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

I. IN MEMORY

John Veneski

II. INVOCATION

Councilmember Bucki

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on November 7, 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	
Lynda Juul	Town of Amherst	Director of Finance	Present	
Daryl Bramer	Town of Amherst	Comptroller	Present	
Stanley J. Sliwa	Town of Amherst	Town Attorney	Present	
Jeffrey S. Burroughs	Town of Amherst	Town Engineer	Present	
Patrick G. Lucey	Town of Amherst	Highway Superintendent	Present	
Dan Howard	Town of Amherst	Planning Director	Present	
Laurie Stillwell	Town of Amherst	Director of Community Development	Present	

Samuel A Alba	Town of Amherst	Sr. Deputy Town Attorney	Present	

V. MINUTES APPROVAL

1. Monday, October 24, 2022

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

VI. PROCLAMATIONS AND ANNOUNCEMENTS

Invitation to a presentation Wednesday, November 9, 2022 at 10:00am at Amherst Municipal Building, to proclaim the Town of Amherst as a Purple Heart Community.

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2022-896

Local Law Amending Chapter 175, Taxation

Public Hearing with respect to a Local Law Amending Chapter 175, Taxation, adding Article XII, Agricultural Districts, Exemptions.

9/19/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing until the October 3rd Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:12 PM.

10/3/2022
A motion to adjourn the hearing until the October 17th Town Board meeting was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 4-0.

10/17/2022
A motion to adjourn the hearing until the October 24th Town Board meeting was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

10/24/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 4-0. The public hearing was opened at 7:02 PM.

Bob Gilmour, representing Spoth Farms, spoke.

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing to the November 7th Town Board meeting, seconded by Councilmember Bucki and unanimously approved 4-0. The public hearing was adjourned at 7:16 PM.

11/7/2022
A motion to adjourn the hearing until the November 22nd Town Board meeting was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 11/22/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

2. Resolution 2022-1077

Substantial Amendments to the 2020 Annual Action Plan for Community Development

Public hearing to Authorize the Adoption of Substantial Amendments to the 2020 Annual Action Plan for Community Development.

11/7/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:03 PM.

Laurie Stillwell, Community Development Director, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:10 PM.

RESULT:	**HEARING CLOSED**

3. Resolution 2022-1078

Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet Home Road, Z-2022-02)

DRAFT RESOLUTION
November 22, 2022

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

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of September 22, 2022, that the proposed rezoning from Research and Development District (RD) to the Center 8 District (CTR-8) at 1400-1404 & 1408-1416 Sweet Home Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map.

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

Attorney Sean Hopkins presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 22nd Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:18 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 11/22/2022 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 (5)

3. **Amherst Community Diversity Commission (4)**

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**

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

Adult vacancies (6), Youth vacancies (0)

30. Zoning Board of Appeals

X. PUBLIC EXPRESSION

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. Public Expression was opened at 7:19 PM.

The following speakers addressed the Town Board:
Cheryl Meyer, 90 Willowbrook Dr. - Ellicott creek dam
Joseph Carden, 45 Danbern Ln. - Ellicott creek dam
Chris Drongosky, 1260 Youngs Rd. - Resolution 2022-1082
Gail Jahreis, 3300 Tonawanda Creek Rd. - Future of oakwood golf course
Don Smith, 171 Autumn Creek Ct. - Resolution 2022-1082
Jane Cox, 4584 Harlem Rd. - Resolution 2022-1082

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 8:06 PM.

XI. CONSENT AGENDA

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

XII. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

1. Resolution 2022-999

A Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-C

10/17/2022
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 7:13 PM.

Supervisor Kulpa presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 7th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:15 PM.

RESULT:	**WITHDRAWN**

2. Resolution 2022-1049

Capital Improvement Program (CIP) 2023-2028

The 2023-2028 CIP is available for viewing at the Planning Department, the Town Clerk's Office, and on the Town of Amherst Website (as part of the Town's Overall Budget). The 2023-28 CIP can be found on the following link:

https://www.amherst.ny.us/pdf/planning/cip/221007_supervisors_recommended_2023_2028_cip.pdf

10/24/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 4-0. The public hearing was opened at 7:16 PM.

Supervisor Kulpa gave a brief presentation.

The following speaker addressed the Board:
Don Smith, 201 N. Long St. - CIP Budget and the Town's long term debt

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 7th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 4-0. The public hearing was closed at 7:39 PM.

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

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

B. DEPUTY SUPERVISOR BERGER:

C. COUNCILMEMBER BUCKI:

D. COUNCILMEMBER LAVIN:

1. Resolution 2022-1079

Appointment to Amherst Youth Board

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

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

WHEREAS, Hannah Joseph and Tiger Li, both students in the Town of Amherst, have expressed interest in serving the Amherst Youth Board.

NOW, THEREFORE, BE IT RESOLVED that Hannah Joseph and Tiger Li be appointed to the Amherst Youth Board for terms to end on December 31, 2024.

11/7/2022
Consent

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

E. COUNCILMEMBER SZUKALA:

XIII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2022-1080

Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000)

AGENDA ITEM - NOVEMBER 7th, 2022

TO: **Town Board**

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

DATE: **November 2, 2022**

RE: **North Bailey Sewer Project**
2022-2027 C.I.P. - Project No. E-53
Order Calling Public Hearing - $100,000

Kindly adopt the attached Order Calling Public Hearing regarding the above matter by scheduling a Public Hearing for the project on December 12, 2022 at 7:00 p.m.

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - November 7, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Jessica Boudreau, P.E., Project Manager (*w/attachment*)

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

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

2. Resolution 2022-1081

Issuing Negative Declaration (Purchase of Westwood)

AGENDA ITEM : NOVEMBER 7TH, 2022

TO: **Town Board**

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

RE: **Issuance of Negative Declaration Pursuant To SEQRA Purchase of Westwood**

DATE: **November 3, 2022**

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

At a meeting of the Town Board of the Town of Amherst, held at the Town of Amherst Municipal Building, 5583 Main St., Williamsville, New York, 14221, on November __, 2022 at 7:00 p.m., local time.

The meeting was called to order by _____ and upon roll being called, the following were:

PRESENT:

ABSENT:

_____ presented the following "Resolution" which was seconded by _____:

RESOLUTION OF THE TOWN OF AMHERST TOWN BOARD DECLARING ITSELF LEAD AGENCY AND ISSUING THE NEGATIVE DECLARATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT RELATIVE TO THE TOWN'S PURCHASE OF THE WESTWOOD PROPERTY

LOCATED AT 772 NORTH FOREST ROAD USING BOND FUNDING (hereinafter "Project")

WHEREAS, the Town Board of the Town of Amherst (hereafter the "Board") is proposing to purchase the 170.542 acre former Westwood Golf Course and County Club property located at 772 North Forest Road ("Property");

WHEREAS, the Town proposed to finance the purchase of the Property through the issuance of bonds XXXXXXXX [needs to be completed by Bond Counsel];

WHEREAS, the Project involves proposed purchase of the Property with the bond proceeds;

WHEREAS, pursuant to the State Environmental Quality Review Act (hereinafter "SEQRA"), the Board caused to be prepared a Full Environmental Assessment Form (hereinafter "FEAF") for the Project;

WHEREAS, the FEAF, having been reviewed by the Board, was deemed adequate and accurate relative to the Project;

WHEREAS, the Town Board has examined the Application and Part 1 of the FEAF which reveals that the Project is a "Type 1 action" as that term is defined by the SEQRA regulations at 6 NYCRR §617.4(b) and therefore is subject to a coordinated review under SEQRA;

WHEREAS, the Town Board identified the New York State Department of Environmental Conservation ("NYSDEC"); New York State Department of Transportation; Erie County Department of Environment & Planning; and Erie County Department of Public Works - Division of Highways, as involved and/or interested agencies relative to the Project (hereinafter collectively the "Involved and Interested Agencies");

WHEREAS, on September 7, 2022 the Town Board forwarded a copy of Part 1 of the FEAF, and a Map Plan and Report for the purchase of the 170+/- acre property to the Involved and Interested Agencies;

WHEREAS, the NYSDEC and the County of Erie responded by letters dated October 3, 2022, and September 22, 2022, respectively, consenting to the Town Board being the Lead Agency, and no Involved Agency objected to the Town Board acting as Lead Agency;

WHEREAS, the Board desires to make its SEQRA determination of significance for the Project in accordance with the SEQRA regulations at 6 NYCRR §617.7;

WHEREAS, the Town Board acknowledges that its review includes only the purchase of the Property with bond funding, and not the proposed future use of the Property;

WHEREAS, the Town Board acknowledges that its review constitutes segmentation as defined by the SEQRA regulations at 6 NYCRR §617.2(ah);

WHEREAS, the SEQRA regulations at 6 NYCRR §617.3(g)(1) provide that segmentation is permissible where the reviewing agency clearly states in its determination of significance the supporting reasons, demonstrates that such review is clearly no less protective of the environment and identifies and discusses related actions to the fullest extent possible;

WHEREAS, the Board now desires to make its SEQRA determination of significance for the Project in accordance with the SEQRA regulations at 6 NYCRR §617.7; and

WHEREAS, the Board further desires to set forth its supporting reasons for the segmentation of the review of the Project, to demonstrate that such review is clearly no less protective of the environment and to identify and discuss related actions to the fullest extent possible.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF AMHERST TOWN BOARD AS FOLLOWS:

1. That the Town Board is hereby established as Lead Agency for purposes of SEQRA.

2. Based upon a thorough examination and analysis of Parts 1 and 2 of the FEAF, attached hereto as Exhibits 1 and 2, and review of the SEQRA regulations at 6 NYCRR §§617.3 and 617.7 and based further on the Town Board's knowledge of the Project and such further investigation of the Project and its environmental effects as the Town Board has deemed appropriate, the Town Board finds as follows:

    a. The purchase of the Westwood Property using bonds in and of itself will not effect the environment by changing the use, appearance or condition of any natural resource or structure.

    b. The act of using the bonds by the Town Board does not commit the Board to any definite course of future decisions and is not practically determinative of future actions by the Board.

    d. The Town Board, with the assistance of qualified staff, counsel and other Involved and Interested Agencies, will engage in thorough environmental review of proposed use of the Property pursuant to SEQRA and the SEQRA regulations promulgated at 6 NYCRR Part 617.

    f. The segmentation of the review of the Project (being the purchase of the Westwood Property with bond financing) from the review of the proposed future use of the Property will, therefore be no less protective of the environment than consolidated review by the Town Board.

    g. The Project will result in no significant environmental impacts and, therefore, is one which will not have a significant effect on the environment. Therefore, the Town Board hereby determines that the Project will not have a significant effect on the environment, and the Town Board will not require the preparation of an "Environmental Impact Statement" with respect to the Project; and

    h. As a consequence of the foregoing, the Town Board has decided to prepare a "Negative Declaration" with respect to the Project, a copy of which is attached hereto as Exhibit 3.

3. The Chairperson to the Town Board is hereby directed to execute Part 3 of the FEAF and file the "Negative Declaration" (a) for publication in the Environmental Notice Bulletin ("ENB"), (b) in the in the main office of the Town of Amherst Town Board, and (c) to provide a copy of the "Negative Declaration" to all Involved and Interested Agencies.

4. This Resolution shall take effect immediately.

THE FOREGOING RESOLUTION, was put to vote as follows:

NAME	**VOTE**
Brian J. Kulpa, Supervisor	_____
Jacqualine Berger, Deputy Supervisor/Councilwoman	_____
Deborah Bruch Bucki, RN, PhD, Councilwoman	_____
Shawn Lavin, Councilman	_____
Michael Szukala, Councilman	_____

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

I, the undersigned Town Clerk of the Town of Amherst, **DO HEREBY CERTIFY**:

That I have compared the foregoing copy of minutes of the meeting of the Town of Amhurst Town Board including the "Resolution" contained therein, held on November __, 2022 with the original hereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (i) all members of the Town Board of the Town of Amherst had due notice of said meeting, (ii) said meeting was in all respects duly held, (iii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was given in accordance with said Section 104 and (iv) there was a quorum of the members of the Town Board of the Town of Amherst present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof the attached "Resolution" is in full force and effect and has not been amended, repealed or rescinded.

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

Town Clerk

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

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

3. Resolution 2022-1082

Westwood PSA (Purchase and Sale Agreement) (CRS #3694)

AGENDA ITEM : NOVEMBER 7TH, 2022

TO: Town Board

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

DATE: November 2, 2022

RE: Westwood PSA (Purchase and Sale Agreement) (CRS #3694)

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement with Mensch Capital Partners, LLC (By Hamister Development Company, LLC, Manager) and to execute any and all documents needed to consummate the sale of Westwood to the Town of Amherst and to further execute any and all documents at the time of closing: (1) pending review and approval by counsel or other individual so designated by Mensch Capital Partners, LLC (By Hamister Development Company, LLC, Manager); (2) pending final review and approval by the Town Attorney; and (3) pending successful completion of the Contract Routing System.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item - November 7, 2022**)

11/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via roll call vote 5-0.

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

4. Resolution 2022-1083

Authorization to Pay Outside Counsel from Trust and Agency Account - Jurek Post Purchase

AGENDA ITEM : NOVEMBER 7th, 2022

TO: Town Board

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

DATE: November 1, 2022

RE: Authorization To Pay Outside Counsel Invoice From Trust and Agency Account For Services Related To Jurek Post Purchase

Kindly adopt a resolution authorizing the Comptroller and/or Finance Director to issue payment to Bengart & DeMarco, LLP in the amount of $4,660.50 from the established Trust and Agency Account (T2107.4001) for legal services performed relative to the purchase of the Jurek Post.

Thank you.

SJS:nmb:hs
c: Timothy Koller, Deputy Town Clerk
(**Agenda Item : November 7, 2022**)
Daryl C. Bramer, Town Comptroller
Lynda Juul, Director of Finance

11/7/2022
Consent

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

B. TOWN CLERK:

1. Resolution 2022-1084

Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.

We are requesting approval for and directive to the Comptroller for pre-payment to DXO Communications of Buffalo, Inc. for the mailing of the 2023 Town & County Tax Bills ($13,257.00) and for the 2023 Town & County Tax Receipts ($11,661.00).

11/7/2022
Consent

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

C. ASSESSOR:

1. Resolution 2022-1085

GAR Confidentiaity Agreement

Upon the recommendation of the Town Assessor, kindly adopt a new Confidentiality Agreement with GAR for the Reassessment project.

RESULT:	**WITHDRAWN**

D. BUILDING/BUILDING MAINTENANCE:

1. Resolution 2022-1086

Edmund Govtech Inc - Maintenance Contract CRS #3682

Please authorize the Supervisor to sign the contract between the Town of Amherst, Building Department and Edmund GovTech Inc., 301 Titon Rd, Northfield, New Jersey 08225. Subject to completion of the contract routing process.

11/7/2022
A motion to approve was made by Supevisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

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

2. Resolution 2022-1087

Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679

Please authorize the Supervisor to sign contract between Town of Amherst and The Davey Tree Expert Company, 1200 Commerce Pkwy, Lancaster, NY 14086.

