORK

Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, NY 14221
(716) 631-7132
Fax (716) 626-9087
www.amherst.ny.us

BRIAN J. KULPA
Supervisor

JACQUALINE G. BERGER
Deputy Supervisor - Liaison

MARY-DIANA POULI, Executive Director

MARK FORDEN
Chairperson, Youth Board

TIMOTHY GARDNER
Chairperson, Rec Commission

May 19, 2022

Julian Burgio
65 Hoover Avenue
Kenmore, NY 14217

Dear Mr. Burgio

This is your agreement for your 2022 performance as an independent contractor. Please provide a name and cell phone # so that our sound technician can contact you closer to your date of performance: 716 866 8966 (JULIAN).

Julian Burgio, Musician, d.b.a Julian Burgio Music, d.b.a. Unleash the Lion, agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the performers, its agents, and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreement.

AGREEMENT

Date:	Sunday, June 12, 2022 (rain or shine)
Time:	11:00am – 1:30pm
Location:	Bassett Park, 359 Klein Road, Amherst, NY 14221
Fee:	$225.00 (check payable to Julian Burgio)
Breaks:	2 breaks (10-15 mins) as needed

Attachment: Julian Burgio Unleash the Lion (RES-2022-601 : Market Performer - CRS #3420)

Name of Entity:
Identify Type of Business Entity:
(e.g. Individuals, D/B/A, Corporation, Partnership, Association, Club, etc.)

Agreed to and approved:

* _____ 05/21/22
Name Date

_____
Title

*If entity is listed as "individual(s)," individual(s) should sign. If Corporation, Partnership, Association, or Club, officer, business agent, or other person duly authorized to sign similar agreements should sign.

Additional signatures if entity is composed of individuals:

_____

_____

_____

_____

Town of Amherst:

_____ _____
Brian J. Kulpa, Supervisor Date

Attachment: Julian Burgio Unleash the Lion (RES-2022-601 : Market Performer - CRS #3420)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25876 **RESOLUTION 2022-602** **ADOPTED**

Storage Room & Skate Rental Renovations CRS #3382

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Davis-Ulmer for sprinkler modifications to the downstairs storage room and the skate rental room at the Northtown Center.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7253.4220; $1,875.00

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

Davis-Ulmer
1 Commerce Drive
Amherst, NY 14228
716.691.3200

DAVIS-ULMER FIRE PROTECTION

May 3rd, 2022

Eric Guzdek
Northtown Center at Amherst
1615 Amherst Manor Dr.
Williamsville, NY 14221

RE: Storage Room and Skate Rental

Dear Eric,

Davis-Ulmer is pleased to provide a proposal to perform the following:

Scope:

- Remove (2) Upright Sprinklers and add (2) pendent sprinklers in Storage Room where acoustical ceiling is being added.
- Add Sidewall Sprinkler where there is a void in protection in the Skate Rental Room.
- All piping to be Black Schedule 40 with Black Cast Iron Fittings.
- All work will be performed Monday through Friday, 7 am to 3:30 pm (excluding holidays).

We propose the sum of: **$1,875.00** *plus any applicable taxes.*

Clarifications:

- Davis-Ulmer is not responsible for any deficiencies or repairs to existing systems and components in addition to the scope of work listed above.
- Cutting, patching, identification, electrical wiring, fire alarm work, fire watch, scaffolding, and abatement or remediation of hazardous materials is not included.
- P.E. stamped drawings and hydraulic calculations are not included.
- Taxes, permits, and fees are not included.

This proposal is valid for **30 days** from the date of proposal and our price is based on mutually agreeable contract terms and conditions.

We thank you for the opportunity to offer this bid and hope that it meets with your satisfaction. If you have additional questions, please contact me.

Davis-Ulmer, 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.
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,

DAVIS-ULMER FIRE PROTECTION · BEACH LAKE SPRINKLER FIRE PROTECTION SERVICES · Ellis · ISLAND FIRE LIFE SAFETY CO. · RELIANCE FIRE PROTECTION · Rich FIRE PROTECTION · W & M Fire Protection Services SPRINKLER • ALARM • SPECIAL HAZARDS

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

Davis-Ulmer
1 Commerce Drive
Amherst, NY 14228
716.691.3200

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 insert company name 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.

Terms and Conditions

Performance of the work listed above constitutes acceptance of the following terms and conditions: https://www.davisulmer.com/terms.php

With Appreciation,

Brian Gill
Service Sales
Brian.gill@davisulmer.us

If our quotation is acceptable, please sign below & return to my attention.

_____ _____

Signature Date

PO Number (if required) _____ ☐ Tax Exempt ☐ Capital Improvement

*Please provide all necessary Tax Certificates as soon as possible.

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

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~~ directly 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. BL

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~~ of $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. BL

(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 Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
~~(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.~~
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

DAVIS - ULMER

Print Name of Company

By: _____

Signature

Brian Law, Service Manager

Printed name

Date: 5/18/2022

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

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: DAVIS-ULMER

Signature: [signature]

Print Name: BRIAN LAW

Title: SERVICE MANAGER

Date: 5/11/2022

Sworn To Before Me This

11 Day of May, 2022

Michelle R Krzywicki

Notary Public

MICHELLE R. KRZYWICKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 01KR6287262
Qualified in Erie County
My Commission Expires August 05, 2025

Revised 4.2017

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/D 12/17/2021

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 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): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED Davis-Ulmer Sprinkler Company, Inc. One Commerce Drive Amherst, NY 14228	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Zurich American Insurance Company — 16535 INSURER B: AXIS Surplus Insurance Company — 26620 INSURER C: Steadfast Insurance Company — 26387 INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** W23210360 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X 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	$ 2,000,000 $ 2,000,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY	Y		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)	$ 5,000,000 $ $ $
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	$ 1,000,000 $ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/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	$ 5,000,000 $ 5,000,000 $ 5,000,000
C	Contr. Prof (CM) Contr. Poll (Occ) Incl Mold			EOC 5819306-08	12/31/2021	12/31/2022	Each Claim/Agg Each Claim/Agg Combined Policy Agg	$5,000,000 $5,000,000 $5,000,000

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.

Town of Amherst is included as Additional Insured under the General Liability policy when required by written

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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SR ID: 21955563 BATCH: 2344618

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

POLICY NUMBER: BAP 8488453-02

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: API Group, Inc.

Endorsement Effective Date: 12/31/2021

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Any person or organization when required by written contract, agreement or permit and is executed prior to the loss.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

© Insurance Services Office, Inc., 2011

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

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 Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured 716-691-3200 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1750987 1d. Federal Employer Identification Number of Insured or Social Security Number 16-0710179
Davis-Ulmer Sprinkler Co., Inc. One Commerce Drive Amherst, NY 14228 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	
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 3A o 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 the 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: 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 NOT authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Attachment: Davis-Ulmer Storage Room & Skate Rental Renovations w addendum major (RES-2022-602 : Storage Room & Skate Rental

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25877 **RESOLUTION 2022-603** **ADOPTED**

Summer Concert - ECWE CRS #3383

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Erie County Wind Ensemble for an Independence Day Concert at Bassett Park.

6/6/2022
Consent

FINANCIAL IMPACT:

A 7142.4150; $1,300.00

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

TOWN OF AMHERST
YOUTH & RECREATION DEPARTMENT
ERIE COUNTY, NEW YORK

Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, NY 14221
(716) 631-7132
Fax (716) 626-9087
www.amherst.ny.us

BRIAN J. KULPA
Supervisor

JACQUALINE G. BERGER
Deputy Supervisor

MARY-DIANA POULI, Executive Director

MARK FORDEN
Chairperson, Youth Board

TIMOTHY GARDNER
Chairperson, Rec Commission

2 May 2022

Paul Furlong
Erie County Wind Ensemble
65 Eaglebrook Drive
Buffalo NY 14224

Dear Paul Furlong, Erie County Wind Ensemble,

This is your agreement for your 2022 performance as an independent contractor. Please provide a name and cell phone # so that our sound technician can contact you closer to your date of performance: Paul Furlong (President) 716-867-0037.

Erie County Wind Ensemble agrees to indemnify and hold the Town of Amherst harmless for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the performers, its agents, and/or employees and to release the Town of Amherst and its employees, agents, districts, commissions, and boards from liability arising from the performance of this agreement.

AGREEMENT

Date:	Monday, July 4, 2022
Time:	7:00pm
Location:	Bassett Park Amphitheater with a rain site of Clearfield Community Center
Fee:	$1,300.00 (Check payable to Erie County Wind Ensemble)

Attachment: Erie County Wind Ensemble Perfomance Contract 2022 (RES-2022-603 : Summer Concert - ECWE CRS #3383)

Name of Entity:
Identify Type of Business Entity:
(e.g. Individuals, D/B/A, Corporation, Partnership, Association, Club, etc.)

Agreed to and approved:

* Paul M Furlong
Name

May 11, 2022
Date

ECWE President
Title

*If entity is listed as "individual(s)," individual(s) should sign. If Corporation, Partnership, Association, or Club, officer, business agent, or other person duly authorized to sign similar agreements should sign.