11/7/2022
Consent

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

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2022-1088

Budget Transfers and Amendments

November 7, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 11/2/2022
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2022

FROM:	***TO:***
A1345.2100 Finance - Furniture $400.00	A1345.4010 Office Supplies $400.00
Requested per department.	
N2063.4000 CDBG Mortgage $20,000.00	N2060.4000 CDBG Emerg Rental $20,000.00
Requested per department.	
A1440.4040 Engineering - Travel $76.51	A1440.9000 Interfund Transfer $76.51
To transfer funds from Engineering into KP1847 Engineering Facilities Rehab for office flooring.	

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
N2255.02785 Amherst HOME Rental- PI $10,264.50	N2255.4000 Contractual $10,264.50
N2254.02785 Amherst Home Admin- PI $1,140.50	N2254.4003 10 % Admin $1,140.50
To recognize Community Development program income from 91 Millbrook, Amherst.	
N2223.02785 CDBG & VG- PI $75.00	N2223.4000 Contractual $75.00
To recognize Community Development program income from 299 Harding, Amherst.	
N2244.02785 Cheektowaga Housing Rehab - PI $10,710	N2244.4000 Contractual $10,710
N2249.02785 Cheektowaga Home Admin - PI $1,190	N2249.4003 10% Admin $1,190
To recognize Community Development program income from 234 Curtiss, Cheektowaga.	
N2244.02785 Cheek. Housing Rehab - PI $22,287.92	N2244.4000 Contractual $22,287.92
N2249.02785 Cheek. Home Admin - PI $2,476.44	N2249.4003 10% Admin $2,476.44
To recognize Community Development program income from 81 S. Huxley, Cheektowaga	

N2250.02785 Tonawanda HOME- PI $10,502.10 N2250.4000 Contractual $10,502.10
N2253.02785 Tonawanda Admin- PI $1,166.90 N2253.4003 Admin $1,166.90
To recognize Community Development program income from 299 Liston, Tonawanda.

N2250.02785 Tonawanda HOME- PI $6,750.00 N2250.4000 Contractual $6,750.00
N2253.02785 Tonawanda Admin- PI $750.00 N2253.4003 Admin $750.00
To recognize Community Development program income from 380 Dushane, Tonawanda.

KP1847.05031 Interfund Transfers $76.51 KP1847.4972 Construction $76.51
To setup budget for Interfund transfer from A1440 into KP1847.

KP1847.05710 Bonds $75,250.00 KP1847.4970 Legal $500.00
KP1847.4972 Construction $74,750.00
To setup budget for KP1847 Engineering Facilities Rehab.

A1410.05001 Town Clerk - Refund of C/Y Exp. $14,000 A1410.2600 Other Equipment $14,000
To recognize refund of current year expense and increase other equipment for a shredder and folder inserter.

11/7/2022
Consent

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

G. CONTRACT COMPLIANCE:

H. COURT:

1. Resolution 2022-1089

Lori Weaver - Court Reporting Services - CRS #3647

Lori Weaver - Court Reporting Services - CRS #3647. Please authorize the Supervisor to sign this contract between Lori Weaver and Amherst Town Court for Court Reporting Services. This contract CRS #3647 has been successfully routed through the Contract Routing System.

11/7/2022
Consent

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

I. ECONOMIC DEVELOPMENT:

1. Resolution 2022-1090

Authorize Supervisor to Sign Contract with NYSDEC - Organics Management Grant, CRS #3633

WHEREAS, kindly authorize the Supervisor to sign a contract with the New York State Department of Environmental Conservation (NYSDEC) to receive grant funds for the Amherst Organics Management Plan, CRS #3633, and;

WHEREAS, the awarded grant is $30,000 and the designated matching funds are $30,000, and;

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the Supervisor to sign the contract with the NYSDEC for the Amherst Organics Management Plan, CRS #3633.

11/7/2022
Consent

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

J. EMERGENCY SERVICES:

1. Resolution 2022-1091

Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment

The Town of Amherst Department of Emergency Services & Safety supports the request to have the Amherst Town Board consent to the Swormville Fire Co. Inc. Certificate of Amendment to become a 501(c)(3) tax exempt corporation. The Town Attorney has the original Certificate of Amendment.

11/7/2022
Consent

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

K. ENGINEERING:

1. Resolution 2022-1092

Joint Application for a Strengthening Mobility and Revolutionizing Transportation (Smart) Grant

WHEREAS, the Bipartisan Infrastructure Law (BIL) established the Strengthening Mobility and Revolutionizing Transportation (SMART) discretionary grant program with $100 million appropriated annually for fiscal years 2022-2026, and

WHEREAS, the SMART program was established to provide grants to eligible public sector agencies to conduct demonstration projects focused on advanced smart community technologies and systems in order to improve transportation efficiency and safety, and

WHEREAS, the Fiscal Year 2022 Notice of Funding Opportunity (NOFO) is open through November 18, 2022, and

WHEREAS, the Town of Amherst has invested in smart signal technologies that allow for other funding opportunities such as the SMART grant program, and

WHEREAS, there is benefit in leveraging the Town's smart signal network in applying for a planning project to:

- Prioritize emergency vehicles, buses, and other public fleets through traffic signal priority,
- Reduce congestion by leveraging trajectory analysis along a corridor to adjust signal timing to current conditions,
- Address non-reoccurring congestion, prioritize investments for pedestrians and cyclists, or other complex problems, leveraging advanced tools such as AI,
- Improve the operation and management of traffic signals and develop evaluation criteria that support agency goals leveraging Automated Traffic Signal Performance Measure (ATSPM) equipped signals, and

NOW, THEREFORE, BE IT RESOLVED, that the Amherst Town Board supports either a joint application with neighboring communities or a regional application by the Greater Buffalo Niagara Regional Transportation Council to submit a SMART application to leverage the region's smart signal technologies currently in place.

11/7/2022
Consent

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

2. Resolution 2022-1093

Verizon Intelligent Lighting Agreement Street Lighting Acquisition and Upgrade Project CRS #3692

The Street Lighting Acquisition and Upgrade Project includes a smart city component where Asset Management Control (AMC) nodes will be installed as part of the project. AMC nodes allow for an outage reporting system and greater street light functionality and control. There is no cost associated with this agreement.

Would you please authorize the Supervisor to sign the attached Verizon Intelligent Lighting Agreement, Exhibit B? This request is pending successful completion of the contract review process. Thank you for considering this request.

11/7/2022
Consent

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

3. Resolution 2022-1094

CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664

The Engineering Department is requesting Town Board authorization of the attached agreement with Cues, Inc for the purchase of equipment and parts, equipment service and acquisition of rental/loaner equipment. Cues, Inc. is the sole source provider (letter attached) of parts and service for our sewer inspection equipment. We are also requesting a waiver of insurance as this vendor is out of the area and all equipment and service is utilized via third party shipper. This contract shall be valid from January 1, 2023 thru December 31, 2025.

Funding is available within the Engineering Department - Sewer Maintenance operating budget G9000-4300.

This request has successfully completed the contract review process.

Thank you for considering this request.

11/7/2022
Consent

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

4. Resolution 2022-1095

Linde Payment Authorization

The Engineering Department-Water Pollution Control Facility Division is currently seeking Town Board approval to authorize the Supervisor to approve payment of Linde invoice 32041544 for $1,700.00. This invoice should have been included on the attached Town Board Resolution 2022-1021 but was not received until after that date.

The week of September 26, 2022, the WPCF had to shut down operation of the oxygen generating plant for a critical replacement of four (4) valves that a separate contractor performed under a previously approved emergency purchase. During this shut down, the stored liquid oxygen fell below the level needed for startup, resulting in the need for oxygen delivery.

The WPCF worked with Contract Compliance to send out a bid request for oxygen delivery in September of 2021, which resulted in no bids. On September 27, 2022, the WPCF requested quotes from four local companies and Linde was the only company that agreed to supply Liquid Oxygen to the WPCF.

Funding for this request is available from accounts KP2136-2150 and G9916-4960.

Thank you for considering this request.

11/7/2022
Consent

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

5. Resolution 2022-1096

Amendment to Resolution 2022-916 - Engineering Flooring Purchase of Vinyl Flooring & Carpet CRS #3580

On September 19, 2022, the Town Board awarded the above referenced expenditure in the amount of $67,872.44 as proposed by GP Flooring Solutions.

Additional flooring & carpet was added during a re-calculation of the square footage. At this time we would like to request an amendment to Resolution 2022-916 (CRS #3580) with the award amount for GP Flooring Solutions to be revised to $68,234.01.

May we please have approval to amend Resolution 2022-916 to the award amount of $68,234.01? Thank you for considering this request. This request is pending successful completion of the contract routing system.

11/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The 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 2022-1097

Lou Gehrig Baseball Field Improvements - Change Order No. 1 Northeast Diversification, Inc. CRS #3688

The Engineering Department is requesting Town Board authorization for a $24,750.00 change order increase for the above referenced project. This change order request is for the rehabilitation and extension of the existing paved path between fields 9 and 10 at this facility. The path will facilitate maintenance and pedestrian access to the renovated baseball field 10.

Funding for this change order is available from KP2135-4972.

This request is pending successful completion of the contract review process. Thank you for considering this request.

11/7/2022
Consent

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

7. Resolution 2022-1098

Legionella Testing & Certifiation of Cooling Tower Systems M.I.S. of America, Inc. CRS #3689

On October 25, 2022 proposals were received for the above referenced project. Subsequent to the solicitation for proposals, two (2) proposals were received. The proposal summary sheet is attached.

At this time, we request the Town Board to please approve the expenditure of funds in the amount of $12,180.00 for a 2-year term contract to M.I.S. of America Inc., for the Legionella Testing & Certification of Cooling Tower Systems Contract. The professional services included in this contract are for inspection, sampling and certification of the Town's cooling tower systems. Should there be a positive Legionella count from the quarterly sampling, this contract also provides for additional expenditures for additional Legionella tests at $235.00 per test, and cleaning & disinfection services at $100.00 per hour.

Funds are available for this project from the following bond accounts:

WPCF	$4,069.00	G9916-4110
Recreation Department	$8,120.00	A7253-4110

Pending successful completion of the contract approval procedure, may we have your approval to award M.I.S. of America Inc. the above referenced project? Thank you for considering this request.

11/7/2022
Consent

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

8. Resolution 2022-1099

Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690

The Engineering Department-Water Pollution Control Facility is requesting that the Town Board authorize the Supervisor to sign the attached 3-year agreement with Wonderware North at a cost of $16,189.00 for 2022-2023, $16,837.00 for 2023-2024 and $17,511.00 for 2024-2025. The WPCF utilizes Wonderware software to manage the Supervisory Control and Data Acquisition (SCADA) of plant operations. A technical support contract with the software developer is used to support the software use and provide technical assistance and software upgrades. This agreement will be effective from date of Town Board approval to September 13, 2025.

As this vendor provides this service remotely and does not enter Town property or access the Town's network at any time, we also request a waiver of the insurance requirements for this agreement.

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

Funds will be available in G9916-4960.

Thank you for considering this request.

11/7/2022
Consent

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

L. FINANCE:

M. HIGHWAY

1. Resolution 2022-1100

Authorize Payment to ALRO STEEL INC

The Highway Department is requesting that payment be made to ALRO Steel, aka Klein Steel. Klein Steel, 105 Vanguard Parkway, Rochester, NY 14606 was acquired by ALRO Steel.

The Highway Department purchased various lengths of shop steel for Purchase Order number 22220431 for invoice #CJD 2958BF in the amount of $9,292.20.

The Town of Amherst contract with Klein Steel will not be honored by ALRO Steel. No prior communications was received stating that the contract was no longer valid and not at the time of order placement.

The Highway Department is seeking approval for and directive to the Comptroller for the

payment of the invoice to ALRO STEEL, Dept 771478, PO Box 77000, Detroit, MI 48277-1478 for $9,292.20 dated 10-4-2022.

Funding is available under D5130-4430. Thank you for your time and consideration for this request!

11/7/2022
Consent

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

N. HUMAN RESOURCES:

1. Resolution 2022-1101

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

Recreation Attendant - PT (4 Positions), Effective November 8, 2022, Temporary, $15.00 ph, Step 1 for Camille Barnes, Dylan Empric, Coleman Feldmann and Isabella Redding.

11/7/2022
Consent

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

---

2. Resolution 2022-1102

Recreation Attendant - PT (3 Positions)/Youth & Recreation

Recreation Attendant - PT (3 Positions), Effective November 8, 2022, Temporary, $15.50 ph, Step 1 for Kacie Klein, Tara Persons and Ian Sidey.

11/7/2022
Consent

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

3. Resolution 2022-1103

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective November 8, 2022, Temporary, $16.50 ph, Step 1 for Samantha Garson.

11/7/2022
Consent

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

4. Resolution 2022-1104

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective November 8, 2022, Temporary, $16.90 ph, Step 4 for Julia Jacobs.

11/7/2022
Consent

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

5. Resolution 2022-1105

Cook/Senior Center

Please appoint a Cook to the Amherst Center for Senior Services. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective November 8, 2022 at an annual salary of $35,583, Grade 5, Step A for Lisa Bianco.

This appointment is for an employee who is currently serving as a Clerk Typist in another Department.

11/7/2022
Consent

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

6. Resolution 2022-1106

Electronics Technician-Wastewater Facilities/Engineering

Please appoint an Electronics Technician-Wastewater Facilities to the Engineering Department Wastewater Treatment Plant. Provisional, pending satisfactory completion of a Civil Service Examination. Effective November 8, 2022 at an annual salary of $64,733, Grade 14, Step F for Richard Hoose.

This is a promotion for an employee currently serving as Assistant Electronics Technician-Wastewater Facilities.

11/7/2022
Consent

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

7. Resolution 2022-1107

Wastewater Treatment Plant Operator Trainee (2 Positions)/Engineering

Please appoint a Wastewater Treatment Plant Operator Trainee (2 Positions) to the Engineering Department/Plant #16. Provisional, pending satisfactory completion of a Civil Service Examination. Effective November 8, 2022 at an hourly rate of $23.15, Grade IV, Step 1 for Richard Steele and Michael Cruz.

Contingent upon completing all Pre-Employment requirements.

11/7/2022
Consent

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

8. Resolution 2022-1108

Wastewater Facilities Mechanic/Engineering

Please appoint a Wastewater Facilities Mechanic to the Engineering Department Wastewater Treatment Plant. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective November 8, 2022 at an hourly rate of $23.15, Grade IV, Step 1 for Brian Pietrzyk.

Contingent upon completing all Pre-Employment requirements.

Replacing an employee who retired.

11/7/2022
Consent

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

O. INFORMATION TECHNOLOGY:

P. PLANNING:

1. Resolution 2022-1109

SEQR Determination Draft Local Waterfront Revitalization Program (LWRP)

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

RESOLVED that this Town Board has solicited other involved agencies for SEQR lead agency designation and the Town is deemed the SEQR Lead Agency, and be it further

RESOLVED, that this Town Board as SEQR Lead Agency has undertaken the preparation of a Local Waterfront Revitalization Program (LWRP) in cooperation with the New York State Department of State in accordance with the provisions of New York State Executive Law, Article 42, and be it further

RESOLVED, that this Town Board on October 3, 2022 previously accepted the draft Local Waterfront Revitalization Program plan as substantially complete, allowing the NYS Department of State to commence its 60-day review, and be it further

RESOLVED, that the Town has identified the areas of environmental concern, thoroughly analyzed them for significant adverse impact, including any concerns and/or recommendations from other agencies, and be it further

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

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

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

2. Resolution 2022-1110

Reassignment of Term Agreement from the Versel Group, Inc. (CRS #2332) to ConsultEcon, Inc. (CRS #3687)

WHEREAS, on January 1, 2021, the Town of Amherst executed an Economic Consultant Term Agreement with The Versel Group, Inc. for a three-year term covering the period of January 1, 2021, through December 31, 2023.

WHEREAS, on August 1, 2022, Mr. David E. Versel, President, The Versel Group, accepted a position with ConsultEcon, Inc. and agreed to suspend operations and no longer accept consulting contracts of the The Versel Group.

WHEREAS, Mr. Versel agrees to assign and transfer to ConsultEcon, Inc. all rights, privileges, interests, obligations and duty of performance in and to the Term Agreement between the Town of Amherst and The Versel Group. ConsultEcon, Inc. accepts the assignment of Term Agreement and agrees to assume and perform all duties and obligations required to be performed under the Term Agreement.

NOW THEREFORE BE IT RESOLVED, upon completion in the Contract Routing process, that the Town Board approves reassigning the Term Contract from The Versel Group, Inc. to ConsultEcon, Inc. effective October 1, 2022.

11/7/2022
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 2022-1111

Audubon Development Plan Update - Project Charter

Purpose: Town Board approval of the Project Charter to Update the Audubon Development Plan

WHEREAS, the original Audubon Development Plan served as a guiding document to facilitate development supporting growth around the University at Buffalo North Campus; and

WHEREAS, the Town prepared the Audubon Development Plan and Audubon New Community Zoning District in 1972 to plan and regulate development in the area north of the UB North Campus; and

WHEREAS, the Town recognizes that the Plan may no longer adequately address changes in land use and market demand in the New Community District (NCD); and

WHEREAS, an updated Audubon Development Plan can leverage opportunities for redevelopment of aging corridors in the NCD; and

WHEREAS, the proposed update to the Audubon Development Plan will serve to update Town Comprehensive Plan policies, create new goals and objectives, update the NCD zoning, and utilize implementation strategies to facilitate revitalization along office/commercial corridors; and

WHEREAS, the Town has prepared a Project Charter entitled "Audubon Development Plan Update" which includes the purpose, issues, goals & objectives, stakeholders, consulting tasks and a general schedule that outlines the steps forward and the necessary components to initiate the planning process; now

THEREFORE BE IT RESOLVED, that the Town Board endorses the "Audubon Development Plan Update" Project Charter, which is attached and made part of this Resolution; and

BE IT FURTHER RESOLVED, that the Board supports the Town moving forward to carry out the planning process stated in the Project Charter, and

BE IT FURTHER RESOLVED, that the Project Charter be amended to list the Town Board as a Town Stakeholder under item 9 - Resources and Stakeholders.

11/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Councilmember Bucki to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The 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

4. Resolution 2022-1112

Approval to Submit a Grant Proposal to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit Program

WHEREAS, the Town of Amherst hereby requests financial assistance from the New York State Homes and Community Renewals Plus One Accessory Dwelling Unit (ADU) Program in order to create the Amherst ADU Pilot Program; and

WHEREAS, the Town's Program proposal aims to generate additional housing opportunities through direct assistance to homeowners for the design, approval and

construction of new and rehabbed Accessory Dwelling Units in eligible zoning districts, including those units intended for aging parents and disabled adult children; and

WHEREAS, the Town of Amherst will act as Lead Agency and certifies that Belmont Housing Resources for WNY, Inc. (Belmont) will be our Not-for-Profit Partner to provide construction management services; and

WHEREAS, the grant program does not require a match; now therefore be it

RESOLVED, that the Town of Amherst Town Board hereby authorizes the submittal of the grant proposal for the Amherst Accessory Dwelling Unit Pilot Program to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit Program.

11/7/2022
Consent

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

5. Resolution 2022-1113

To Authorize a Substantial Amendment to the FY 2020 Annual Action Plan for Community Development

WHEREAS, the Town has adopted the FY 2020 Annual Action Plan on behalf of the Towns of Amherst, Cheektowaga and Tonawanda (ACT) HOME Consortium which programs the expenditure of funds for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Funding; and

WHEREAS, the Town is seeking to amend the FY 2020 Action Plan to reallocate $430,278.49 in Supplemental CDBG-COVID funds awarded by the CARES Act according to the following program/budget lines; and

Decrease/Remove:

Mortgage Assistance Program	$ 150,273.00
Family Justice Center	$ 1,088.00
Small Business Outreach & Technical Assistance	$ 16,800.00
COVID Testing	$ 95,000.00
CDBG Admin.	$ 70,000.00
WNYIL	$ 7,237.80
Center for Elder Law and Justice	$ 40,000.00

Youth & Recreation Summer Camp	$ 29,879.69
Senior Services Programming for COVID-19	$ 20,000.00
Create/Increase:	
Senior Center Improvements	$ 147,000.00
Northwest Community Center	$ 210,153.49
Meals on Wheels	$ 73,125.00

WHEREAS, this amendment provides funds for a project manager to oversee the establishment of the Northwest Amherst Community Center and Playground; HVAC and ADA upgrades to the Amherst Senior Center; and an additional cook to serve increased meal volume for Meals on Wheels; and

WHEREAS, the new activities meet the use criteria of the Supplemental CDBG-COVID funds awarded by the CARES Act to "prevent, prepare for, and respond to COVID" by providing critical community space to serve the Creekwoods Neighborhood with social and other supportive programming; providing Accessible health and safety improvements in public facilities to reduce the spread of COVID; and providing increased meal-assistance to vulnerable senior and disabled populations; now therefore

BE IT RESOLVED, the Town of Amherst Town Board hereby authorizes the above Substantial Amendment to the FY 2020 Annual Action Plan.

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

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

Q. POLICE:

1. Resolution 2022-1114

Emergency Purchase Authorization APD VPN Remote Server Repair (CRS #3696) MVP Network Consulting, LLC

TOWN BOARD AGENDA ITEM: NOVEMBER 7, 2022

TO: **Town Board**

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

RE: Emergency Purchase Authorization
APD VPN Remote Server Repair (CRS #3696)
MVP Network Consulting, LLC

Kindly adopt a resolution authorizing the Town Board to approve an emergency purchase made with MVP Network Consulting, LLC for work done on the department's VPN remote server. The Emergency Purchase Documentation Form is attached. The cost of this repair is $352.50 (formal invoice attached). This request is pending successful completion of the Contract Routing Process.

Thank you.

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

11/7/2022
Consent

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

2. Resolution 2022-1115

Targeted Tactical Team Grant FY2022 (CRS #3693) Grant Agreement: NYS Division of Homeland Security and Emergency Services

TOWN BOARD AGENDA ITEM: NOVEMBER 7, 2022

TO: Town Board

FROM: Scott P. Chamberlin, Chief of Police

RE: Targeted Tactical Team Grant FY2022 (CRS #3693)
Grant Agreement: NYS Division of Homeland Security and Emergency Services

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached grant agreement between the Town of Amherst (Police) and NYS Division of Homeland Security and Emergency Services with regard to the above-entitled matter. Approval of this grant agreement is contingent upon the successful completion of the Contract Routing System.

Thank you.

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

11/7/2022
Consent

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

3. Resolution 2022-1116

Travel Request Digital Evidence Investigations Training Course

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Digital Evidence Investigations Training Course

Kindly adopt a resolution authorizing One (1) Police Officer to attend a Digital Evidence Investigations Training Course in Huntsville, Alabama. This course is being held from December 11, 2022 to December 17, 2022. The cost for the training and travel for this course is paid for by the organization teaching the course.

Thank you.

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

11/7/2022
Consent

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

4. Resolution 2022-1117

Travel Request: Digital Evidence Management

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Digital Evidence Management Training Course

Kindly adopt a resolution authorizing One (1) Police Officer to attend a Digital Evidence Management Training Course in Huntsville, Alabama. This course is being held from December 4, 2022 to December 9, 2022. The cost for the training and travel for this course is paid for by the organization teaching the course.

Thank you.

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

11/7/2022
Consent

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

5. Resolution 2022-1118

Travel Request Drug Recognition Expert Recertification Course

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Drug Recognition Expert Recertification Course

Kindly adopt a resolution authorizing One (1) Senior Investigator to attend Drug Recognition Expert Recertification course in Syracuse, New York. This course was held from

November 3, 2022 to November 5, 2022. A police department vehicle was utilized to travel to this course. The cost for the training and travel is approximately $294.62.

Thank you.

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

11/7/2022
Consent

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

R. SENIOR SERVICES:

S. YOUTH AND RECREATION:

1. Resolution 2022-1119

Purchasing Agreement (Sportsfield Specialties) - CRS #3525

Authorize the Supervisor to sign an agreement between the Town of Amherst and Sportsfield Specialties, Inc. through the Keystone National Purchasing Network for purchase and installation of backstops.

11/7/2022
Consent

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

2. Resolution 2022-1120

Contract Extension Modern Portable Toilets - CRS #3415

Authorize the Supervisor to sign an extension agreement with Modern Portable Toilets, Bid #2020013.

11/7/2022
Consent

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

3. Resolution 2022-1121

Permission to Auction

Authorize the Youth & Recreation Department to auction the old stove at 5005 Sheridan Drive and replace it with the stove from 4110 Bailey Avenue which is no longer needed at that location.

11/7/2022
Consent

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

4. Resolution 2022-1122

Winter Market Vendor (Acquisto) - CRS #3650

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Laurie Acquisto for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

5. Resolution 2022-1123

Winter Market Vendor - Tracy Waugaman CRS #3651

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Tracy Waugaman for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

6. Resolution 2022-1124

Winter Market Vendor (Effervescence) - CRS #3654

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Effervescence for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

7. Resolution 2022-1125

Winter Market Vendor (Keem) - CRS #3663

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Francis Keem for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

8. Resolution 2022-1126

Winter Market Vendor (Buffalo Aquatics) - CRS #3669

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Buffalo Aquatics LLC for participation in the Winter Market at the Northtown Center.

RESULT:	**WITHDRAWN**

9. Resolution 2022-1127

Winter Market Vendor (Seven One Six Wood) - CRS #3670

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Seven One Six Wood Design for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

10. Resolution 2022-1128

Winter Market Vendor (Dehghanipour) - CRS #3685

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Elham Dehghanipour for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

11. Resolution 2022-1129

Winter Market Vendor (Aguglia) - CRS #3684

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Kelia Aguglia for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

12. Resolution 2022-1130

Winter Market Vendor (Rockcastle) - CRS #3674

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Steven & Julie Rockcastle for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

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

XIV. UNFINISHED BUSINESS

XV. COMMUNICATIONS

1. Communication 2022-114

Request for Public Hearing - 6254 Main Street

Request from Jeffery Palumbo, Esq. for a public hearing with respect to the rezoning of 6254 Main Street from R-3 to MFR-4A.

This hearing has been scheduled for December 12.

11/7/2022
Consent

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

2. Communication 2022-115

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

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of 1720, 1740 & 1760 Maple Road from OB & R-3 to DC-5.

This hearing has been scheduled for December 12.

11/7/2022
Consent

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

3. Communication 2022-116

Notice of Claim: Progressive Advanced Insurance Company A/S/O Dharmjit Sandhu Vs. Town of Amherst

11/7/2022
Referred to Town Attorney

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

4. Communication 2022-117

Notice of Claim: Ly Thao Do Vs. Town of Amherst Et Al.

11/7/2022
Referred to Town Attorney

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

XVI. PUBLIC IMPROVEMENT PERMITS

XVII. PUBLIC EXPRESSION #2

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

A motion to open Public Expression was made by Supervisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0. Public Expression was opened at 8:18 PM.

The following speakers addressed the Town Board:
Chris Drongosky, 1260 Youngs Rd. - Resolution 2022-1082
Don Smith, 171 Autumn Creek Ct. - Resolution 2022-1082

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 8:22 PM.

XVIII. ADJOURNMENT

There being no further business to come before the Town Board, Supervisor Kulpa moved to adjourn, seconded by Councilmember Bucki and unanimously approved 5-0. The Town Board meeting of November 7, 2022 was adjourned at 8:22 PM.

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 26410 **RESOLUTION 2022-896** **ADJOURNED**

Local Law Amending Chapter 175, Taxation

Public Hearing with respect to a Local Law Amending Chapter 175, Taxation, adding Article XII, Agricultural Districts, Exemptions.

9/19/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:11 PM.

There were no speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing until the October 3rd Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was adjourned at 7:12 PM.

10/3/2022
A motion to adjourn the hearing until the October 17th Town Board meeting was made by Supervisor Kulpa, seconded by Councilmember Szukala and unanimously approved 4-0.

10/17/2022
A motion to adjourn the hearing until the October 24th Town Board meeting was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

10/24/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Councilmember Bucki and unanimously approved 4-0. The public hearing was opened at 7:02 PM.

Bob Gilmour, representing Spoth Farms, spoke.

There were no further speakers from the public, therefore Supervisor Kulpa moved to adjourn the hearing to the November 7th Town Board meeting, seconded by Councilmember Bucki and unanimously approved 4-0. The public hearing was adjourned at 7:16 PM.

11/7/2022
A motion to adjourn the hearing until the November 22nd Town Board meeting was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0.

RESULT:	**ADJOURNED [UNANIMOUS]**	**Next: 11/22/2022 7:00 PM**
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: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 26703 **RESOLUTION 2022-1077** **HEARING CLOSED**

Substantial Amendments to the 2020 Annual Action Plan for Community Development

Public hearing to Authorize the Adoption of Substantial Amendments to the 2020 Annual Action Plan for Community Development.

11/7/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was opened at 7:03 PM.

Laurie Stillwell, Community Development Director, presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:10 PM.

RESULT:	**HEARING CLOSED**

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 26662 **RESOLUTION 2022-1078** **DECISION DATE**

Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet Home Road, Z-2022-02)

DRAFT RESOLUTION
November 22, 2022

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

RESOLVED, that pursuant to NYS Town Law Sec.272-a, the Town Board concurs with the findings of the Planning Board as stated in their resolution of September 22, 2022, that the proposed rezoning from Research and Development District (RD) to the Center 8 District (CTR-8) at 1400-1404 & 1408-1416 Sweet Home Road is consistent with the adopted Bicentennial Comprehensive Plan, as amended, and be it further

RESOLVED, that in accordance with Section 203-8-3 of the Town Code (Zoning), the Town Board adopts Local Law (#) to amend the Town Zoning map.

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

Attorney Sean Hopkins presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 22nd Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:18 PM.

RESULT:	**DECISION DATE [UNANIMOUS]**	**Next: 11/22/2022 7:00 PM**
MOVER:	Brian J. Kulpa, Supervisor	
SECONDER:	Jacqualine Berger, Deputy Supervisor	
AYES:	Kulpa, Berger, Bucki, Lavin, Szukala	

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, A
Planning Directo

Daniel J. Ulatowski, A
Assistant Planning Dir

Town Board Agenda of November 7, 2022

October 28, 2022

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

Subject: Request to rezone 7.43± acres of land from Research and Development District (RD) to Center 8 District (CTR-8); property located at 1400-1404 & 1408-1416 Sweet Home Road, North Forest Development, LLC, petitioner. (Z-2022-02).