Additional signatures if entity is composed of individuals:

_____

_____

_____

_____

Town of Amherst:

_____ _____
Brian J. Kulpa, Supervisor Date

Attachment: Erie County Wind Ensemble Perfomance Contract 2022 (RES-2022-603 : Summer Concert - ECWE CRS #3383)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25878 **RESOLUTION 2022-604** **ADOPTED**

User Agreement - WNY PRISM CRS #3392

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and the Research Foundation of SUNY/Buffalo State for the WNY PRISM boat stewarding program for 2022.

6/6/2022
Consent

FINANCIAL IMPACT:

None

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

USER AGREEMENT

This Agreement, by and between the Town of Amherst (TOWN), located at 5583 Main Street, Williamsville, NY 14221 and the Research Foundation for SUNY / Buffalo State on behalf of WNY PRISM (WNY PRISM), located at Great Lakes Center SAM 319, 1300 Elmwood Avenue, Buffalo, NY 14222 is as follows:

The TOWN hereby grants permission for WNY PRISM to offer its free Boat Stewarding Program at Veterans Canal Park:

Dates: Thursdays thru Sundays and Holidays, May 26 - September 5, 2022
Time: 7:00am-5:30pm

WNY PRISM hereby agrees to indemnify and hold the TOWN harmless from any and all bodily injury or property damage claims or incidents that are a direct result of WNY PRISM's use of the TOWN property.

WNY PRISM is required to sign and adhere to the terms and conditions of the addendum to contract attached hereto and made a part hereof.

Town of Amherst

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Research Foundation for SUNY / Buffalo State o/b/o WNY PRISM

By: Jessica M. Berg
Jessica M. Berg
Interim Director, PreAward & Contracts

Date: 16 May 2022

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

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. Both parties agree, to the fullest extent permitted by law, to indemnify, hold harmless and defend the indemnified parties and its directors, officers, employees, consultants, agents and representatives against all claims, including claims of third parties, causes of action, damages, losses or expenses, including without limitation attorneys' fees, arising out of or resulting from this Agreement or any action arising hereunder; provided, the indemnified party's actions are not based upon negligence or willful misconduct.

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.

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. 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.

8. 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 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: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

9. 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:

Research Foundation for SUNY / Buffalo State

By: _____
Signature

Jessica M. Berg, PreAward & Contracts
Printed name

Date: 16 May 2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

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: Research Foundation for SUNY / Buffalo State

Signature: Jessica M Berg

Print Name: Jessica M. Berg

Title: PreAward and Contracts Associate

Date: 16 May 2022

Sworn To Before Me This

16th Day of May, 2022

Laura J Leone

Notary Public

LAURAJ LEONE
Notary Public, State of New York
NO. 01LE6233863
Qualified in Erie County
Commission Expires 1-3-23

Revised 4.2017

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

Client#: 19172 RESEAFOU

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/07/2021

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Donna Sharpe
Amsure - Albany 12 Computer Drive West PO Box 15044 Albany, NY 12212-5044	PHONE (A/C, No, Ext): 518 458-1800 FAX (A/C, No): 518 458-8390 E-MAIL ADDRESS: dsharpe@amsureins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Federal Insurance Company	20281
INSURER B : ACE American Insurance Company	22667
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
The Research Foundation for
The State University of New York
35 State Street, PO Box 9
Albany, NY 12201

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			35021737	07/01/2021	07/01/2022	EACH OCCURRENCE	$5,000,000
	X CLAIMS-MADE ☐ OCCUR			93639165	07/01/2021	07/01/2022	DAMAGE TO RENTED PREMISES (Ea occurrence)	$5,000,000
				74993048	07/01/2021	07/01/2022	MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$5,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$5,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			73507405	07/01/2021	07/01/2022	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			71644923	07/01/2021	07/01/2022	☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N/A					E.L. EACH ACCIDENT	$1,000,000
	(Mandatory In NH) 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)
COI #3029 (21/22) RF #160-1149162-2-82453 S/C #C010338 Administering WNY Prism Project 2019-2023
The Town of Amherst is named as an additional insured on a primary basis as their interest may appear
PI: Dr. Christopher Pennuto

CERTIFICATE HOLDER

Town of Amherst
Att: Mary-Diana Pouli
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

Guy Alonge

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MCA

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only)	1b. Business Telephone Number of Insured
The Research Foundation for the State University of New York 35 State Street, PO Box 9 Albany, NY 12201 Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	(518) 434-7045 1c. NYS Unemployment Insurance Employer Registration Number of Insured 04-54705 1d. Federal Employer Identification Number of Insured or Social Security Number 14-1368361
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst Attn: Mary-Diana Pouli 5583 Main Street Williamsville, NY 14221 Blanket COI #3030	3a. Name of Insurance Carrier ACE American Insurance Co. 3b. Policy Number of Entity Listed in Box "1a" 71644923 3c. Policy effective period 7/1/2021 to 7/1/2022 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".

Will the carrier notify the certificate holder within 10 days of a policy being cancelled for non-payment of premium or within 30 days if cancelled for any other reason or if the insured is otherwise eliminated from the coverage indicated on this certificate prior to the end of the policy effective period? ☑ YES ☐ NO

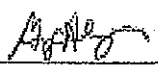
This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Guy Alonge, III
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by:  07/01/2021
(Signature) (Date)

Title: President, Amsure - Albany Division

Telephone Number of authorized representative or licensed agent of insurance carrier: 518-458-1800

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-15) www.wcb.ny.gov

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by Disability and Paid Family Leave Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name & Address of Insured (use street address only) The Research Foundation for the State University of New York 35 State Street Albany, NY 12207 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 518-434-7132 1c. Federal Employer Identification Number of Insured or Social Security Number 141368361
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst Attn: Mary-Diana Pouli 5583 Main Street Williamsville, NY 14221 Blanket COI#3030	3a. Name of Insurance Carrier First Reliance Standard Life Insurance Company 3b. Policy Number of Entity Listed in Box "1a" DBL252038 3c. Policy effective period 01/01/2016 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 12/16/2021 By Patti Gerlach Digitally signed by Patti Gerlach DN: cn=Patti Gerlach, o, ou, email=patti.gerlach@rsil.com, c=US Date: 2017.12.04 10:44:05 -05'00'

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 267-256-3625 Name and Title Patti Gerlach, Senior Compliance Consultant

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: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

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: Research Foundation - WNY Prism contract (RES-2022-604 : User Agreement - WNY PRISM CRS #3392)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 25879 **RESOLUTION 2022-605** **ADOPTED**

Sole Source Designation - Enersys

WHEREAS, the Amherst Town Board standardized its ice resurfacing equipment to the Olympia brand via Resolution 2017-369, and

WHEREAS, the Youth & Recreation Department owns four Olympia Millenium E Ice Resurfacers, and

WHEREAS, batteries for these machines have been custom developed by Enersys, and

WHEREAS, it is not currently possible to interchange brands of batteries,

NOW THEREFORE, BE IT RESOLVED that the Amherst Town Board designates Enersys as the sole source provider of batteries for its Olympia ice resurfacers.

6/6/2022
Consent

FINANCIAL IMPACT:

None

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

Resurfice Corp.
25 Oriole Parkway East
Elmira, Ontario, Canada
N3B 3A9
Tel: 519-669-1694
Fax: 519-669-8896

The Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, New York 14221

April 25, 2022

Attention: Mr. Eric Guzdek

Dear Eric,

Please be advised that your OLYMPIA Millennium E ice resurfacer is powered by Enersys batteries and no other battery brand has a package to fit the OLYMPIA machines.

OLYMPIA Millennium E batteries have been custom developed by Enersys including the physical footprint, the voltage and the amp hour of capacity.

It is not currently possible to interchange brands of batteries, therefore Enersys is the only company that can supply batteries for the OLYMPIA Millennium E.

Thanks again for your ongoing support.

Steve Kovacevic
General Manager

Attachment: Enersys - Sole Source Designation (RES-2022-605 : Sole Source Designation - Enersys)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 25548 **RESOLUTION 2022-266** **TABLED (NO VOTE)**

Local Law Amending Chapter 151 - Property Maintenance

Public Hearing with respect to a Local Law amending Chapter 151 - Property Maintenance.

3/14/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 4-0.

3/28/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 5-0.

4/11/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

4/25/2022
A motion to adjourn was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

5/9/2022
A motion to move it to Unfinished Business was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 4-0.

RESULT:	**TABLED (NO VOTE)**	**Next: 6/27/2022 7:00 PM**

LOCAL LAW NO.___ -2022

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law Amending Chapter 151 of the Code of the Town of Amherst, Property Maintenance

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 151 of The Code of The Town of Amherst, Property Maintenance."

Section 2. Purpose

The purpose of this Local Law shall be to amend various sections of Chapter 151 of the Code of the Town of Amherst.

Section 3.

Chapter 151-15 of the Code of the Town of Amherst is amended as follows:

§ 151-15 **Failure to comply.**

~~In the event that the order is not complied with within 10 days following personal service or 14 days following mailing of the order, the Building Commissioner shall cause the work therein required to be done or completed.~~ In the event that the order is not complied with within ten (10) days following personal service or fourteen (14) days following mailing of the order, the Building Commissioner shall request that a search warrant be sought pursuant to Article 690 of the Criminal Procedure Law upon application of an Amherst Police Officer which shall permit the Building Commissioner, or his/her designated delegate, to cause any work required to be done and completed and to enter upon the premises for purposes of doing so.