Honorable Members:

The subject properties comprise a 7.43± acre L-shaped site located on the north west corner of Rensch Road and Sweet Home Road approximately 1,600 feet south of the intersection of Chestnut Ridge Road and Sweet Home Road and is opposite the Rensch Road entrance to the State University of New York at Buffalo. The site is currently being used as a commercial office development that consists of 5 single-story buildings, associated parking, and landscaping. There are two existing curb cuts from the sites to Rensch Road.

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

The purpose of this request is to allow for future use and development of a mixed-use project consisting of 500± residential units and 10,000± square feet of commercial/retail space.

The subject sites were zoned RD with the adoption of the Zoning Ordinance and Town wide Zoning map on January 19, 1976.

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

continued . . .

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Honorable Town Board

Rezone 7.43± acres of land from RD to CTR-8; property located at 1400-1404 & 1408-1416 Sweet Home Road. Agenda of November 7, 2022

INTENT AND OBJECTIVES OF THE COMPREHENSIVE PLAN

Figure 6 of the Comprehensive Plan identifies the subject area as appropriate for mixed-use development. Figure 6A designates this mixed-use area as a suburban center. Suburban centers are characterized by their location along major thoroughfares away from single-family residential housing. Suburban centers are larger parcels of land and can accommodate more intense forms development. The subject request is consistent with the characteristics of a suburban center as described and identified in the Bicentennial Comprehensive Plan.

INTENT AND OBJECTIVES OF THE ZONING ORDINANCE

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

CONSISTENCY/COMPATIBILITY WITH SURROUNDING DEVELOPMENT/ZONING

The subject request is compatible with surrounding development including the multi-family residential housing zoned MFR-6 to the south, the University at Buffalo North Campus to the east, and the Interstate 990 to the west. The land to the north of the subject request is currently vacant and is zoned RD, which allows for land uses that are compatible and ancillary to the subject proposal.

ADEQUATE SERVICES AND UTILITIES

All services and utilities necessary for the proposed rezoning are available and adequate at the subject location. This is a Type I Action, and an environmental assessment consistent with SEQR has been prepared for the subject proposal. Pursuant to Local Law #3-82, as amended, the requirements of SEQR are complete and the proposal is not expected to have a significant adverse effect on the environment.

RECOMMENDATION

The Planning Board at its meeting of September 22, 2022 held a public hearing on the subject rezoning request and recommended that the Town Board find that the requirements of SEQR have been completed and that the subject request will not have a significant adverse effect on the environment. The Planning Board also recommended that the subject rezoning request be approved.

continued . . .

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Honorable Town Board

Rezone 7.43± acres of land from RD to CTR-8; property located at 1400-1404 & 1408-1416 Sweet Home Road. Agenda of November 7, 2022

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

Very truly yours,

Daniel C. Howard, AICP
Planning Director

DH/bf
Att.
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_TB_Letter.docx
cc: Stanley Sliwa, Town Attorney
Planning Board Approval September 19, 2022
Ayes 5 Noes 0 Absent 2 (Kahn, Raffaele)

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amended Rezoning Application & Supporting Documentation - Rezoning of 1400-1404 and 1408-1416 Sweet Home Road from RD to CTR-8
Applicant: North Forest Development LLC
Date: July 25, 2022

Prepared by: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsmlegal.com

TOWN OF AMHERST PLANNING DEPARTMENT

Application for Rezoning Review and, if required Comprehensive Plan Amendment

For Official Use

File #: _____ **Acreage** 7.43 Acres **Fee $** _____

Address Verified by Assessor's Office _____ VERIFIED BY DATE

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

Materials Checked by Building Dept. _____ RECEIVED BY DATE

Materials Received by Planning Dept. _____ RECEIVED BY DATE

		Fill In Applicable Fees
2 ACRES OR LESS	**$1,250**	_____
2 – 20 ACRES **$1,250 + $250/acres or fraction thereof over 2 acres**		$2750.00
20 – 30 ACRES **$5,700 + $150/acre or fraction thereof over 20 acres**		_____
OVER 30 ACRES **$6,900 +$75/acre or fraction thereof over 30 acres**		_____
Request for Relief of/Change to Conditions of Zoning Approval	**$ 1,200**	_____
AFFIDAVIT FEE FOR PUBLIC HEARING	**$ 15.00**	$15.00
	TOTAL FEE:	$ 2,765.00

[Note: Filing Fee in the amount of $2,765.00 previously paid.]

[Note: A completed Amended Full Environmental Assessment Form dated July 25, 2022 along with Page 5[a] attached as Exhibit "2".]

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

TO BE COMPLETED BY APPLICANT

1. **Petitioner:** Name: North Forest Development LLC

Address: c/o Sean Hopkins, Esq.
5500 Main Street, Suite 343
Williamsville, New York 14221
City State Zip Code

Phone: 510-4338 Fax:

E Mail shopkins@hsmlegal.com

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

From: RD District

To: CTR-8 District

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

1400-1404 and 1408-1416 Sweet Home Road

SBL #: SBL No. 54.12-1-42 and 54.12-1-43.1

4. **Area of land to be rezoned** (in acres): 7.43

5. **Owner of Land:**

Name: North Forest Properties #1 LLC

Address: 2829 Wehrle Drive, Suite 1 - Williamsville, NY 14221

Telephone: 716.626-9764

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

Other Representative:
Christopher Wood, P.E.
Carmina Wood Morris DPC
487 Main Street, Suite 600
Buffalo, New York 14202
Tel: 842-3165 [Ext. 103]
E-mail: cwood@cwm-ae.com

Name: Sean W. Hopkins, Esq.

Address: 5500 Main Street, Suite 343

Williamsville, New York 14221

Tel: 716.510-4338 - E-mail: shopkins@hsmlegal.com

City State Zip Code

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

7. **Petitioner's interest in property** [Note: Authorization Letter of the Property Owner attached as Exhibit "1" of this Rezoning Application.]

_____Option to purchase

_____Owner

__X____Other (explain) The Project Site and Petitioner are related entities.

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

Not Applicable.

9. **Attach Survey and Legal description of land to be rezoned. The Survey must be prepared by a New York State Licensed Land Surveyor.** Legal description of property to be rezoned from RD to CTR-8 is attached as Exhibit "3" and a reduced size copy of the Survey of the Project Site is attached as Exhibit "4".

10. **Said property has the following deed restrictions or Covenants:** (attach copy) Not Applicable.

Liber _____ Page _____

11. **Information on proposed project:**

A. Description of the character of the proposed development:

See Exhibit 5.

B. Rationale for rezoning request:

1. Why was this site chosen?

See Exhibit 5.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

See Exhibit 5.

3. How will this rezoning impact surrounding properties?

See Exhibit 5.

4. How will this rezoning impact the school system?

See Exhibit 5.

12. Quantitative Data:

A. Total # of dwelling units: 500 units

B. Distribution of dwelling units by type: All dwelling units are apartments for lease

C. Gross Residential Density per acre: 67.29 units per acre.

D. Total amount of Open Space: 0

E. Proposed Non-Residential Floor Area: 20,000 sq. ft. first floor commercial space.

[Note: A reduced size copy of the Concept Site Plan [Drawing C-100] for the proposed mixed-use redevelopment project as prepared by Carmina Wood Morris is provided at Exhibit "7" and a full size copy is also attached.]

13. Development Schedule:

Start: To be Determined

Finish: To be Determined

Stages (# of): 1

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

The commercial space and residential units will be leased.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

Greenspace and landscaping will be privately owned and maintained.

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

A. <u>The proposed zoning and development plan must be generally consistent with the policies of the Comprehensive Plan and the Town Zoning Ordinance.</u>

1. State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps, and/or figures in the plan that support the proposed zoning at this location (The Comprehensive Plan document is available at the Planning Department, Town Clerk's Office, Amherst libraries, or at www.amherst.ny.us). Add sheets as needed.

See Exhibit 6.

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

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

See Exhibit 6.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

See Exhibit 6.

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

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

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

See Exhibit 6.

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

See Exhibit 6.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

See Exhibit 6.

17. The petitioner encloses herewith the sum of $ N/A 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.

[Note: Authorization Letter of Property Owner signed attached as Exhibit "1".]

Counsel for Petitioner

Signature of Petitioner

Subscribed and sworn to before me this 25th day of July, 2022

NOREEN A. ZIMMERMAN
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires Aug. 31, 2026

Notary Public, Erie County, New York

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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 1 – Authorization Form Signed by Property Owner

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

AUTHORIZATION

North Forest Properties #1 LLC, as the record owner of 1400-1416 Sweet Home Road [SBL No. 54.12-1-42 and 54.12-1-43.1] in the Town of Amherst (collectively the "***Project Site***") hereby authorizes representatives including Carmina Wood Morris DPC and Hopkins Sorgi & McCarthy PLLC to seek the approvals and permits required from the Town of Amherst as well as involved and interested agencies for the development of the Project Site as a mixed-use project.

Date: March 15, 2022

NORTH FOREST PROPERTIES #1 LLC

By: _____

Print Name: Roy Jordan

Exhibit 2 – Amended Part 1 of the Full Environmental Assessment Form Prepared Pursuant to the State Environmental Quality Review Act ("SEQRA") with Attached Page 5[a]

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amended Part 1 of Full EAF - Rezoning of 1400-1404 and 1408-1416 Sweet Home Road from RD to CTR-8
Applicant: North Forest Development LLC
Date: July 25, 2022

Full Environmental Assessment Form Part 1 - Project and Setting

Prepared By: Sean Hopkins, Esq.
Hopkins Sorgi & McCarthy PLLC
5500 Main Street, Suite 343
Williamsville, NY 14221
Tel: 716.510-4338
E-mail: shopkins@hsmlegal.com

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Mixed-Use Redevelopment Project		
Project Location (describe, and attach a general location map): 1400-1404 and 1408-1416 Sweet Home Road - Town of Amherst - Erie County [SBL No. 54.12-1-42 and 54.12-1-43.1]		
Brief Description of Proposed Action (include purpose or need): The proposed project consists of a proposed mixed-use redevelopment project consisting of an 7-story mixed-use building with 20,000 sq. ft. of 1st floor commercial space and two 7-story multifamily buildings (total of 500 apartments with total of 585 parking spaces) and related site improvements. The action includes an amendment of the zoning classification of 1400-1404 and 1408-1416 Sweet Home Road (collectively the "Project Site") from RD to CTR-8. The proposed action has been defined broadly to include all required discretionary approvals required from the municipal boards of the Town of Amherst and involved agencies as well as the construction of the proposed mixed-use and multifamily buildings and all related site improvements including parking spaces, 2 driveways onto Rensch Road, access aisles, landscaping, lighting, underground storm water management improvements, water and sanitary sewer lines as well as utility connections. The Project Site consists of an existing office park to be replaced by the proposed mixed-use project. Given that the proposed mixed-use project ("action") will not result in any potentially significant adverse environmental impacts, the issuance of a negative declaration pursuant to SEQRA is appropriate. The action is a Type I action pursuant to SEQRA (6 NYCRR Part 617.4) since it involves more than 250 attached residential units.		
Name of Applicant/Sponsor: North Forest Development LLC c/o Sean Hopkins, Esq.	Telephone: 716.510-4338 E-Mail: shopkins@hsmlegal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): North Forest Properties 1 LLC	Telephone: 716.626-9764 [Ext. 212] E-Mail: royj@nforest.com	
Address: 2829 Wehrle Drive, Suite 1		
City/PO: Williamsville	State: NY	Zip Code: 14221

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town Board - Amended Rezoning Application	July 25, 2022
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Planning Board - Site Plan Approval	To be Determined ("TBD")
c. City, Town or Village Zoning Board of Appeals ☑Yes ☐No	Zoning Board of Appeals - Possible Area Variances	TBD
d. Other local agencies ☑Yes ☐No	Building Dept. - Demolition & Building Permits; Highway Department - Curb Cut Permits	TBD
e. County agencies ☑Yes ☐No	ECWA - Water	TBD
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYSDEC - SPDES and DSCA	TBD
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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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?
Research Development District ("RD")

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? CTR-8

C.4. Existing community services.

a. In what school district is the project site located? Sweet Home Central School District

b. What police or other public protection forces serve the project site?
Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Volunteer Fire Department for the fire district in which the Project Site is located

d. What parks serve the project site?
There are various parks that will be accessible to the future tenants of the mixed-use redevelopment project

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Mixed-use project consisting of approximately 20,000 sq. of 1st floor commercial space and apartments for lease [3 proposed building consistent with the Concept Site Plan [Drawing C-100].

b. a. Total acreage of the site of the proposed action? 7.43 acres
b. Total acreage to be physically disturbed? 7.43 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 7.43 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☑ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☑ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☑ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

f. Does the project include new residential uses? ☑ Yes ☐ No

If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				500
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 Mixed-Use Building

ii. Dimensions (in feet) of largest proposed structure: 105' height; 170' width; and 242' length

iii. Approximate extent of building space to be heated or cooled: 20,000 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: Undeground stormwater detention.

ii. If a water impoundment, the principal source of the water: ☑ Ground water ☐ Surface water streams ☐ Other specify:

iii. If other than water, identify the type of impounded/contained liquids and their source.

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: N/A acres

v. Dimensions of the proposed dam or impounding structure: N/A height; N/A length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):

N/A

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐ Yes ☑ No

If Yes:

i. What is the purpose of the excavation or dredging?

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards):
- Over what duration of time?

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No

If yes, describe.

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? ☐ Yes ☐ No

ix. Summarize site reclamation goals and plan:

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☑ No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description):

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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: 110,000 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: ECWA Consolidated Water District
- 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: 110,000 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: Town of Amherst Wastewater Treatment Plant
- Name of district: Town of Amherst
- 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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

- Do existing sewer lines serve the project site? ☑Yes ☐No
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☑No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☑No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☑Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or _____ acres (impervious surface)
_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

_____

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☐Yes ☑No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☑No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

_____

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

_____

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

_____

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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? [Note: Traffic Impact Study prepared by SRF Associates previously submittted with Rezoning Application and Supporting Documentation] ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐Weekend
☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☑Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____
To be determined for 1st floor commercial space and dependent on needs of commercial tenants.

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):
National Grid

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 7:00 AM to 7:00 PM
- Saturday: 7:00 AM to 5:00 PM
- Sunday: As Needed
- Holidays: Not Applicable

ii. During Operations:

- Monday - Friday: To be Determined [Commercial]
- Saturday: TBD
- Sunday: TBD
- Holidays: TBD

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☑ Yes ☐ No

If yes:

i. Provide details including sources, time of day and duration:

There will be temporary and unavoidable short-term noise impacts resulting from the use of construction equipment during the construction of the proposed mixed-use redevelopment project.

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:

There will be outdoor lighting per the lighting standards contained in the Town of Amherst Zoning Code.

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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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): UB North Campus and Center for Inquiry

ii. If mix of uses, generally describe:

There are a wide assortment of land uses on properties zoned GB, MFR-5, etc. in the vicinity of the Project Site.