Section 4.

Chapter 151-50 of the Code of the Town of Amherst is amended by adding a new subparagraph, I, as follows:

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: LL - ch. 151 (RES-2022-266 : Local Law Amending Chapter 151 - Property Maintenance)

§ 151-50 **Code official; powers and duties.**

I. The code enforcement officer shall have the ability to request, upon approval of the Building Commissioner and/or the Police Department to make an application for a search warrant under Article 690 of the Criminal Procedure Law and to authorize the seizure of materials or other property which constitutes evidence or tends to demonstrate that an offense or violation of the Code was committed, or there is a particular person participating in the commission of an offense.

Section 5.

Chapter 151-53 of the Code of the Town of Amherst is amended by adding a new subparagraph, F, as follows:

§ 151-53 **Notices and orders.**

F. Whenever a code enforcement officer determines that there has been a violation of this Article, or grounds to believe a violation has occurred, he/she shall have the ability to request the Police Department to make an application to Town Court for a search warrant pursuant to Article 690 of the Criminal Procedure Law, including requesting permission to seize materials in compliance with CPL § 690.10.

Section 6.

Chapter 151 of the Code of the Town of Amherst is amended by adding a new section, §151-57, as follows:

§ 151-57 ~~(Reserved)~~ The Building Commissioner and/or his/her designated representative shall have the ability to apply for a search warrant under Article 690 of the Criminal Procedure Law seeking to search the premises to determine if the violation of the code is in existence and to seize any property as permitted under CPL § 690.10.

Section 7.

Chapter 151-61(C) of the Code of the Town of Amherst is amended by adding a new subparagraph, C, as follows:

§ 151-61 **Exterior structure.**

C. ~~(Reserved)~~ The Building Commissioner and/or his/her designated representative shall the ability of applying for a search warrant under Article 690 of the Criminal Procedure Law seeking to search the premises to determine if the violation of the code is in existence and to seize any property as permitted under CPL § 690.10.

Section 8.

Chapter 151-62 of the Code of the Town of Amherst is amended by adding a new subparagraph, H, as follows:

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: LL - ch. 151 (RES-2022-266 : Local Law Amending Chapter 151 - Property Maintenance)

§ 151-62 **Interior structure.**

H. The Building Commissioner and/or his/her designated representative shall the ability of applying for a search warrant under Article 690 of the Criminal Procedure Law seeking to search the premises to determine if the violation of the code is in existence and to seize any property as permitted under CPL § 690.10.

Section 9.

Chapter 151-84 of the Code of the Town of Amherst is amended by adding a new subparagraph, K, as follows:

§ 151-84 **Means of egress.**

K. ~~(Reserved)~~ The Building Commissioner and/or his/her designated representative shall the ability of applying for a search warrant under Article 690 of the Criminal Procedure Law seeking to search the premises to determine if the violation of the code is in existence and to seize any property as permitted under CPL § 690.10.

Section 10.

Chapter 151-85 of the Code of the Town of Amherst is amended by adding a new subparagraph, C, as follows:

§ 151-85 **Accumulations and storage**.

C. The Building Commissioner and/or his/her designated representative shall the ability of applying for a search warrant under Article 690 of the Criminal Procedure Law seeking to search the premises to determine if the violation of the code is in existence and to seize any property as permitted under CPL § 690.10.

Section 11.

Chapter 151 of the Code of the Town of Amherst is amended by adding a new section, §151-88, as follows

§ 151-88 **Reasonable Cause/Application For Search Warrant**.

Whenever the Building Commissioner and/or his/her designee has reasonable cause to believe a violation of the Building Code, the State Uniform Building and Fire Code or any other provision of Town Law is violated, he/she shall have the ability to make an application for a search warrant in compliance with the provisions of Article 690 of the Criminal Procedure Law.

~~Strikethrough~~ = Deleted language; Underline = Added language

Attachment: LL - ch. 151 (RES-2022-266 : Local Law Amending Chapter 151 - Property Maintenance)

Section 12. Effective Date

This Local Law shall take effect immediately and be filed in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and published pursuant to Sections 130 and 133 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

Francina J. Spoth, Town Clerk
Town of Amherst
County of Erie, New York

Attachment: LL - ch. 151 (RES-2022-266 : Local Law Amending Chapter 151 - Property Maintenance)

~~Strikethrough~~ = Deleted language; Underline = Added language

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25911

COMMUNICATION 2022-51 **APPROVED**

Request for Public Hearing - 1720, 1740 & 1760 Maple Road

Request from Sean Hopkins, Esq. for a public hearing to Amend the Comprehensive Plan for 1720, 1740 & 1760 Maple Road.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

HSM

May 24, 2022

Timothy J. Koller, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

MAY 27 '22 PM 12:21 RCVD

Re: Application for Bicentennial Comprehensive Plan Amendment [BCPA-2022-02]
Proposed Mixed-Use Project – 1720, 1740 & 1760 Maple Road
Applicant/Project Sponsor: PB Investors, LLC c/o Paul Bliss
File No. 10003.58

Dear Tim:

This letter is being submitted on behalf of PB Investors, LLC ("Project Sponsor") to request that the Town Board adopt a resolution during its next meeting on Monday, June 6th for the purpose of scheduling a public hearing in connection with the pending request to amend the Comprehensive Plan being sought in connection with the propose mixed-use project at 1720, 1740 & 1760 Maple Road (collectively the "Project Site"). The Project Sponsor is requesting that the public hearing be scheduled for the meeting of the Town Board to be held on **Monday, June 27th at 7:00 p.m.**

The Planning Board held a public hearing on the pending requested amendment of the Comprehensive Plan during its meeting on Thursday, May 19th 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 C. Howard, AICP, Planning Director [Via mail]
Paul Bliss, PB Investors, LLC [Via e-mail and mail]
Christopher Wood, P.E., Carmina Wood Design [Via e-mail]
Brian J. Slevar, AIA, Carmina Wood Design [Via e-mail]
Michael Blinkoff, Esq. [Via mail]
Lindsay Munschauer, McGuire Development Company [Via e-mail]

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

Attachment: sean hopkins ltr - maple rd (COM-2022-51 : Request for Public Hearing - 1720, 1740 & 1760 Maple Road)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25913

COMMUNICATION 2022-52 **APPROVED**

Request for Public Hearing - 2691 North Forest Road

Request from Sean Hopkins, Esq. for a public hearing to Reclassify 2691 North Forest Road from NCD-SA to NCD-GC.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

HSM

May 26, 2022 MAY 27 '22 P 12:21 RCVD

Timothy J. Koller, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Amendment #76 to the Audubon Development Plan & Application to Reclassify 2691 North Forest Road from NCD-SA to NCD-GC [Z-2022-03] – Town of Amherst
Applicant/Project Sponsor: PB Investors, LLC c/o Paul Bliss
File No. 10003.61

Dear Tim:

This letter is being submitted on behalf of PB Investors, LLC ("Project Sponsor") to request that the Town Board adopt a resolution during its next meeting on Monday, June 6th for the purpose of scheduling a public hearing in connection with the pending request to reclassify 2691 North Forest Road from NCD-SA to NCD-GC and to amend the Audubon Development Plan.

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

The Planning Board held a public hearing on the pending requested amendment of the Comprehensive Plan during its meeting on Thursday, May 19th 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 C. Howard, AICP, Planning Director [Via mail]
Paul Bliss, PB Investors, LLC [Via e-mail and mail]
Christopher Wood, P.E., Carmina Wood Design [Via e-mail]
Brian J. Slevar, AIA, Carmina Wood Design [Via e-mail]
Michael Nisengard, Esq. [Via e-mail]

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

Attachment: sean hopkins ltr - north forest (COM-2022-52 : Request for Public Hearing - 2691 North Forest Road)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25907

COMMUNICATION 2022-53 **APPROVED**

Request for Public Hearing - 1811 & 1817 North Forest Road

Request from Jeffery Palumbo, Esq. for a public hearing to Amend the Comprehensive Plan for 1811 & 1817 North Forest Road.

This public hearing has been scheduled for June 27th.

6/6/2022
Consent

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

BARCLAY DAMON LLP

Jeffery D. Palumbo
Partner

May 26, 2022

Via Email – tkoller@amherst.ny.us
Timothy Koller
Deputy Town Clerk
Town of Amherst
5583 Main Street
Williamsville, NY 14221

Re: Request for Zoning Approval
Property: Rezoning of 1811 and 1817 North Forest Road
Petitioner: FCJA, LLC

Dear Tim:

Please be advised that our office represents the Petitioner in connection with the above-referenced matter. I would respectfully request that the Town Board, at its meeting of June 6, 2022, schedule a public hearing on this Petition for June 27, 2022.

I thank you in advance for your anticipated cooperation.