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	6.5	6.74	.2
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: Greenspace and Landscaping	1.2	1	(.2)

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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:
University of Buffalo North Campus and People Inc. Group Home

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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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? >1 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: Churchville Silt Loam 100 %
_____ _____%
_____ _____%

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: _____% of site
☑ Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes: ☑ 0-10%: 100 % of site
☐ 10-15%: _____% of site
☐ 15% or greater: _____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐Yes ☑No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑Yes ☐No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ 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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

n. Does the project site contain a designated significant natural community? ☐Yes ☑No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: acres
- Following completion of project as proposed: acres
- Gain or loss (indicate + or -): acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No
If Yes:
i. Species and listing (endangered or threatened):

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No
If Yes:
i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐Yes ☑No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based:

_____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name North Forest Development LLC Date July 25, 2022

Signature _____ Title Project Counsel

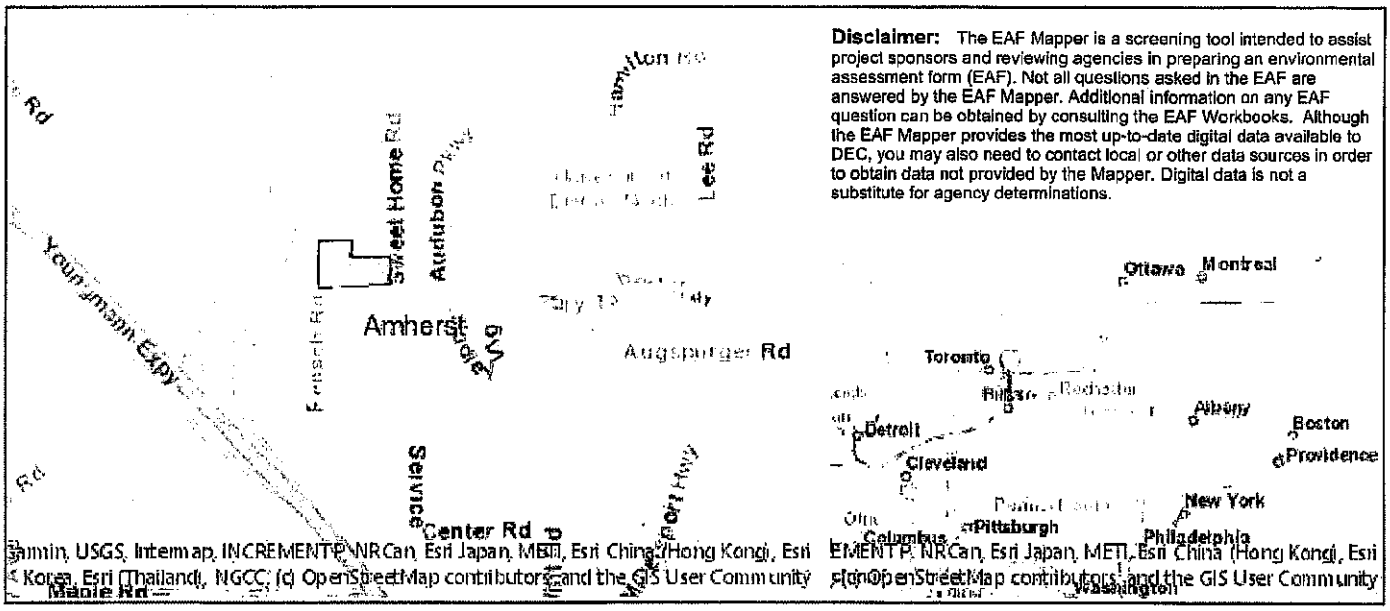
Sean Hopkins, Esq.

PRINT FORM

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

EAF Mapper Summary Report

Sunday, March 13, 2022 1:43 AM



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Rezoning of 1400-14034 and 1408-1416 Sweet Home Road from from RD to CTR-8

TOWN OF AMHERST ATTACHMENT
State Environmental Quality Review
ENVIRONMENTAL ASSESSMENT FORM

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
Churchville Silt Loam	Severe	Severe	Severe	Severe	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).

   x Geotechnical report attached _____ Not applicable

   [Note: Three copies of the Geotechnical Report prepared by Glynn Geotechnical Engineering dated February 11, 2004 have been submitted to the Planning Department].

3. Is your property located: On Youngs Road between Dodge and Klein Roads? ☐ Yes x No
   On Wehrle Dr. between Spindrift Dr. and Oakwood Rd? ☐ Yes x 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 x No

5. Location and size of real property owned by petitioner within one (1) mile of subject proposal:

   Not Applicable.

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: Not Applicable.

   (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 269
   Source: Traffic Impact Study prepared by SRF Associates dated March 21, 2022.

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:
    110,000 gpd average flow 440,000 gpd 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-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 3 – Legal Description of Property to be Rezoned from RD to CTR-8

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

EXHIBIT 3 OF AMENDED REZONING APPLICATION

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED FROM RESEARCH DEVELOPMENT DISTRICT ("RD") TO CTR CENTER EIGHT ("CTR-8")

1400-1404 SWEET HOME ROAD [RD TO CTR-8]:

All that certain Piece or Parcel of Land, situate, lying and being in the Town of Amherst, County of Erie and State of New York, being Part of Lot 79, Township 12, Range 7 of the Holland Land Company's Survey, and being more particularly bounded and described as follows:

Commencing at a point in the east line of said Lot No. 79, 174.00 feet south of the northeast corner of said Lot No. 79, said point also being the southeast corner of Liber 2713 of Deeds at page 120, said east line also being the center line of Sweet Home Road (width varies, originally 66 feet wide); thence westerly along a line parallel to the north line of said Lot No. 79 and bearing S 89° 38' 35" W, 80.00 feet to a point in the west line of lands acquired by the New York State Department of Transportation for Sweet Home Road S.H. No. 9409, Map No. 72, Parcel No. 75 the point or place of beginning; thence southerly along the west line of said Parcel No. 75 and bearing of S 00° 00' 20" W, 297.93 feet to a point; thence southwesterly along the west line of said parcel No. 75 and bearing S 47° 59' 05" W, 33.65 feet to a point in the north line of Rensch Road (49.5 feet wide); thence westerly along the north line of said Rensch Road and bearing S 88° 14' 38" W, 401.68 feet to the west line of deed recorded in the Erie County Clerk's Office on March 3, 2017 in Liber 11310 of Deeds at page 1116; thence northerly along a line parallel to the east line of said Lot No. 79 and bearing N 00° 00' 20" E, 330.11 feet to a point; thence easterly along a line parallel to the north line of said Lot No. 79 and bearing N 89° 38' 35" E, 426.50 feet more or less to the point or place of beginning and containing 3.175 Acres, more or less.

Excepting therefrom, that portion of premises acquired by the People of the State of New York by Notice of Appropriation dated May 20, 2005, recorded September 26, 2005 in Liber 11101 of Deeds, page 8475.

1408, 1412 and 1416 SWEET HOME ROAD [RD TO CTR-8]:

All that certain Piece or Parcel of Land, situate, lying and being in the Town of Amherst, County of Erie and State of New York, being Part of Lot 79, Township 12, Range 7 of the Holland Land Company's Survey, and being more particularly bounded and described as follows:

Commencing at a point in the east line of said Lot 79, 174.00 feet south of the northeast corner of said Lot 79, said point also being the southeast corner of Liber 2713 of deeds at page 120, said east line also being the centerline of Sweet Home Road (width varies, originally 66 feet wide); Thence westerly along a line parallel to the north line of said Lot 79 and bearing S 89° 38' 35" W, 80.00 feet to a point in the west line of lands acquired by the New York State Department of Transportation for Sweet Home Road S.H. No. 9409, Map No. 72, Parcel No. 75; Thence southerly along the west line of said Parcel No. 75 and bearing S 00° 00' 20" W, 297.93 feet to a point; Thence southwesterly along the west line of said Parcel No. 75 and bearing S 47° 59' 05" W, 33.65 feet to a point in the north line of Rensch Road (49.50 feet wide); Thence westerly along the north

line of said Rensch Road and bearing S 88° 14' 38" W, 401.68 feet to the principal point of beginning; Thence continuing westerly along the north line of said Rensch Road and bearing S 88° 14' 38" W, 370.64 feet to a point; Thence northerly along a line bearing N 00° 55' 05" E, 510.78 feet to a point in the north line of said Lot 79; Thence easterly along the north line of said Lot 79 and bearing N 89° 38' 35" E, 362.34 feet to a point; Thence southerly along a line parallel to the east line of said Lot 79 and bearing S 00° 00' 20" W, 501.61 feet to the point or place of beginning and containing 4.257 Acres, more or less.

Exhibit 3 of Amended Rezoning Application
Legal Description of Property to be Rezoned from RD to CTR-8
Page 2 of 2

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 4 – Reduced Size Copy of Survey of Project Site

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

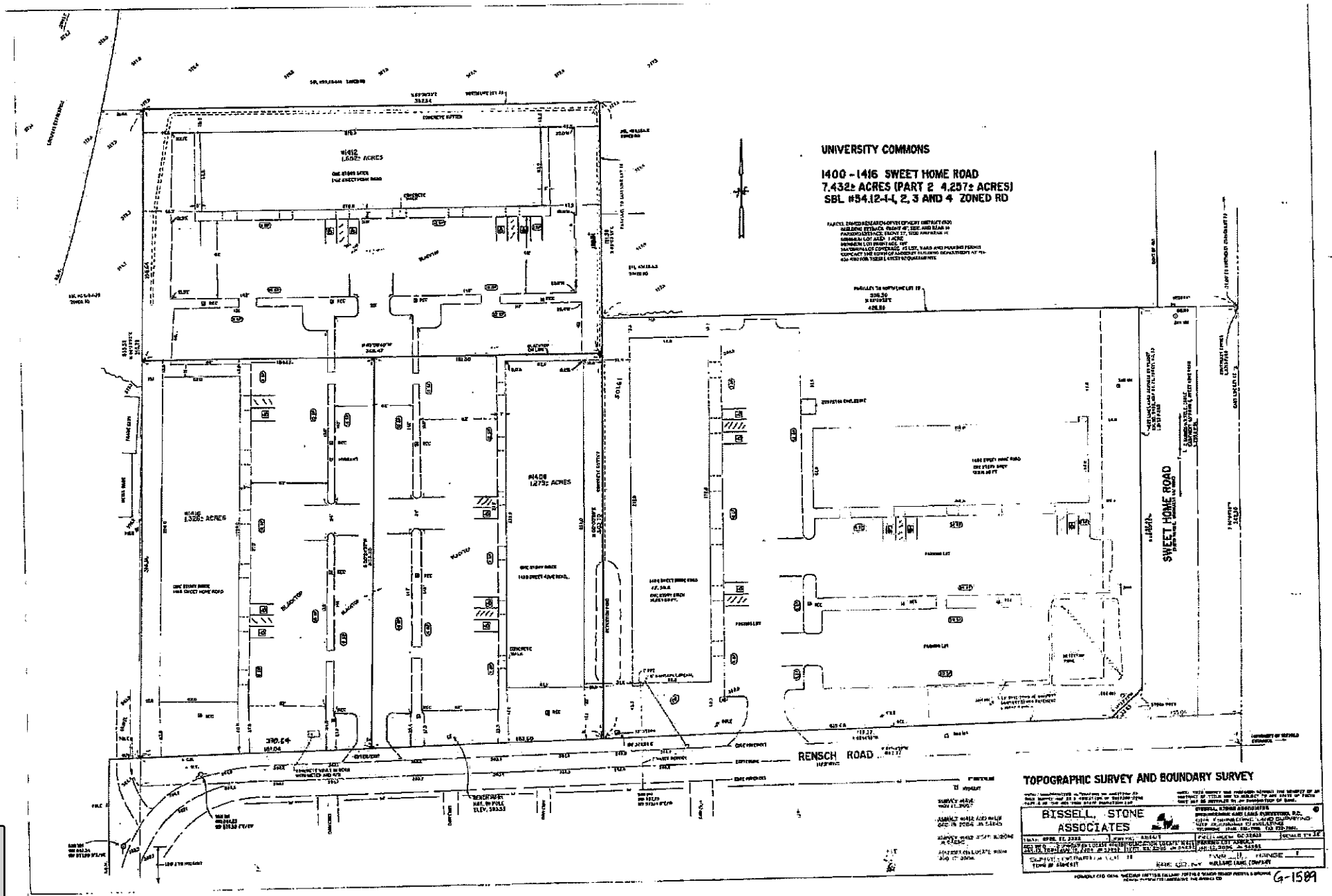

UNIVERSITY COMMONS
1400 - 1416 SWEET HOME ROAD
7.432± ACRES (PART 2 4.257± ACRES)
SBL #54.12-1-1, 2, 3 AND 4 ZONED RD
#1412
1.6025 ACRES
#1408
1.2795 ACRES
1.3205 ACRES
SWEET HOME ROAD
RENSCH ROAD
TOPOGRAPHIC SURVEY AND BOUNDARY SURVEY
BISSELL, STONE ASSOCIATES
G-1589

Exhibit 5 – Responses to Questions 11A & 11B of the Rezoning Application

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

EXHIBIT 5 OF AMENDED REZONING APPLICATION

RESPONSES TO QUESTION 11 OF REZONING APPLICATION
REZONING OF 1400-1404 AND 1408-1416 SWEET HOME ROAD
FROM RD TO CTR-5 AND CTR-8

Question 11(A): Description of the character of the proposed development:

Response to Question 11(A): The proposed mixed-use project will be upscale in character and will feature an eight-story mixed use building along the Sweet Home Road frontage of the Project Site and two five-story buildings on the remainder of the Project Site. The existing office buildings located on the Project Site would be demolished in connection with the mixed-use redevelopment project. The proposed mixed-use redevelopment project requires the zoning classification of the Project Site to be amended from Research Development District ("RD") to CTR-8 Center 8 District ("CTR-8").

The conceptual layout of the proposed mixed-use project is depicted on the full size Concept Site Plan [Drawing C-100] prepared by Carmina Wood Morris P.C. attached to this Rezoning Application. A reduced size copy of the Concept Site Plan is also provided at **Exhibit "7"**. It is important to mention that the layout of the proposed project as depicted on the Concept Site Plan provided is not meant to represent the final layout of the proposed mixed-use redevelopment project since modifications may be necessary based on the project review process and the preparation of fully engineered plans.

The proposed mixed-use redevelopment project will be consistent with the character of nearby parcels that have been rezoned by the Town during the past decade including the nearby student housing communities and mixed-use projects on properties on the west side of Sweet Home Road consisting of commercial space, apartments and hotels. Landscaping will be provided pursuant to a Landscaping Plan to be prepared by a licensed landscape architect during the site

plan review stage of the project and the landscaping will feature numerous trees, bushes and shrubs.

Question 11(B)(1): Rationale for rezoning request: 1. What was this site chosen?

Response to Question 11(B)(1): The Project Site is an appropriate location for the proposed project given the character and scale of nearby land uses and the close proximity to the University of Buffalo North Campus. A primary reason the Project Site was selected for the proposed mixed-use project is that it is designated as "Suburban Corridor" per Figure 6-A of the Comprehensive Plan.

Question 11(B)(2): Why cannot land be used with the existing zoning?

Response to Question 11(B)(2): The Project Site is currently zoned Research and Development ("RD") and can continue to be utilized as an office park. The Applicant is requesting that the Project Site be rezoned to CTR-8 to accommodate the proposed mixed-use project. Nearly all of the nearby parcels on both sides of Sweet Home Road and Rensch Road in close proximity to the Project Site were rezoned to RD by the Town of Amherst in 1976, at the time the Town adopted a new zoning code.