Very truly yours,

s/ Jeffery D. Palumbo

Jeffery D. Palumbo

JDP:cck
Cc: Supervisor Brian Kulpa (bkulpa@amherst.ny.us)
Jacqualine G. Berger (jberger@amherst.ny.us)
Deborah Bruch Bucki RN, PhD (dbucki@amherst.ny.us)
Shawn A. Lavin (slavin@amherst.ny.us)
Michael Szukala (mszukala@amherst.ny.us)
Joe Jacobi (jacobijoe@aol.com)

9276 Main Street -- Suite 3 -- Clarence, New York 14031-1913 barclaydamon.com
jpalumbo@barclaydamon.com Direct: 716.858.3728 Fax: 716-759-9131

Attachment: J. Palumbo Letter to T. Koller_2022_05_31_1056 (COM-2022-53 : Request for Public Hearing - 1811 & 1817 North Forest Road)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25910

COMMUNICATION 2022-54

APPROVED

Amherst Symphony Orchestra Fee Waiver

Request from The Amherst Symphony Orchestra seeking permission to place signs and waiver of sign permit fees.

Response from the Building Commissioner is attached.

6/6/2022
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

Mark S. Berke, P.E.
Commissioner of Building

Memorandum

DATE: May 31, 2022

TO: Tim Koller, Deputy Town Clerk

FROM: Mark Berke, P.E., 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:
July 25, 2022 – August 1, 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.

Commissioner of Building
Town of Amherst Building Department

Attachment: Amherst Symphony Orchestra temp sign fee waiver memo (COM-2022-54 : Amherst Symphony Orchestra Fee Waiver)

Koller, Timothy

From: Spoth, Francina
Sent: Monday, May 23, 2022 10:07 AM
To: Koller, Timothy
Subject: FW: Amherst Symphony Orchestra Roadside Signage Permission August 2022

From: Lee Brusino <[redacted]>
Sent: Sunday, May 22, 2022 7:58 AM
To: Spoth, Francina <fspoth@amherst.ny.us>
Subject: Amherst Symphony Orchestra Roadside Signage Permission August 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.

The Amherst Symphony Orchestra is requesting permission to place roadside signage with fee waiver for the following date and locations:

CONCERT DATE: August 1, 2022,
SIGNAGE DATES: July 25 - Aug 1, 2022;
SIGNAGE LOCATIONS: Clearfield Recreation Center, 730 Hopkins Rd; Parks Department, 450 Maple Road; 4255 Harlem Rd, Buffalo, NY 14226

Thank you for your time and consideration.
Please advise as to status.

Lee Brusino
Amherst Symphony Orchestra
VP Promotions
[redacted]

--
Lee Brusino

Attachment: Amherst Symphony Orchestra temp sign fee waiver memo (COM-2022-54 : Amherst Symphony Orchestra Fee Waiver)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25908

COMMUNICATION 2022-55 **REFERRED**

Resident Communication Regarding Fair Woods Drive Parking Restriction

6/6/2022
Referred to Planning, Engineering & Traffic Safety.

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

Koller, Timothy

From: Philip Nanula [redacted]
Sent: Tuesday, May 31, 2022 3:04 PM
To: Koller, Timothy
Cc: Sean Hopkins
Subject: Public Hearing Notice for Fairwood estates
Attachments: Fair Woods Sign Plan - Essex.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

Amherst Town Board
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

The purpose of this letter is to express my comments on the Public Notice I received related to the addition of various No Parking signs along the new section of Fair Wood Drive. Essex Homes of WNY is the developer of this new section which has twenty four (24) single family residential lots. While we support the addition of these restrictions, I would like to comment and suggest the following revisions;

-Please see attached Exhibit showing the following comments.

-Reduce the 'Red" proposed No Parking from the entrance off Heim Rd. to the first 30' as part of the current code requirements. Even though there is a curve in the new road as it approaches Heim, there is full visibility in both directions.

-Increase the proposed "Blue" No Parking from 11am to 5pm on Fridays to the adjusted "Red" No Parking section.

-Decrease the Proposed "Pink" No Standing Anytime to ten feet (10') from before and after the area where the center divided highway section exists.

Over restricting No Parking on this residential street will have a negative effect on its marketability and is something that was not discussed or required at the time of development approval. Our comments would allow the residents purchasing new homes on this street to park in front of their homes. We understand that the areas directly in front of the center divided roadway would be difficult to have parking and still be able to pass a parked car. Thank you for your consideration.

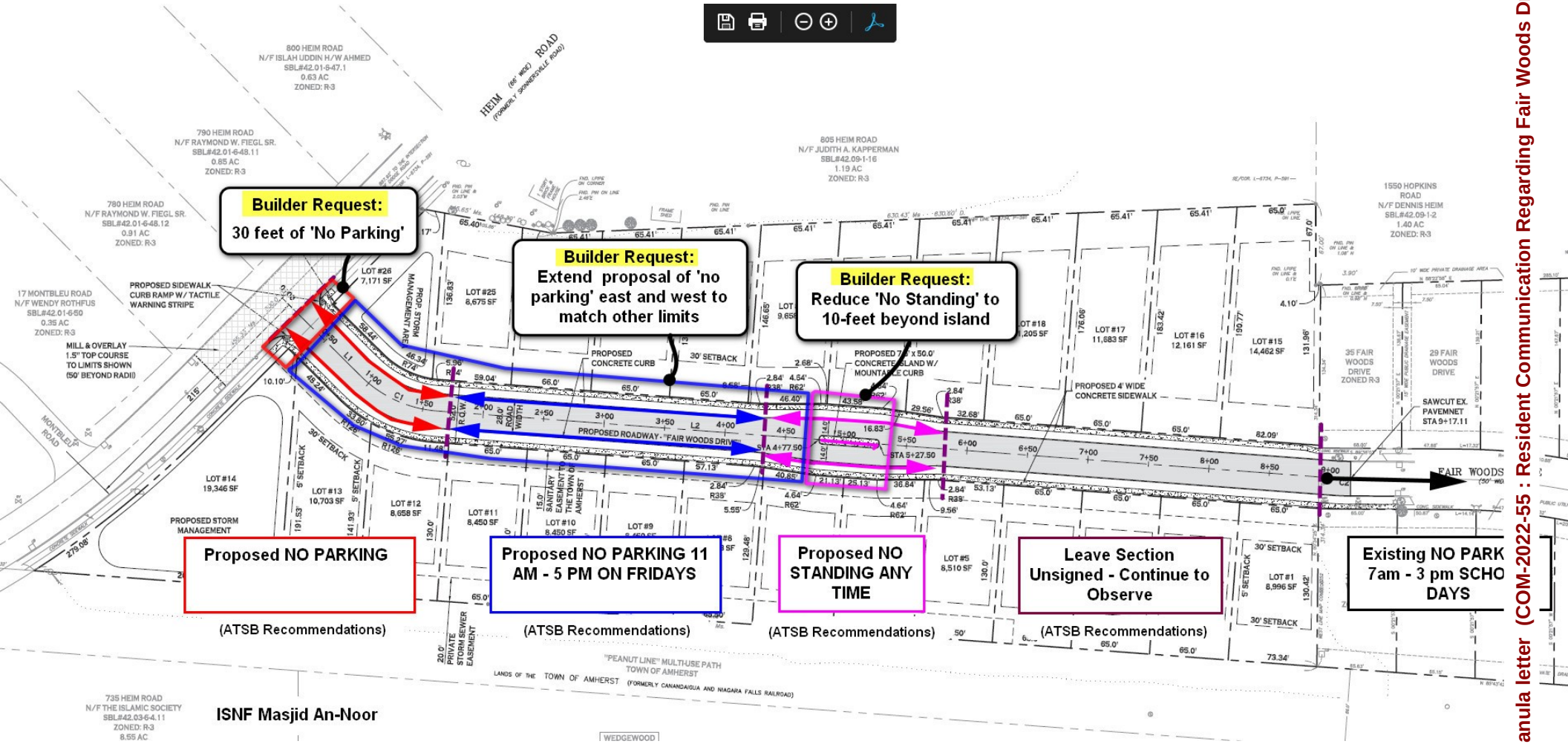
Sincerely,
Philip J. Nanula
President
Essex Homes of WNY

Phil Nanula
President
Essex Homes Of WNY

Attachment: nanula letter (COM-2022-55 : Resident Communication Regarding Fair Woods Drive Parking Restriction)

8940 Main Street
Clarence, NY 14031
[redacted]

Attachment: nanula letter (COM-2022-55 : Resident Communication Regarding Fair Woods Drive Parking Restriction)



Attachment: nanula letter (COM-2022-55 : Resident Communication Regarding Fair Woods Drive Parking

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Councilmembers
DOC ID: 25924

COMMUNICATION 2022-56 **REFERRED**

Yard Waste Concerns

Resident(s) express concerns and view of the yard waste issue the Town is experiencing.

6/6/2022
Referred to Highway, Refuse, Attorney & Modern Disposal.

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

From: burst@emailmeform.com <burst@emailmeform.com>
Sent: Monday, May 23, 2022 1:13 PM
To: Cerra, Dawn <dcerra@amherst.ny.us>
Subject: Feedback via the Town Boards and Committees [#93]

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.

For best security and privacy of your information, we recommend viewing this entry in the Data Manager

View Entry

Name*:	Tim Bukolt
Address:	[redacted]
Phone*:	[redacted]
Email:	[redacted]
Please select the Board or Committee you wish to contact*:	Town Board
Comment/Question/Etc.:	The town Board needs to get involved with the lack of yard waste pick up. I have not had a scheduled day pick up yet on the day they are supposed to pick up the yard waste this year. Twice already they did not pick up at all during the week. Since Modern has taken over the service has gone down the drain. A friend of mine has Ring video of the trucks going down the street and not picking up the yard waste but stopping at a neighbors and picking up their yard waste. I never had this problem with waste Management when they took care of the town. The board really needs to get involved.

Attachment: COMMUNICATION Yard Waste T Bukolt redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

From: burst@emailmeform.com <burst@emailmeform.com>
Sent: Sunday, May 29, 2022 11:48 AM
To: Cerra, Dawn <dcerra@amherst.ny.us>
Subject: Feedback via the Town Boards and Committees [#97]

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.

For best security and privacy of your information, we recommend viewing this entry in the Data Manager

View Entry

Name*:	Ralph Gattozzi
Address:	[redacted]
Phone*:	[redacted]
Email:	[redacted]
Please select the Board or Committee you wish to contact*:	Town Board
Comment/Question/Etc.:	While I appreciate the yard waste posting notice, how long is the town going to continue to accept the non performance of Modern Disposal and the unsightly rain soaked bags littering the streets of Amherst. One occurrence is understandable, but it has been three weeks of non performance and the posted notice was old after week two. How about posting an update as to the solution the board has formulated and an interim policy concerning placement of waste at the curb.

Attachment: COMMUNICATION Yard Waste R Gattozzi redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

-------- Original message --------
From: Pat Herweg [redacted]
Date: 5/31/22 9:10 AM (GMT-05:00)
To: "Bucki, Debbie" <dbucki@amherst.ny.us>, "Berger, Jacqualine" <jberger@amherst.ny.us>, "Lucey, Patrick G." <plucey@amherst.ny.us>
Subject: Re: lawn waste pickup

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

This has happened for more than a month, not just one week but last week it has been the worst, and again as I said...the neighborhood is starting to smell!! I understand that it is Modern Disposal, but someone needs to supervise them better. Two weeks ago, my neighbor had three bins out, they only picked up two!

Patricia Herweg
Hope you have a great day!, Pat Herweg

On Tuesday, May 31, 2022, 08:57:42 AM EDT, Lucey, Patrick G. <plucey@amherst.ny.us> wrote:

Hello Pat,

Modern Disposal is behind on the yard waste pickup throughout the entire Town. The company told us they are going to put out more resources to catch up with the yard waste collection.

Patrick Lucey
Superintendent of Highways
Town of Amherst
Highway Department
1042 N.Forest Rd.
Williamsville, NY 14221
plucey@amherst.ny.us
Phone (716) 631-7117

Fax (716) 631-8934

From: Pat Herweg [redacted]
Sent: Tuesday, May 31, 2022 8:49 AM
To: Bucki, Debbie <dbucki@amherst.ny.us>; Berger, Jacqualine <jberger@amherst.ny.us>; Lucey, Patrick G. <plucey@amherst.ny.us>
Subject: lawn waste pickup

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.

Attachment: COMMUNICATION Yard Waste P Herweg redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

Hello.

Our Neighborhoods needs HELP

Our lawn waste was supposed to be picked up Wednesday, May 25. Today is May 31 and it is still in the front our houses. It is ruining the grass underneath the bins and the neighborhood is starting to SMELL!. I have called [redacted] , at the Town highway department and he says they contract out and he will email them to pick up AGAIN. Now, this morning we get an facebook message that the grass will be a day late picking up this week because of the holiday!!!! Now long do we have to wait????

This is the Neighborhoods of Lorfield, Lamarck, Huxley, and [redacted] Kensington Aves.

Thank you for your time and consideration to this matter,,

Patricia Herweg
[redacted]
Snyder, NY

[redacted]

Attachment: COMMUNICATION Yard Waste P Herweg redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

-------- Original message --------
From: Jim Cwierley [redacted]
Date: 5/25/22 7:42 AM (GMT-05:00)
To: "Bucki, Debbie" <dbucki@amherst.ny.us>
Subject: Yard waste pickup issue?

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,

We have had an ongoing issue in Willow Ridge with Modern Disposal. Every week since the start of yard refuse pickup, the trucks have been consistently late by a day or more. RIght now, we are going on 2 days late.

We are getting a little impatient with it. Mr. Licata in Refuse Control is doing a great job, and I commend his patience in dealing with the flood of calls on this.

What can be done, at a town level, to get Modern to comply? Are there any enforcement mechanisms in the contract?

At a homeowner level, this is frustrating, to leave our cans and bags on the lawn for half the week. While writing an email to Ryan doesnt take much time each week (5 weeks running!), I dont feel we should have to do that.

Frustration is high amongst my neighbors. Any word I can pass along to them from their Board?

Thanks,
Jim Cwierley
[redacted]

Attachment: COMMUNICATION Yard Waste J Cwierley redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

-------- Original message --------
From: Robert Kirchgessner [redacted]
Date: 5/25/22 5:44 PM (GMT-05:00)
To: "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Lucey, Patrick G." <plucey@amherst.ny.us>, "Sliwa, Stanley J." <ssliwa@amherst.ny.us>
Cc: "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>
Subject: Re: Another week - no pick up! HERE WE GO AGAIN!

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 neighbor ([redacted]) and I have had our yard waste out since Sunday night (5/22) and the contractor has not yet picked it up. Just to let you all know...again.

Thank you for your attention to this ongoing situation.

Bob Kirchgessner
[redacted]
Amherst, NY 14226
[redacted]

-----Original Message-----
From: Robert Kirchgessner [redacted]
To: bkulpa@amherst.ny.us <bkulpa@amherst.ny.us>; plucey@amherst.ny.us <plucey@amherst.ny.us>;

Attachment: COMMUNICATION Yard Waste R Kirchgessner redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

ssliwa@amherst.ny.us <ssliwa@amherst.ny.us>
Cc: jberger@amherst.ny.us <jberger@amherst.ny.us>; dbucki@amherst.ny.us <dbucki@amherst.ny.us>; slavin@amherst.ny.us <slavin@amherst.ny.us>; mszukala@amherst.ny.us <mszukala@amherst.ny.us>
Sent: Wed, May 4, 2022 9:00 am
Subject: Another week - no pick up!

Good morning,

My name is Robert Kirchgessner. I live at [redacted] Amherst, NY 14226.

This is the 5th week in a row that I have yard waste out for collection and the 5th week in a row that the yard waste HAS NOT been collected!

I have called for the last three weeks to report this problem and nothing has been done!

I am beginning to wonder if someone, or some company, is getting paid for work which is not being done and whether someone, or some department, in the town is negligent in their oversight duties.

This is hardly the attentiveness, or service I would expect from a town that likes to brag about what a great place this is to live - yard waste sitting at the curb for over a month.

Robert Kirchgessner
[redacted]
Amherst, NY 14226
[redacted]

Attachment: COMMUNICATION Yard Waste R Kirchgessner redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

-------- Original message --------
From: Lonny Porter [redacted]
Date: 6/1/22 9:16 AM (GMT-05:00)
To: "Berger, Jacqualine" <jberger@amherst.ny.us>, "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Subject: Yard Waste Issues

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.

To: Town of Amherst Town Board Members

I will try to keep this short since you have had many complaints already regarding the unacceptable Yard Waste Service, or the lack of.

If you have read the Facebook and Next-door complaints, I ditto those. There are several different rumors. blame and/or facts being posted everywhere.

Therefore, can the Board come-out with the "real" reasons we are having problems, but more importantly what you are doing about it, before someone goes to the News outlets and the town gets embarrassed on a wide scale.

Thank you for your continued support.

Respectfully Submitted,

Lonny Porter
residing at [redacted]

Attachment: COMMUNICATION Yard Waste L Porter redacted 20220606 (COM-2022-56 : Yard Waste Concerns)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Councilmembers
DOC ID: 25928

COMMUNICATION 2022-57 **REFERRED**

Cost Savings Idea

Resident shares cost savings idea.

6/6/2022
Referred to Highway, Refuse & Modern Disposal.

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

-------- Original message --------
From: Jim Valk [redacted]
Date: 5/11/22 11:23 AM (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>
Subject: Cost Savings Idea

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.

The town and county have an effective incentive for residents to pay their taxes on time. As you know there is a late fee schedule when tax payments are past due. I've been a resident on [redacted] Drive since 1979 and always pay my taxes on time.

Does the town assess a penalty to contractors that do not provide the town with service on time? Since yard waste pickup season started this year, Modern Disposal has picked up yard waste only once on the designated pickup day; Mondays.

They have picked up one day late on Tuesday three times, and this week it is now Wednesday and the yard waste on Edgewater Drive is still sitting at the curb. It might be effective to charge your service contractors a late fee as you do your residents when they pay taxes late.

And yes, I have called Modern and the Town Refuse department and was told it has been reported already.

Thank you.

Attachment: COMMUNCATION Cost Saving Idea J Valk redacted 20220606 (COM-2022-57 : Cost Savings Idea)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Councilmembers
DOC ID: 25894

COMMUNICATION 2022-58 **REFERRED**

Canandaigua Niagara Falls Trailway

Resident(s) comments on the use of the former Niagara Canandaigua Railway bed, also known as the Peanut Line.

6/6/2022
Referred to Planning, Engineering & Traffic Safety.