The planning objective at that time was to provide RD zoned land that would accommodate uses that would benefit from close proximity to the UB North Campus. The development of the Project Site and parcels in the surrounding vicinity for research and development purposes did not occur and as a result the zoning classification of most of the properties in the vicinity have been amended in the past approximately fifteen years to accommodate existing land uses such as a hotel being constructed on GB zoned property at 1265 Sweet Home Road, the mixed-use projects on Rensch Road and the Villas on Rensch student housing community, located on approximately

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

twenty acres of property that was rezoned from RD to Multi Family Residential District Six ("MFR-6") by the Town Board in August of 2007.

The redevelopment of the Project Site for the higher intensity uses expressly permitted by the existing RD zoning classification would not be compatible with the existing character of the neighborhood. The existing RD zoning classification expressly allows large buildings to accommodate uses that involve high intensity commercial and industrial operations and that often involve 24/7 business hours as well high volume use of large tractor trailers. The expressly permitted uses of property zoned Research and Development ("RD") is set forth in Section 4-9-2A of the Zoning Code and includes intensive commercial facilities for the compounding, manufacturing and assembly of products such as automotive accessories, clothing and textiles, electronic equipment and appliances, furniture, medical and scientific equipment and supplies, pharmaceutical products as well as experimental research and testing facilities, warehouses and storage facilities and wholesale distribution facilities. A copy of Section 4-9 of the Zoning Code has been attached as **Exhibit "8"** of this Amended Rezoning Application.

Question 11(B)(3): How will this rezoning impact surrounding properties?

Response to Question 11(B)(3): The proposed rezoning of the Project Site from RD to CTR-8 will not result in any significant adverse impacts on surrounding properties. The proposed mixed-use project will be much more compatible with the existing land uses in the vicinity of the Project Site than the higher intensity uses expressly permitted by the existing long-standing RD zoning classification.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Question 11(B)(4): How will this rezoning impact the school system?

Response to Question 11(B)(4): The proposed mixed use project will have a positive impact on the Sweet Home Central School District since the property taxes that will be generated on an annual basis will be significantly higher than the current property taxes. The proposed project will not result in any significant increased demand for educational services since the proposed multifamily units are not likely to attract a substantial number of families with school age children.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 6 – Responses to Questions 16A, 16B, 16D & 16E of the Rezoning Application

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

EXHIBIT 6 OF AMENDED REZONING APPLICATION

RESPONSES TO QUESTION 16 OF REZONING APPLICATION REZONING OF 1400-1404 AND 1408-1416 SWEET HOME ROAD FROM RD TO CTR-8

Question 16(A)(1): **State in detail why the proposed zoning is consistent with the adopted Town of Amherst Bicentennial Comprehensive Plan. Cite specific sections, maps and/or figures in the plan that support the proposed zoning at this location.**

Response to Question 16(A)(1): The request to amend the zoning classification of 1400-1404 and 1408-1416 Sweet Home Road from RD to CTR-8 (collectively the "***Project Site***") to accommodate the proposed mixed-use redevelopment project is consistent with the adopted Bicentennial Comprehensive Plan. The Town of Amherst adopted the Bicentennial Comprehensive Plan in January of 2007 after completing a lengthy planning process that included numerous public meetings and public hearings involving the Comprehensive Plan Advisory Committee, the Planning Board and the Town Board.[1] In December of 2020, the Town Board most recently adopted amendments to the Bicentennial Comprehensive Plan. The Comprehensive Plan is intended to guide future growth and redevelopment in the Town.

Figure 6 of the Bicentennial Comprehensive Plan is the Conceptual Land Use Plan and it depicts the Project Site as being as being appropriate for "Commercial/Mixed Use" uses. A copy of Figure 6 of the Comprehensive Plan is provided at **Exhibit "9"**. The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development in the Town

[1] A copy of the resolution adopted by the Town Board on January 2, 2007 for the purpose of adopting the Bicentennial Comprehensive Plan pursuant to Town Law Section 272-a is included at the beginning of the Comprehensive Plan. This resolution recites the lengthy planning history that incorporated numerous opportunities for public input as well as a coordinated environmental review pursuant to SEQRA that involved the preparation a Generic EIS and the issuance of a Findings Statement.

of Amherst. Figure 6-A of the adopted Bicentennial Comprehensive Plan is the titled Commercial and Mixed-Use Designations and it depicts the Project Site as being designated as "Suburban Center". The Project Site is located within the University Place geographic location per Figure 6-A of the Comprehensive Plan. A copy of Figure 6 of the Comprehensive Plan is provided at **Exhibit "10"**.

Question 16(A)(2): Cite all text, map, and/or figures that must be amended to support the proposed zoning at this location and provide detailed suggested amendments.

Response to Question 16(A)(2): The proposed rezoning of the Project Site from RD to CTR-8 to accommodate the proposed mixed-use redevelopment project does not require an amendment to the Bicentennial Comprehensive Plan.

Question 16(A)(3): State why the proposed zoning is consistent with intent and objectives (Sec. 1-2-2) of the Zoning Ordinance:

Response to Question 16(A)(3): Section 1-2-1 of the Zoning Code is titled "Purpose" and it states as follows:

> *"The purpose of this Zoning Ordinance and the intent of the legislative authority in its adoption is to promote the environment of the town and its public health, safety, convenience, comfort, prosperity and the general welfare by regulating the use of buildings, other structures and land for residences, open space, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, building coverage and location of structures; by regulating and limiting population density; and for the aforesaid purposes, to divide the land within the limits of the town into districts of such number and dimensions generally consistent with the policies of the Comprehensive Plan and to provide procedures for the administration and amendment of said Zoning Ordinance."*

The proposed rezoning of the Project Site RD to CTR-8 to accommodate the proposed mixed-use redevelopment project is consistent with the "Purpose" of the Zoning Code. Section 1-

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

2-2 of the Zoning Code sets forth the objectives of the Zoning Code. This section of the Zoning Code lists thirteen objectives that are discussed below as follows:

A. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to insure their orderly and beneficial development;

Response: The proposed rezoning of the Project Site from RD to CTR-8 to accommodate the mixed-use redevelopment project will be consistent with the objective of protecting the character and value of existing land uses. The proposed rezoning will allow the Project Site to be utilized as a mixed-use project, which represents orderly and beneficial development.

B. To provide adequate open spaces for light, air and outdoor uses to include public, common and private open space areas;

Response: The proposed rezoning of the Project Site and the proposed mixed-use project will not be inconsistent with this objective.

C. To prevent overcrowding of land;

Response: The proposed mixed-use project will not result in the overcrowding of land. The project is consistent with the type of development designated as appropriate for the Project Site per Figure 6 and Figure 6-A of the adopted Comprehensive Plan.

D. To prevent excessive concentration of population and to prevent spare and uncoordinated development;

Response: The proposed rezoning of the Project Site will not result in excessive concentration of population and the mixed-use redevelopment project represents an example of coordinated development. The mixed-use redevelopment project will require Site Plan Approval from the Planning Board.

E. To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property generally consistent with the policies of the Comprehensive Plan.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Response: The responses to the Questions in this **Exhibit "6"** of the Amended Rezoning Application set forth the reasons the proposed rezoning is consistent with the policies of the Comprehensive Plan.

F. To protect persons and property from damage and injury due to fire or flood;

Response: The Site Plan Application review process will trigger the need for an Engineer's Report and SWPPP prepared by a licensed engineer to be prepared for review and approval by the Town's Engineering Department. The mixed-use redevelopment project to be located on the existing office park property will not increase the likelihood of damage and injury due to fire and flood. The proposed mixed-use redevelopment project will be constructed per the stringent requirements of the NYS Building Code including the fire safety standards contained therein.

G. To preserve and protect significant natural features and vegetation, thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only.

Response: The proposed rezoning and the proposed mixed-use redevelopment project will not be inconsistent with this objective. There are not significant natural features located on the previously developed Project Site.

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

Response: The development of the Project Site in a manner consistent with the attached Concept Site Plan [Drawing C-100] will be aesthetically harmonious with nearby areas and structures. Conceptual color building renderings prepared by Brian Slevar, R.A. of Carmina Wood Design are attached as **Exhibit "11"**. The color building renderings will be updated based on the modifications to the project layout depicted on the updated Concept Site Plan included with this Amended Rezoning Application.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

I. To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with and be damaged least by traffic movements and hence result in lessened street congestion and improved public safety.

Response: The proposed mixed-use project will have two (2) driveway connections onto Rensch Road as depicted on the Concept Site Plan [Drawing C-100].

J. To establish zoning patterns that insure economical extensions for sewers, water supply waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

Response: The Project Site has access to sanitary sewer and water lines as well as necessary public utilities to service the proposed mixed-use redevelopment project.

K. To guide the future development of the town so as to being the gradual conformity of land, structures and uses generally consistent with the policies of the Comprehensive Plan.

Response: The proposed rezoning of the Project Site from RD to CTR-5 and CTR-8 is consistent with this objective since the infill mixed-use redevelopment project is consistent with the policies contained in the Comprehensive Plan.

L. To accomplish the specific intents and goals set forth in the introduction to the respective sections.

Response: The proposed rezoning of the Project Site will be consistent with this objective.

M. To protect the community from visual pollution resulting from the unregulated use of signs and other advertising devices.

Response: The proposed rezoning and the proposed mixed-use redevelopment project will not be inconsistent with this objective.

Question 16(C): Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood:

Response to Question 16(C): The proposed rezoning of the Project Site from RD to CTR-8 is compatible with the present zoning and conforming uses of nearby properties and the character of the neighborhood. The Project Site is currently zoned RD which would allow the Project Site to be redeveloped for intensive uses permitted per Section 4-9 of the Zoning Code. A copy of Section 4-9 of the Zoning Code is provided at **Exhibit "8"**.

Question 16(D): Suitability of the subject property for uses permitted by the current versus the proposed district:

Response to Question 16(D): The Project Site is much more suitable for uses permitted by the proposed CTR-5 and CTR-8 zoning classifications than the existing RD zoning classification.

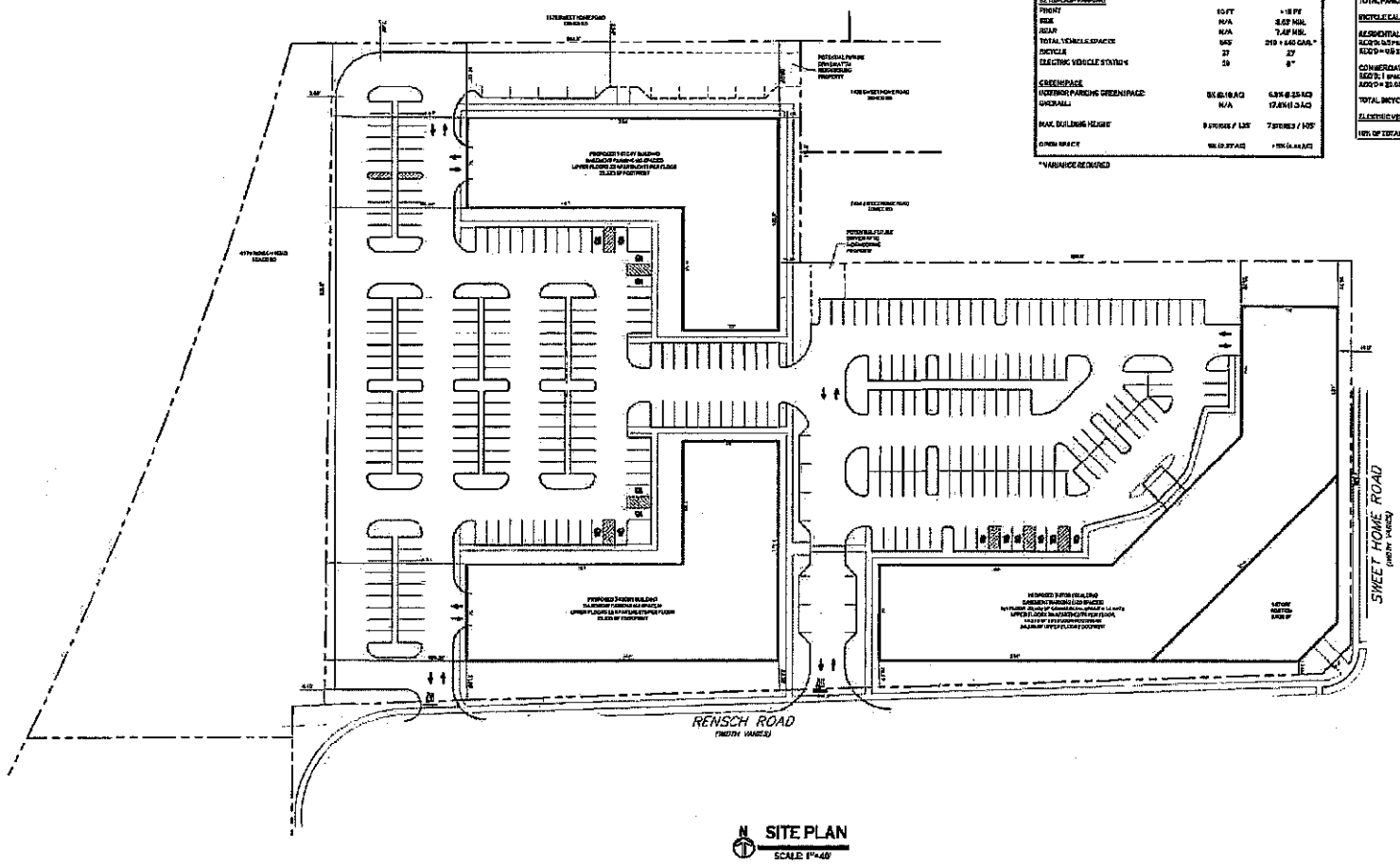
Question 16(E): Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town:

Response to Question 16(D): The proposed change in the zoning classification of the Project Site from RD to CTR-8 to accommodate the proposed mixed-use redevelopment project will have positive impacts on the balance of uses in the Town by providing 1st floor commercial space and apartments for lease at an infill location in a portion of the Town in close proximity to the UB North Campus that has been designated as appropriate for mixed-use infill redevelopment as depicted on the Concept Site Plan [Drawing C-100].