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

From: Freda Zecher-tropp [redacted]
Sent: Monday, May 30, 2022 9:17 AM
To: Berger, Jacqualine
Subject: Amherst Peanut Line

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 Council Member Berger,

I would like to express my very enthusiastic support for the development of a multi-use pedestrian and bike trail along the former Peanut Line rail bed. This trail would complete an existing GAP from the UB area/Amherst Bike path to Clarence where the line has been developed for several years already.

I am an avid cyclist who enjoys using trails such as the Rails to Trails in Tonawanda, the Amherst (Ellicott) bike trail and the Clarence Bike paths. The completion of the Peanut Line trail would add the connecting link for greater opportunities for the safety, health and well-being of our town residents and neighboring residents as well.

We have been working hard to get approval for this trail for several years, having brought it back to life after sadly being shot down many years ago by a small contingent of NIMBY neighbors.

Thank you for your efforts in getting this trail the attention and completion it deserves!

Sincerely,
Freda Zecher-Tropp
[redacted]
Williamsville NY 14221

Attachment: COMMUNICATION Canandaigua Nia Falls Trail F Zecher-Tropp redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls

From: Gary Emmerson [redacted]
Sent: Sunday, May 29, 2022 5:09 PM
To: Berger, Jacqualine
Subject: Peanut Line support

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.

Council Member Berger

I asm writing this letter in support of creating a bike trail on the location of the Peanut line.
This would connect the Clarence bike path to the Amherst bike path.

This public land and bike path would be a benefit to all.

This would be for the good of the entire community and a huge accent to Amherst.

Please help in supporting this initiative.

Thank you

Gary Emmerson
[redacted]
Williamsville, NY 14221
[redacted]

Attachment: COMMUNICATION Canandaigua Nia Falls Trail G Emmerson redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls

From: Daniel [redacted]
Sent: Sunday, May 29, 2022 9:38 PM
To: Berger, Jacqualine
Subject: Peanut Line path

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 Councilmember Berger,

I am writing to you in support of completion of the Peanut Line bike path. The Buffalo area has a great system of bike paths. You can ride from downtown up the river, then head east passing through UB, and continue through Amherst, Clarence, all the way to Akron. Except for one section: the Peanut Line through Amherst! It is the gaping hole in the Erie County system of bike paths.

Completion of this has been asked for by Amherst residents for years. It is time that it gets built!

In addition to recreation, there is the safety issue to consider. Currently, to ride east-west in this part of Amherst, you need to ride on busy roads such as Klein or Dodge. It is only a matter of time before someone gets injured or killed (if they haven't already). Completion of the Peanut Line would contribute greatly to the safety of bike riders.

There is even a Facebook group dedicated to the completion of this section of the bike path, with almost 700 members. Please stop letting a small contingent of NIMBY neighbors continue to prevent it from being built.

Thank you for your efforts in getting this done!

Sincerely,
Daniel Kester

Daniel Kester
[redacted]
Williamsville, NY 14221 USA
[redacted]

Attachment: COMMUNICATION Canandaigua Nia Falls Trail D Kester redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Lisa Ferraro [redacted]
Sent: Sunday, May 29, 2022 6:44 AM
To: Berger, Jacqualine
Subject: Peanut trail support

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 Ms. Berger
I am an Amherst resident in support of completing the peanut trail in Amherst to support a more pedestrian and bike friendly Amherst

Lisa Ferraro
[redacted]
GETZVILLE NY

Attachment: COMMUNICATION Canandaigua Nia Falls Trail L Ferraro redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Zac Maslowski [redacted]
Sent: Saturday, May 28, 2022 9:36 PM
To: Berger, Jacqualine
Subject: Peanut Line

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 Councilmember Jacqualine Berger

I am writing this email to show my support for the Peanut Trail Line.

As a new resident here in WNY, I visit my friend and family in the Amherst area often, mostly by car. I've often wished there was an easy and safe way to travel by bike to and from bike. Living in North Buffalo, a Peanut Line extension would provide me this opportunity.

I understand that not everyone is onboard with the tail being in their own backyard. I've seen this hesitation from many residents when I was a resident of Chicago and the 716 trail was built on old abandoned rail lines. In the end, the residents and community have seen the benefits on that trail.

Please consider this project for the greater good of WNY and it's citizens. For both the health and wellbeing for our future.

Thanks,
Zachary Maslowski

jberger@amherst.ny.us
Amherst Municipal Building
5583 Main St, Williamsville, NY 14221

Attachment: COMMUNICATION Canandaigua Nia Falls Trail Z Maslowski redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls

From: [redacted]
Sent: Saturday, May 28, 2022 5:41 PM
To: Berger, Jacqualine
Subject: Peanut line trail

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 Council Member Berger,
My name is Julie Clack and I am am
Amherst resident and WCSD teacher. I consider myself so lucky to have found the Peanut Trail. I am an ultramarathon runner so I require long routes and I love to stay as far away from traffic as possible. The Peanut Trail is a beautiful and safe alternative to Main, Sheridan, Maple, Klein, Casey and any other parallel street to take me out to Clarence. I would love to see this path finished formally for the safety of our kids that use those busier streets as pedestrians and cyclists.
Thank you for your consideration,
Julie Clack
[redacted]

Attachment: COMMUNICATION Canandaigua Nia Falls Trail J Clack redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Paula Kaleta [redacted]
Sent: Saturday, May 28, 2022 12:04 PM
To: Berger, Jacqualine
Subject: Peanut Line Extension

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 Jacqualine Berger,

While I am not an Amherst resident, I am an avid cyclist in the Town of Tonawanda. I'm a senior and having paths to use to navigate Amherst is important to me. Using these paths allow me to shop and eat more in Amherst, adding dollars to the economy. I'm environmentally friendly, leaving my car and heavy traffic behind.

Bicycling and bicycling travel continues to grow in NYS in general, and having connections throughout our local neighborhoods to access more businesses and other paths are important to give riders a safe place to navigate.

Please vote to continue the Peanut Line Extension.

Thanks!
Paula J. Kaleta

Attachment: COMMUNICATION Canandaigua Nia Falls Trail P Kaleta redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Bob Van Hise [redacted]
Sent: Saturday, May 28, 2022 12:24 PM
To: Berger, Jacqualine
Subject: Amherst Peanut Line

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.

Councilmember Jacqui Berger:

As bicyclists and users of multi-use trails, my wife, Patti, and I are asking for the Town of Amherst to complete/extend the Peanut Line trail across Campbell Blvd. to North French at Dodge Road.
Years ago, my family owned a home there on Dodge Rd. and a separate parcel adjacent to the Peanut Line. Having a connection to the multi-use path would be a great addition to the current community, and the future residents of the development in progress next to I-990 are sure to appreciate that quality of life improvement as well.
In Tonawanda, where we live, a rail-trail was completed a few years ago. Residents all along the trail enjoy that connection, and the Peanut Line would provide another route for walkers & cyclists to enjoy in Amherst. It's time.
Regards,
Robert and Patti Van Hise
Tonawanda NY

Attachment: COMMUNICATION Canandaigua Nia Falls Trail B Van Hise redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Jeanne spoth [redacted]
Sent: Saturday, May 28, 2022 3:02 PM
To: Berger, Jacqualine
Subject: Peanut Line Improvement

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 Councilwoman Berger,

As a Clarence resident whose home is located on the peanut line, and because of that, a daily user of the trail, I am writing to you in support of continuing the trail into the town of Amherst. Our family would definitely love the opportunity to use the trail west to be able to bike or walk to Amherst businesses.
Having had the Clarence Peanut Line in our backyard for 19 years now, I also would feel qualified to allay Amherst residents concerns. We have never had trouble of any kind associated with having a bike path in our backyard. We find it hard to imagine moving somewhere where we didn't have such an asset, and we hear many people who comment as they ride by that it would be amazing to be able to live right on the trail. We feel it definitely increases our home's value.

Jeanne Spoth
[redacted]
Clarence Center

Attachment: COMMUNICATION Canandaigua Nia Falls Trail J Spoth redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Beth B [redacted]
Sent: Saturday, May 28, 2022 2:35 PM
To: Berger, Jacqualine
Subject: Support For Peanut Trail

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.

To Coucilmember Jacqualine Berger,

As a bike rider and avid lover of the outdoors I am in extreme favor of the Peanut Line. My family and I live in [redacted] about a 10 minute bike ride to the Peanut Trail. My husband, daughter, and I as well as many bike riders and pedestrians are always looking for safe trails and this would be a fantastic one connecting to Amherst. Thank you in advance for advocating for the needs of the community. We look forward to having more transportation accessibility on our outdoor travels.

Thank you,
Beth Burdette-Allen

--
Thank you,
Beth Burdette
cell [redacted]

Attachment: COMMUNICATION Canandaigua Nia Falls Trail B Burdette redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

From: Nancy [redacted]
Date: 5/31/22 9:20 AM (GMT-05:00)
To: "Berger, Jacqualine" <jberger@amherst.ny.us>, "Kulpa, Brian J." <bkulpa@amherst.ny.us>, "Bucki, Debbie" <dbucki@amherst.ny.us>, "Lavin, Shawn A." <slavin@amherst.ny.us>, "Szukala, Michael" <mszukala@amherst.ny.us>
Subject: Amherst Peanut Line in support

CAUTION: This email originated from outside of the organization.
Please do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing to you in support of completion of the Peanut Line bike path. The Buffalo area has a great system of bike paths. You can ride from downtown up the river, then head east passing through UB, and continue through Amherst, Clarence, all the way to Akron. Except for one section: the Peanut Line through Amherst! It is the gaping hole in the Erie County system of bike paths.

We have ridden several of these paths with friends from out of town and when we get to the peanut line unfinished section, they always ask, “why doesn’t your town finish this and follow all the other, suburbs?” It’s embarrassing to have to tell them it’s been held up for years by a few people that are against it. We end up having to ride on the streets to get to the next portion.

I live right off of Klein Road and there are several bicyclist riding on the side of this narrow road. It is extremely dangerous and I’ve seen several near misses with cars blaring their horns at the cyclist, which scares them and only increases the chances of them getting hit. There is currently a traffic safety review being done for Klein Road as the traffic as increased greatly in the 35 years we’ve lived on Chestnut Hill Lane. My family and I have been nearly hit several times just trying to cross at Hopkins and Klein. The pedestrian traffic button on the northeast corner of Klein isn’t even near the intersection, you have to go onto the grass quite a ways to push the button, even more difficult to do while on a bike.

What about families riding with kids, taking them on the streets to cross this unfinished section isn’t an option. **Will it take someone getting killed to finally finish this portion?**

Thank you for your consideration and please support the majority of the residents that want to see this completed soon!

Nancy and Lawrence Porter
[redacted]

Attachment: COMMUNICATION Canandaigua Nia Falls Trail N Porter redacted 20220606 (COM-2022-58 : Canandaigua Niagara Falls Trailway)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25884

COMMUNICATION 2022-59 **REFERRED**

Notice of Claim: Progressive A/S/O Viola Sterman Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

PROGRESSIVE

Payment Address
24344 Network Place
Chicago, IL 60673-1243

Document Address
P.O. Box 94639
Cleveland, Ohio 44101-9908
Phone: (877)818-0139
Fax: (888) 781-6947

Notice of Intent to File Claim
5/19/2022 7:50:00 AM
Certified Mail 9489-0090-0027-6274-0711-55 Return Receipt Requested

TOWN OF AMHERST
TOWN CLERK
5583 MAIN STREET,
AMHERST, NEW YORK 14221

MAY 25 '22 AM 10:55 RCVD

Your Client: BUROW, MARK
Your Claim Number:7219409
Our Insured:STERMAN, VIOLA
Our Claim Number:22-8365249
Amount Subject to Reimbursement:$4,361.91
Amount of Insured's Deductible:$500

Please take this as formal notice of our subrogation rights relative to the above -captioned claim. We have completed our investigation into the facts of the above-captioned loss and find that your insured was the proximate cause of the accident.

Location of Loss: MAIN ST IN AMHERST, NY
Date and Time of Loss:02-09-22 AT 1:16 PM

Description of Loss: OUR INSURED WAS TRAVELING ON MAIN ST IN AMHERST, NY WHEN A CITY POLICE VEHICLE OPERATERD BY BUROW, MARK STRUCK OUR INSURED'S VEHICLE. WE ARE SEEKING REIMBURSEMNT FOR OUR INSURED'S VEHICLE DAMAGES.

Please make your draft payable to" Progressive Specialty Insurance Company as subrogee of STERMAN, VIOLA ", in the amount stated above and mail it to the attention of the undersigned at your earliest convenience.

All supporting documentation is enclosed. Thank you for your anticipated, prompt attention to this matter.

X_____
Progressive Subrogation
Progressive Specialty Insurance Company
Tel. 877-818-0139
Fax. 888-781-6947
GovernmentStatus@email.progressive.com

NOTARIAL SEAL
STATE OF OHIO
JANICE MARY SHERMAN
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 01-10-27

Sworn to me and subscribed in my presence this 20 day of May 2022

Janice Mary Sherman
NOTARY PUBLIC

Attachment: DOC052622-05262022113634 (COM-2022-59 : Notice of Claim: Progressive A/S/O Viola Sterman Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25886

COMMUNICATION 2022-60 **REFERRED**

Notice of Claim: Joyce M. Harling Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

Town of Amherst
Town Clerk
5583 Main Street
Amherst N.Y.14221

Notice of Claim;

a. Joyce M. Harling
[redacted]

b. Time of event,aprox.10;a.m.
date; March 28,2022
place; In front of 104 Garden Parkway,across from N.Harvest on Garden Parkway Street.

Event that caused the damage:

C.While driving straight down Garden Pkwy,going towards Union and Main,on my right side of the street,coming upon aprox.4ft.by 1or 2ft.deep sink hole.The hole could not be seen until reached too late right in the middle of the right lane.My front end of my car dropped into the hole really really hard shaking me and my son physically and banging and shaking my whole car.Idid not realize the damage until my car did stop running.

Tele; [redacted]
Wittness; Robert Harling Jr.

Signed Joyce M. Harling
Joyce M Harling

Leanne Geier 5/24/2022
NotaryPublic

LEANNE GEIER
NOTARY PUBLIC STATE OF NEW YORK
ERIE COUNTY
LIC. #01GE6345753
COMM. EXP. AUGUST 1, 2024

Attachment: DOC052722-05272022100935 (COM-2022-60 : Notice of Claim: Joyce M. Harling Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25947

COMMUNICATION 2022-61 **REFERRED**

Notice of Claim: Travelers A/S/O James Bowen Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

TRAVELERS

TRAVELERS PERSONAL INSURANCE COMPANY
P.O. Box 5076
Hartford, CT 06102-5076

05/13/2022

Town Of Amherst Police
500 John James Audubon Pkwy
West Amherst NY 14228

Our Insured: James Bowen
Our Claim Number: IWT2803
Your Insured:
Your Claim Number:
Date of Loss: 03/28/2022

Dear Town Of Amherst Police,

Based on the investigation by Travelers Personal Insurance Company of the above-referenced loss, your insured is liable for the resulting damages.

To date, Travelers Personal Insurance Company has paid $1,005.00, and James Bowen has paid a deductible of $500.00. I request reimbursement for $1,505.00, the total amount of payments made.

Please make a check payable to Travelers Personal Insurance Company, include the claim number IWT2803 on the check, and mail the check to:

Travelers Claims Hartford
PO Box 660339
Dallas, TX 75266-0339

Once I receive payment, I will forward the deductible amount to James Bowen.

If you have any questions about this request, please contact me at the telephone number or email address listed below.

Sincerely,

Kelli L Rego
Claim Professional
Direct: (508)324-8295
Office: (800)925-7693 Ext. 5083248295
Fax: (866)304-7031
Email: KREGO@travelers.com

Travelers Subrogation Services

JUN02'22 AM10:47 RCD

RECEIVED
MAY 24 2022
Via Certified Mail/RRR
AMHERST POLICE DEPT.

P1996

Attachment: DOC060222-0602202112115 (COM-2022-61 : Notice of Claim: Travelers A/S/O James Bowen Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25888

COMMUNICATION 2022-62 **REFERRED**

Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst

6/6/2022
Referred to Town Attorney.

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

15.12.a

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

SERENA DONAHUE and
MARK DONAHUE,
[redacted]
Plaintiffs,

-vs-

TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221

Defendant.

SUMMONS

Index No. _____

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the 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 provided by law.

If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by default, for the relief demanded in the Complaint without further notice to you.

Plaintiff designates Erie County as the place of trial. Venue is based on Plaintiff's residence.

Attachment: DOC053122-053120220938S3 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

15.12.a

Dated: May 13, 2022
Hamburg, New York

R. Colin Campbell, Esq.
CAMPBELL & ASSOCIATES
Attorneys for Plaintiff
38 Lake Street
Hamburg, New York 14075
(716) 992-2222

Attachment: DOC053122-053120220938 53 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

15.12.a

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

SERENA DONAHUE and MARK DONAHUE,

Plaintiffs,

-vs

TOWN OF AMHERST,

Defendant.

COMPLAINT

Index No. _____

Plaintiffs, SERENA DONAHUE, and MARK DONAHUE, by their attorneys, CAMPBELL & ASSOCIATES, for their Complaint against the Defendant, TOWN OF AMHERST, herein allege:

1. Upon information and belief, presently and at all times hereinafter mentioned, Plaintiff, SERENA DONAHUE and MARK DONAHUE, were and continue to be a resident of the [redacted]

2. Upon information and belief, presently and at all times hereinafter mentioned, Defendant, TOWN OF AMHERST (hereinafter "AMHERST"), was and continues to be a municipal corporation, duly existing under the laws of the State of New York, located within the County of Erie, State of New York, and with a principal place of administration at 5583 Main Street, Williamsville, New York 14221.

3. Upon information and belief, on or before September 24, 2021, Defendant, TOWN OF AMHERST, and/or their agents, servants, and/or employees, owned and/or were responsible for the design, construction, maintenance and/or inspection of an intersection at

Attachment: DOC053122-053120220938S3 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

15.12.a

Partridge Road and JJ Audubon Parkway in the Town of Amherst, and were responsible for providing a reasonably safe roadway for the public.

4. SERENA DONAHUE was lawfully proceeding on Partridge Run, when a vehicle traveling on JJ Audubon Parkway came in contact with her vehicle. Serena Donahue's view of that oncoming vehicle was obscured by overgrown weeds at the intersection.