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 7 – Reduced Size Copy of the Concept Site Plan [Drawing C-100] as Prepared by Carmina Wood Morris DPC
[Note: Full Size Copy of the Concept Site Plan also attached]

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet



N SITE PLAN
SCALE 1"=40'

SITE DATA

	REQUIRED	PROVIDED
FRONT	5 FT	10.0' MIN.
SIDE	60 FT	15.00' MIN.
REAR	60 FT	122.32' MIN.
ACCESSORY STRUCT.	NONE	N/A
SETBACKS - PARKING		
FRONT	10 FT	> 10 FT
SIDE	N/A	5.00' MIN.
REAR	N/A	7.48' MIN.
TOTAL VEHICLE SPACES	565	219 + 340 GAR.*
BICYCLE	27	27
ELECTRIC VEHICLE STATION	19	8*
GREENSPACE		
INTERIOR PARKING GREENSPACE	5% (0.19 AC)	6.5% (0.25 AC)
OVERALL	N/A	17.6% (0.7 AC)
MAX. BUILDING HEIGHT	5 STORIES / 125'	7 STORIES / 105'
OPEN SPACE	10% (0.37 AC)	> 10% (0.44 AC)

*VARIANCE REQUIRED

PARKING CALCULATION (Per Section 54.8-1-6)

RETAIL SALES (10,000 GSF)
RQ'D'S: 3.5 min. / 1,000 sf
RQ'D'S = (10,000 / 1,000) x 3.5 = 35 SPACES REQ'D

OFFICE: (10,000 GSF)
RQ'D'S: 2.0 min. / 1,000 sf
RQ'D'S = (10,000 / 1,000) x 2.5 = 25 SPACES REQ'D

APARTMENTS/TOWNHOUSES:
RQ'D'S: 1 SPACE PER 2 BEDROOM UNIT = 1 x 476 UNITS = 476 SPACES
1.5 SPACE PER 3 BEDROOM UNIT = 1.5 x 30 UNITS = 45 SPACES
RQ'D'S = 565 SPACES REQ'D

TOTAL PARKING SPACES REQUIRED = 565 SPACES

BICYCLE CALCULATION (PER SECTION 54.8-1-6)

RESIDENTIAL:
RQ'D'S: 0.5 PER UNIT (100 max)
ADD'D = 476 x 5.0 = 250 THEREFORE 25 SPACES REQ'D.

COMMERCIAL:
1 SPACE PER 5,000 sf
RQ'D'S = 10,000 / 5,000 = 2 SPACES REQ'D

TOTAL BICYCLE SPACES REQUIRED = 27 SPACES

ELECTRIC VEHICLE CALCULATION (PER SECTION 54.8-1-6)

10% OF TOTAL PARKING = 565 x 0.10 = 56 SPACES REQ'D.

SITE LEGEND

PROPERTY LINE
PROPOSED CONCRETE CURB
PROPOSED CONCRETE SIDEWALK
PROPOSED RAMP
PROPOSED PARKING NUMBER
PROPOSED LIGHT POLE &FIXTURE

NOTE: BOUNDARY AND TOPOGRAPHIC INFORMATION PROVIDED BY OTHERS. CARMINA WOOD DESIGN ASSUMES NO RESPONSIBILITY FOR ITS ACCURACY.

40' 0 40 80Ft.

CARMINAWOOD DESIGN

211 Main Street, Suite 200
Buffalo, New York 14203
Phone: (716) 332-2099

Mixed Use Development
1400 - 1416 Sweet Home Road
Amherst , New York
SBL No.

REVISIONS
No. Description Date

DRAWING NAME:
Concept Site Plan

Date: 07.19.22
Drawn by: C. Wood
Scale: As Noted

DRAWING NO.
C-100

Project No: 21.008

© CARMINA WOOD DESIGN

Exhibit 8: Copy of Section 4-9 of the Town of Amherst Zoning Code [Titled "Research & Development District (RD)"]

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

§ 4-9. Research and Development District (RD)

4-9-1. **Purpose.** To provide areas within the Town for the location of research and development, related production activities, light manufacturing, offices, and related training schools on sufficient land to permit efficient development. Such districts shall be designed and located in such a way that they shall neither encroach upon surrounding uses nor shall surrounding uses interfere with the efficient development of these activities. The RD district is designed to encourage the development of a balanced employment mix within the Town and improve the Town's tax base while providing sufficient educational opportunities to contribute to the training of the workforce and thereby meet the employment needs of businesses locating in the Town.

4-9-2. **Principal and Special Uses.**

A. **Permitted Uses and Structures.**

RD	**Permitted**	**Special Use**	**Standards**
OPEN USES			
No open uses allowed			
RESIDENTIAL USES			
No residential uses allowed			
PUBLIC AND CIVIC USES			
Day-care center	✓		§ 6-3-2
Minor utilities	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Public works construction yard **[Added 12-7-2009 by L.L. No. 19-2009]**	✓		§ 6-3-5
Telecommunication facility		✓	§ 6-7
COMMERCIAL			

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

§ 4-9

RD	Permitted	Special Use	Standards
Ambulance Service **[Added 2-24-2014 by L.L. No. 3-2014]**	✓		
Bank	✓		
Dog day care facility **[Added 10-17-2011 by L.L. No. 25-2011]**	✓		§ 6-4-13 **[Amended 11-5-2012 by L.L. No. 17-2012]**
Medical laboratory testing service	✓		
Office	✓		
Training school such as technical, trade, vocational or business	✓		
Truck service, wash, and repair **[Added 8-9-2021 by L.L. No. 11-2021]**	✓		§ 6-4-14
INDUSTRIAL			
Compounding, manufacturing and assembly of: Automobile and boating accessories from previously prepared materials Clothing or other textile products Electrical and electronic equipment and appliances Food and beverage products Household items, furniture Musical, scientific, medical, dental or photographic instruments, equipment or supplies Office equipment Panels, sheets, tubes or rods	✓		

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

§ 4-9

RD	Permitted	Special Use	Standards
Pharmaceutical products, cosmetics or toiletries Printing, publishing and engraving Recreation equipment or toys			
Experimental, research and testing facility	✓		
Ground-mounted solar energy systems, Tier III **[Added 12-11-2017 by L.L. No. 24-2017]**		✓	§ 6-10
Ground-mounted solar energy systems, Tier II **[Added 12-11-2017 by L.L. No. 24-2017]**	✓		§ 6-10
Research development facility	✓		
Tier I experimental pilot plant operation **[Amended 12-11-2017 by L.L. No. 24-2017]**	✓		
Warehousing and storage service	✓		
Wholesale distribution facility	✓		

B. **Dimensional Standards.**

For parcels 30 acres in size or more as of (effective date), the Planned Unit Development Process is required. See § 6-9. **[Added 5-20-2013 by L.L. No. 8-2013; amended 11-3-2014 by L.L. No. 39-2014]**

RD Principal & Accessory Use/ Structure Dimensional Standards		**Vehicle Use Area**
Min. district area	10 ac	
Min. lot area	1 ac	
Min. lot width	35 ft	
Min. front yard		

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

RD Principal & Accessory Use/ Structure Dimensional Standards		Vehicle Use Area
Height of structure for first 35 ft.	20 ft	25 ft*
Height of structure for any portion of building above 35 ft.	30 ft	25 ft*
Min. rear yard (abutting residential**/nonresidential)		
Height of structure up to 30 ft	See § 2-5-4B(3)/15 ft	25 ft* / 10 ft*
Height of structure 30 ft or more	See § 2-5-4B(3)/25 ft	25 ft* / 10 ft*
Min. side yard (abutting residential**/nonresidential)		
Height of structure up to 30 ft	See § 2-5-4B(3)/ 15 ft	25 ft* / 10 ft*
Height of structure 30 ft or more	See § 2-5-4B(3)/ 25 ft	25 ft* / 10 ft*
Max. height	65 ft	
Max. building coverage	None	
Min. interior building separation	30 ft	

*	The entire area must be landscaped.
**	R-R, S-A, R-1, R-2, R-3, CR-3A, TR-3, R-4, MFR-4A, MFR-5, MFR-6, MFR-7, PRD, PDD, PRD, NCD[1]

4-9-3. **Accessory Uses and Structures.**

A. **Permitted Accessory Uses and Structures.** The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

RD Permitted Accessory Uses and Structures	Standards
Convenience Retail Service **[Added 12-14-2020 by L.L. No. 20-2020]**	§ 6-8-4
Day-care center	
Landscaping	§ 7-2

1. **Editor's Note: The diagram which immediately followed this table was repealed 2-8-2016 by L.L. No. 2-2016.**

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

RD Permitted Accessory Uses and Structures	Standards
Off-street parking, loading, and stacking	§ 7-1
Production operation accessory to a research or testing operation	
Restaurant without drive-through **[Added 12-14-2020 by L.L. No. 20-2020]**	§ 6-8-10
Retail sale of products assembled or stored on-site	§ 6-8-11
Solar energy systems **[Added 12-11-2017 by L.L. No. 24-2017]**	§ 6-10
Signs	§ 7-8
Small wind energy system **[Added 8-17-2009 by L.L. No. 12-2009]**	§ 6-8-14
Other uses and structures customarily incidental to the principal use	

B. **Dimensional Standards.** The dimensional standards for an accessory use or structure shall be the same as those for the principal use in § 4-9-2B.

4-9-4. **General Development Standards.**

A. Interior side or rear yards separating parking, loading and stacking area from lot lines are not required for unified developments.

B. Development in the RD district shall also comply with the requirements referenced in the table below.

RD General Development Standards	
Off-Street Parking, Loading and Stacking	§ 7-1
Landscaping, Buffers and Screening	§ 7-2
Site Lighting	§ 7-3
Outdoor Storage and Display	§ 7-4
Fences and Walls	§ 7-5
Access and Circulation	§ 7-6
Provisions for Flood Hazard Reduction	§ 7-7
Sign Regulations	§ 7-8
Performance Standards	§ 7-9
Bulk Storage of Combustible or Flammable Liquids	§ 7-10

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 9 – Color Copy of Figure 6 of the Bicentennial Comprehensive Plan

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

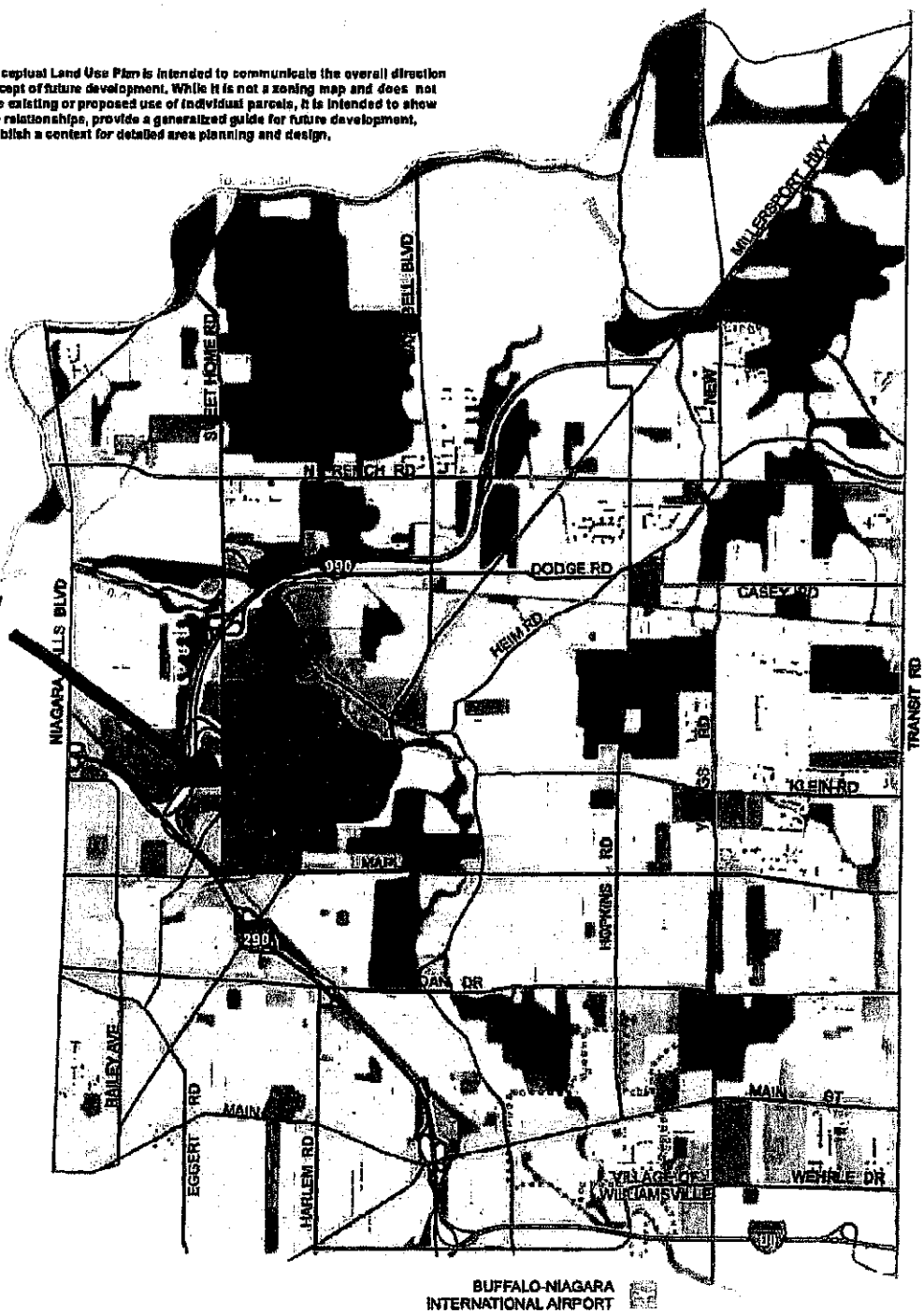


FIGURE 6

Rural Residential
Single Family Residential
Mixed Residential
Medium Residential
Commercial / Mixed Use*
Special Use Center
Commercial - Office
Industrial - Office
Community Facilities
Educational Campus
Recreation, Open Space & Greenways
Agriculture
Transportation
Surface Water
Village of Williamsville Boundary

* See Map Figure 6-A for Additional Designations

SOURCE NOTES:

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

Map Compiled by the Town of Amherst Planning Department

Date: December 2020

N

0 0.25 0.5 0.75 1 1.25
Miles

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 10 – Figure 6-A of the Comprehensive Plan

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

The Conceptual Land Use Plan is intended to communicate the overall direction and concept of future development. While it is not a zoning map and does not show the existing or proposed use of individual parcels, it is intended to show land use relationships, provide a generalized guide for future development, and establish a context for detailed area planning and design.