5. That, upon information and belief, the TOWN OF AMHERST, by and through its agents, servants and/or employees, owned, operated, designed, and maintained the intersection of Partridge Run and JJ Audubon Parkway.

6. That, upon information and belief, the TOWN OF AMHERST, by and through its agents, servants and/or employees, was negligent, careless, and reckless in its failure to trim foliage and provide adequate sight distances for the intersection.

7. That, upon information and belief, the sight distance for the operator of the vehicle on Partridge Run traveling west was obstructed when looking to the left by foliage and that obstruction prevented the operator from observing the oncoming vehicle. That the foliage and/or weeds were within the right of way of the TOWN OF AMHERST. That the TOWN OF AMHERST, by and through its agents, servants and/or employees, was negligent, careless, and reckless in its failure to properly maintain its right of way, and in particular in failing to remove the weeds and/or foliage obstructing the sight line of vehicle operators on Partridge Run.

8. That, upon information and belief, the TOWN OF AMHERST, by and through its agents, servants and/or employees was negligent, careless, and reckless in its failure to trim foliage/weeds and provide adequate sight distances at the intersection of Partridge Run and JJ Audubon Parkway.

Attachment: DOC053122-053120220938S3 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

15.12.a

9. That the negligent acts of the TOWN OF AMHERST, by and through its agents, servants and/or employees, resulted in serious injuries to Claimant, SERENA DONAHUE, including to her neck, low back, right leg and left elbow, the full extent of which cannot yet be determined, and damages in an amount substantially in excess of the jurisdictional limits of all lower courts.

10. Upon information and belief, Plaintiff SERENA DONAHUE sustained injuries solely due to the carelessness, negligence, and/or recklessness of the Defendant, TOWN OF AMHERST, and/or their agents, servants, and employees, without any fault or want of care on the part of the Plaintiffs contributing thereto.

11. Upon information and belief, the Defendant herein and/or their agents, servants, and/or employees caused and/or had actual and/or constructive notice of the aforesaid conditions and failed to remedy same within a reasonable period of time.

12. Upon information and belief, on or about December 7, 2021, in accordance with General Municipal Law § 50-e, the Plaintiffs caused a Notice of Claim to be served upon Defendant, TOWN OF AMHERST, which set forth the date, time, and location of the incident giving rise to the claim.

13. The aforesaid Notice of Claim was served upon the Defendant, TOWN OF AMHERST, within ninety (90) days of the incident giving rise to the claim.

14. More than thirty (30) days have elapsed since said service on Defendant, without adjustment or payment of said claims.

15. This action has been commenced within one (1) year and ninety (90) days after the cause of action herein accrued.

16. Upon information and belief, the limitations on liability set forth in Article 16 of

Attachment: DOC053122-053120220938S3 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

15.12.a

the Civil Practice Law and Rules do not apply by reason of one or more of the exemptions set forth in Section 1602.

17. As a result of the foregoing, the Plaintiff, SERENA DONAHUE, sustained severe and serious personal injuries and incurred medical expenses and other economic loss, all to her damage in an amount in excess of the jurisdictional limits of all other courts which would otherwise have jurisdiction over this action.

WHEREFORE, Plaintiffs, SERENA DONAHUE, and MARK DONAHUE, demands judgment against the Defendant, TOWN OF AMHERST, in an amount to be determined by the trier of fact, together with the costs and disbursements of this action, and demands such other and further relief as the Court deems just and proper.

Dated: May 13, 2022
Hamburg, New York

R. Colin Campbell, Esq.
CAMPBELL & ASSOCIATES
Attorneys for Plaintiff
38 Lake Street
Hamburg, New York 14075
(716) 992-2222

Attachment: DOC053122-053120220938 53 (COM-2022-62 : Summons and Complaint: Serena Donahue and Mark Donahue Vs. Town of Amherst)

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

Francina J. Spoth
Town Clerk

Meeting: 06/06/22 07:00 PM
Department: Town Clerk
DOC ID: 25961

COMMUNICATION 2022-63

APPROVED

Appeal from Notice of Proposed Historic Designation of 725 LeBrun Road

Suspension to Town Board Agenda Item June 6, 2022

TO: **Amherst Town Board**

FROM: **Jacqualine Berger, Town Deputy Supervisor**

DATE: **June 6, 2022**

RE: **Appeal from Notice of Proposed Historic Designation of 725 LeBrun Road**

Request to add 725 LeBrun Road to the June 6 Agenda for discussion.

6/6/202
Deputy Supervisor Berger made a motion to schedule a public hearing for the June 27th Town Board meeting, seconded by Councilmember Lavin and unanimously approved 5-0.

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

Lipsitz Green Scime Cambria LLP

Attorneys at Law

42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924 P 716 849 1333 F 716 855 1580 (Not for Service) www.lglaw.com

Paul J. Cambria, Jr.[1,3,5]
James T. Scime
Michael Schiavone
Laraine Kelley
Richard P. Weisbeck, Jr.
Mark L. Stulmaker
Barry Nelson Covert
Robert L. Boreanoz
Thomas M. Mercure
John A. Collins
Michael P. Stuermer[2,3]
Jeffrey F. Reina
Cherie L. Peterson
Joseph J. Manna
William P. Moore
Thomas C. Burnham
Jonathan W. Brown[3]
Diane M. Perri Roberts
Matthew B. Morey
Sharon M. Heim
Paul J. Cieslik
Gregory P. Krull
Robert E. Ziske
Patrick J. Mackey[4]
Max Humann
Justin D. Ginter
Erin McCampbell Paris
Joseph L. Guzo
Lynn M. Bochenek
Lucy M. Berkman[2]
Jamie Michelle Cain[5]
Richard A. Maltese, Jr.
Dale J. Bouman[1,5]
Karoline R. Faltas
Melissa D. Wischerath[7]
Alexander E. Basinski
Taylor D. Golba
Christina M. Croglio
Amy C. Keller[8]
Andrew J. Pace
Michael M. Kane
Alexander R. DiDonato
Maxwell C. Radley
Brittany E. Morgan

OF COUNSEL
Herbert L. Greenman
Patrick C. O'Reilly
Joseph J. Gumkowski
George E. Riedel, Jr.[2]

SPECIAL COUNSEL
Richard D. Furlong
Scott M. Schwartz
Robert A. Scalione[2]

ALSO ADMITTED IN
1 District of Columbia
2 Florida
3 California
4 Illinois
5 Pennsylvania
6 New Jersey
7 Oregon
8 Massachusetts

May 20, 2022

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

Re: **APPEAL FROM NOTICE OF PROPOSED HISTORIC DESIGNATION**
725 LeBrun Road

Dear Supervisor Kulpa:

Please be advised that I have been engaged by Lisa and Scott Friedman, and as co-counsel to Sean Hopkins, Esq. to represent them in connection with the above-referenced matter.

In that capacity, and in accordance with Section 121-15 of the Town of Amherst's Historic Preservation Law, I am filing this Appeal from the Notice of Proposed Historic Designation of their home at 725 LeBrun that the Amherst Historic Preservation Commission ("HPC") issued on May 11, 2022. A copy of the Notice of Proposed Historic Designation dated May 11, 2022 is enclosed. The Appeal being sought includes but is not limited to the HPC's decision denying the Friedman's request to demolish a detached garage at 725 LeBrun Road, and denying the building permit they requested.

In accordance with the language in Section 121-25 of the Historic Preservation Law, we ask that a public hearing be scheduled without delay and that the Town Board adopt a resolution during its next meeting on June 6, 2022 to schedule a public hearing on June 27, 2022 or on an earlier date.

Based on the record and the criteria utilized by the HPC, as well as applicable law, we intend to explain to the Town Board during the public hearing why the HPC exceeded its authority by both: (1) denying the Friedmans' application to demolish their garage and, (2) precluding the issuance of a building permit they had requested from the Town's Building Department for a proposed addition to their home and proposing to designate their private home as a historic local landmark.

Thank you.

Very truly yours,

Lipsitz Green Scime Cambria LLP

Paul J. Cambria Jr., Esq.
PJC/kd

4580662, 1, 053250.0132

Attachment: Cambria-Ltr-Kulpa-05-20-22 (COM-2022-63 : Appeal from Notice of Proposed Historic Designation)

Lipsitz Green Scime Cambria LLP

Enclosure

cc: Jacqualine Berger, Deputy Supervisor *(via mail)*
Deborah Bruch Bucki RN PhD, Councilmember *(via mail)*
Shawn Lavin, Councilmember *(via mail)*
Michael Szukala, Councilmember*(via mail)*
Francina J. Spoth, Town Clerk *(via mail)*
Timothy J. Koller, Deputy Town Clerk *(via mail)*
Stanley J. Sliwa, Esq., Town Attorney*(via mail)*
Mark Berke, Building Commissioner*(via mail)*
Daniel Howard, Assistant Planning Director *(via mail)*
Lisa and Scott Friedman*(via mail)*
Sean Hopkins, Esq., Hopkins Sorgi & McCarthy *(via mail)*

Writer's Extension: 343
Fax: 716-855-1580
E-Mail: pcambria@lglaw.com

Attachment: Cambria-Ltr-Kulpa-05-20-22 (COM-2022-63 : Appeal from Notice of Proposed Historic Designation)