Project Site Designated Suburban Corridor

Wegmans (NFB)
Walgreens (NFB)
NFB / Elliott Creek Strip
Home Depot (NFB)
Maple / Amherst Manor
Walmart (Sheridan)
Northtown Plaza
NFB Strip
Eggert Strip
Eggert / Bailey
Bailey Strip
Sheridan / Millersport Strip
Northtown Auto (Sheridan)
Sheridan / Sunrise - North Side
Sheridan / Sunrise - South Side
Sheridan / Harlem - West Side
Sheridan / Harlem - East Side
Sheridan / Getzville Strip
Millersport / Arcade
Six Corners
Bailey / Grover Cleveland
Bailey Live-Work
Main / Bailey
University Plaza
Kenmore Avenue
Eggertsville (Main / Eggert - West Side)
Eggertsville (Main / Eggert - East Side)
Snyder (Main / Harlem)
Harlem Strip
Harlem / Kensington
Kensington / Saratoga
Main / Kensington
West of Village - North of Main
West of Village - South of Main (West Side)
West of Village - South of Main (East Side)
Wehrle / South Forest
Wehrle / South Union
Wehrle / Cayuga
Sheridan / Hopkins
Evans Strip
Williamsville Place
Main Strip
Main / Youngs
Transit / Wehrle
Transit from Main to Maple
Transit / Maple
Maple / Ayer
Maple Strip
Maple / North Forest
Gun Club
Clearfield Plaza
Transit / Casey
Transit / North French
Transit / Dodge
Swormville
Hopkins / Dodge
Getzville Plaza
Sweet Home / Skinnersville
Campbell / Dodge
Dodge Strip
Sweet Home / North French
Campbell / North French
Crosspointe
Transit / Millersport
Transit Strip

FIGURE 6-A

Suburban Center
Suburban Corridor
Traditional Areas

Village of Williamsville

University at Buffalo

SOURCE(S):

Original Source Data Provided by the Town of Amherst Information Technology Department, URS Corporation and Wallace Roberts & Todd, LLC

Map Compiled by the Town of Amherst Planning Department

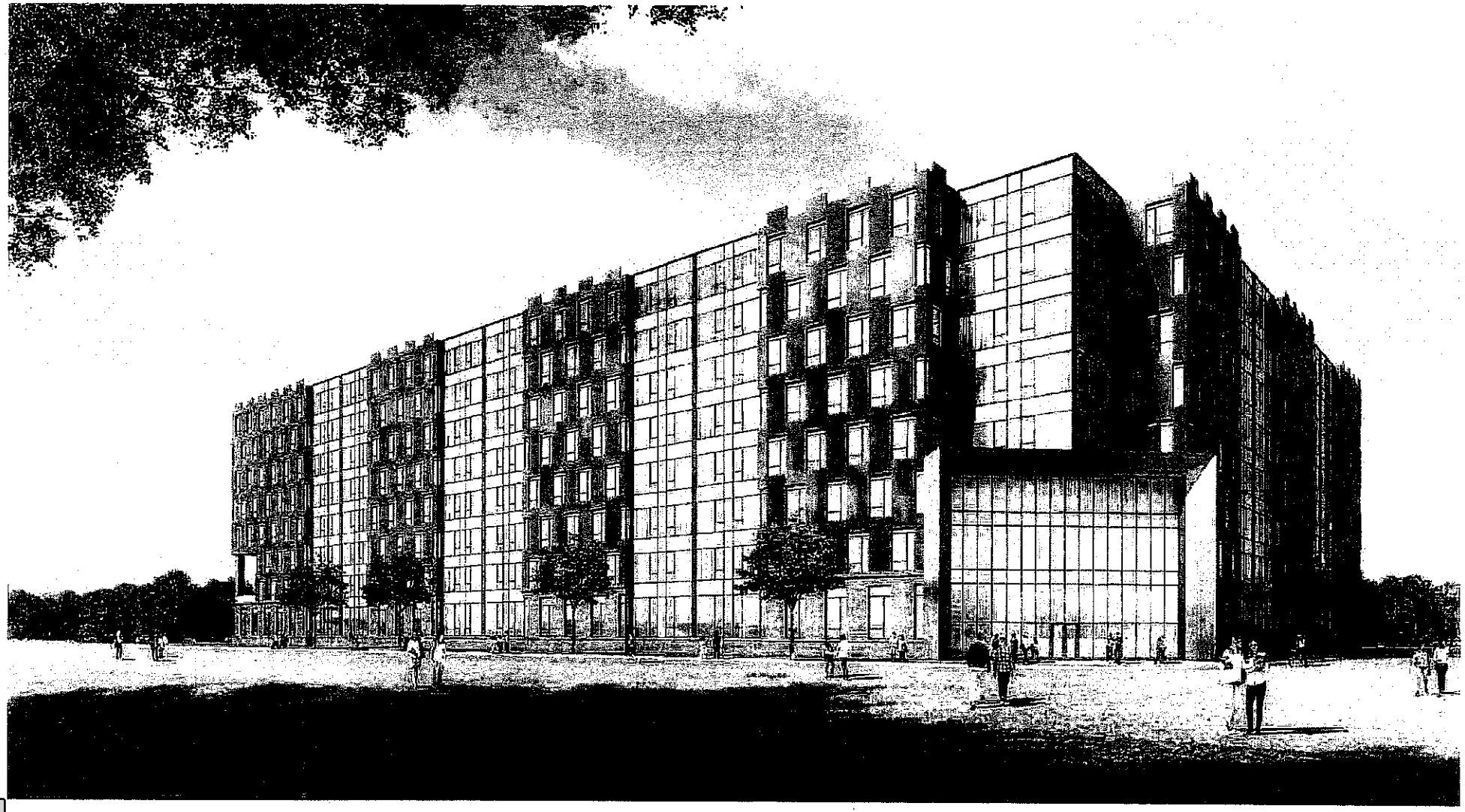
Date: December 2009

0 0.2 0.4 0.6 0.8 1 Miles

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Exhibit 11: Color Conceptual Building Renderings Prepared by Brian Slevar, R.A. of Carmina Wood Morris DPC

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet



Amherst

Town of Amherst Planning Department

2001.063

Erie County, New York

RECEIVED
SEP 19 2022
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM

September 8, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/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
Francina Spoth, Town Clerk

FROM: Scott Marshall, Principal Planner TV

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8, Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVISED:
Received July 29, 2022
Please note change in request: Both parcels proposed to be rezoned to CTR-8

REVIEW:

Do you agree with all statements made? YES

If you do not, briefly state why: _____

General comments relative to your agency interests: T.I.S. at Time of Site Plan

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:** 9/14/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Rev_Plan_Transmittal_080122.doc

Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amherst

2001.063

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

RECEIVED
SEP 14 2022
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM

September 8, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/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
Francina Spoth, Town Clerk

FROM: Scott Marshall, Principal Planner TV

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8**, **Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVISED:
Received July 29, 2022
Please note change in request: Both parcels proposed to be rezoned to CTR-8

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:** 9/13/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Rev_Plan_Transmittal_080122.doc
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

5583 Main Street • Williamsville • New York • 14221 • (716) 631-7051 • Fax (716) 631-7153

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amherst

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

RECEIVED
SEP 13 2022
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM

September 8, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/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
Francina Spoth, Town Clerk

FROM: Scott Marshall, Principal Planner ST

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8**, **Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVISED:
Received July 29, 2022
Please note change in request: Both parcels proposed to be rezoned to CTR-8

REVIEW:

Do you agree with all statements made? Yes

If you do not, briefly state why: _____

General comments relative to your agency interests: Not 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:** 9/13/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Rev_Plan_Transmittal_080122.doc
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amherst

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

RECEIVED
SEP 13 2022
TOWN OF AMHERST
PLANNING DEPT.

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

MEMORANDUM

September 8, 2022

TO: Tim Koller, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/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
Francina Spoth, Town Clerk

RECEIVED
SEP 09 2022
TOWN ATTORNEY

FROM: Scott Marshall, Principal Planner SM

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8, Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVISED:
Received July 29, 2022
Please note change in request: Both parcels proposed to be rezoned to CTR-8

REVIEW:

Do you agree with all statements made? NA

If you do not, briefly state why: _____

General comments relative to your agency interests: None at this time

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

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

Signature: _____ **Date:** 9/13/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Rev_Plan_Transmittal_080122.doc
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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
SEP 12 2022
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

September 8, 2022

RECEIVED
SEP 09 2022
TOWN ATTORNEY

TO: Tim Koller, Deputy Town Clerk
Daniel Ulatowski, Principal Planner
Emily Murphy, Town Assessor
Douglas Gesel, Supervising Code Enforcement Officer, Building Department
Jeffrey Burroughs, Town Engineer
Patrick Lucey, Superintendent of Hwys/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
Francina Spoth, Town Clerk

FROM: Scott Marshall, Principal Planner TV

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8, Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVISED:
Received July 29, 2022
Please note change in request: Both parcels proposed to be rezoned to CTR-8

REVIEW:

Do you agree with all statements made? Agree with all statements made.

If you do not, briefly state why: N/A

General comments relative to your agency interests: N/A

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

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

Signature: _____ **Date:** 9/12/22

DU/TV/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Rev_Plan_Transmittal_080122.doc
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

MEMORANDUM

TO: Daniel Ulatowski, AICP, Associate Planning Director
Douglas Gesel, Supervising Code Enforcement Officer
Jeff Burroughs, Town Engineer
Scott Marshall, Principle Planner

FROM: Bonnie B. Arnold, Real Property Appraiser

DATE: September 13, 2022

SUBJECT: Request to Rezone 7.43±Acres of Land from **RD** to **CTR-8,Z-2022-02**
Property Location: **1400-1404&1408-1416 Sweet Home Rd**
Petitioner: **North** Forest **Development, LLC**

Change in request: Both parcels proposed to be rezoned to CTR-8
Assessor agrees with all statements made

cc: Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Carrato, Amy

From: Hayes, Ron (DOT) <Ron.Hayes@dot.ny.gov>
Sent: Thursday, April 21, 2022 3:22 PM
To: Ulatowski, Daniel
Cc: Sean Hopkins
Subject: 2022-SQ327 T. Amherst 1400 - 1404 and 1408 - 1416 Sweet Home North Forest Development
Attachments: 2022-SQ327 T. Amherst 1400-1404 and 1408-1416 Sweet Home cover letter.pdf; 2022-SQ327 T. Amherst 1400-1404 and 1408-1416 Sweet Home lead agency solicitation.pdf; 2022-SQ327 T. Amherst 1400-1404 and 1408-1416 Sweet Home FEAF part 1.pdf

Dan,

New York State Department of Transportation (NYSDOT) is reviewing the SEQR information submitted for the subject project at 1400 – 1404 and 1408 -1416 Sweet Home, Town of Amherst and has the following comments:

- NYSDOT concurs with the Town of Amherst Board acting as Lead Agency.
- In accordance with page7, subsection j of Section D. 2. of the Full Environmental Assessment Form the proposed Type 1 action has resulted in the submission of a Traffic Impact Study (TIS) to determine the traffic impact of the proposed project. NYSDOT is undertaking a review of the TIS, as well as, plans and specifications to determine and mitigate impacts to the State Highway System.
- NYSDOT requests an extension to May 20, 2022 to provide comments on the proposed project's potential impact to traffic on the State Highway System.

Please let me know if you have any questions or concerns.

Thank you,

Ron

Ronald J. Hayes
Planning and Program Management
SEQR/Site Plan Coordinator

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

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

NEW YORK STATE OF OPPORTUNITY | Department of Transportation

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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
Sweet Home School District

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

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM **RD** TO **CTR-8** & **TO CTR-5**, **Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD.** NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

REVIEW:

Do you agree with all statements made? The intent of the CTR-8 district is to place the tallest buildings near the Interstate 290. The Center 5 district is more appropriate at the intersection of Rensch and Sweet Home Roads that CTR-8 as proposed.

If you do not, briefly state why:

General comments relative to your agency interests: The concept site plan falls to provide 5 percent of the site for open space. The intent of all of the Center zoning districts is to create walkable mixed use places with human scaled internal streets that are high quality and active. Open space is required and intended to be an organizing feature and should be along a core street. The Town Board should delay consideration on the rezoning request until the the Engineering Department can confirm that sufficient sanitary sewer capacity exists for 500 new units.

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: Daniel J. Ulatowski **Date:** 5/2/2022

DANIEL J. ULATOWSKI

DU/GP/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Transmittal_032222.doc
cc: Scott Marshall, Principal Planner
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7165 | F: (716) 851-7168
www.dec.ny.gov

RECEIVED
APR 26 2022
TOWN OF AMHERST
PLANNING DEPT.

April 18, 2022

Gary Palumbo
Town of Amherst
5583 Main Street
Williamsville, New York 14221

Dear Gary Palumbo:

SEQR Lead Agency Coordination
Proposed Mixed-Use Redevelopment & Rezone
1400-1416 Sweet Home Rd
Town of Amherst, Erie County

This is to acknowledge receipt of your April 6, 2022, notice which requested State Environmental Quality Review Act (SEQR) Lead Agency status for the above-noted project. The Department concurs that the Town of Amherst should act as SEQR Lead Agency, since the environmental impacts of the proposal are primarily of local significance. However please be aware of the following:

1. If any project activities will involve land disturbance of 1 acre or more, the project sponsor, owner or operator is required to obtain a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001). This General Permit requires the project sponsor, owner or operator to control stormwater runoff according to a Stormwater Pollution Prevention Plan (SWPPP), which is to be prepared prior to filing a Notice of Intent (NOI) and prior to commencement of the project. More information on General Permit GP-0-20-001, as well as the NOI form, is available on the Department's website at www.dec.ny.gov/chemical/43133.html. Information on permitting requirements and preparation of a necessary Stormwater Pollution Prevention Plan (SWPPP) is available on the Department's website at www.dec.ny.gov/chemical/8468.html.

   The Town of Amherst is designated as an MS4 community. The project sponsor, owner or operator of a construction activity that is subject to the requirements of a regulated, traditional land use control MS4 shall have their SWPPP reviewed and accepted by the MS4 community.

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

This Downstream Sewer Capacity Analysis, as well as any required infiltration and inflow (I/I) rehabilitation offset work at a 4:1 ratio, should be part of the Project's Engineering Report. These items must be received as part of a complete sanitary sewer extension plan submission from the municipality (sewer owner) that signs the "Application for Approval of Plans" form. If adequate capacity is not available, the sewer extension will not be approved until an acceptable remediation plan is developed.

The above guidance will help in the preparation of a complete Sewer Extension submission, which will facilitate our review. If you have any questions or require additional information, please contact our office NYSDEC, Region 9 Division of Water, telephone: 716/851-7070) or the Erie County Health Department.

3. This project site appears to be within an archaeologically sensitive area based on information obtained through the Cultural Resource Information System (CRIS) on the New York State Office of Parks, Recreation and Historic Preservation's (OPRHP) website at https://cris.parks.ny.gov/. As part of the SEQR process, this concern should be evaluated, unless it can be verified by appropriate documentation that the sites have been significantly disturbed in a way that would destroy potential artifacts. Please recognize that normal agricultural activities, such as plowing, would not constitute such land disturbance. If there are any questions regarding this, contact OPRHP (telephone: 518/237-8643). Note: If any of the described Department approvals are required, an appropriate archaeological investigation must be conducted in order to satisfy the New York State Historic Preservation Act.

If you have any other questions, please feel free to contact Bruno DiBella of my staff or me at 716/851-7165.

Sincerely,

David S. Denk

David S Denk
Regional Permit Administrator

BAD:cmn

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

Amherst

2001.063

Town of Amherst Planning Department

Erie County, New York

Brian J. Kulpa
Supervisor
Daniel C. Howard, AIC
Planning Director
Daniel J. Ulatowski, AI
Assistant Planning Direc

RECEIVED
APR 20 2022
TOWN OF AMHERST
PLANNING DEPT.

MEMORANDUM

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
Sweet Home School District

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

SUBJECT: REQUEST TO REZONE 7.43± ACRES OF LAND FROM RD TO ~~CRT-8~~ *CTR-8* & RD TO ~~CRT-5~~ *CTR-5*, **Z-2022-02**; PROPERTY LOCATED AT **1400-1404 & 1408-1416 SWEET HOME ROAD**. NORTH FOREST DEVELOPMENT, LLC, PETITIONER.

~~*CORRECTED TRANSMITTAL*~~

REVIEW:

Do you agree with all statements made? YES, WITH COMMENT.

If you do not, briefly state why: —

General comments relative to your agency interests: DEFER TO NYSDOT ON ACCIDENT RATE MITIGATION AND IF CHESTNUT RIDGE SHOULD BE INCLUDED IN TI.

If improvements are required involving your agency, please state schedule for completion (sewer construction, road widening, etc.) WILL FURTHER REVIEW DURING SITE PLAN STAGE.

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

Signature: C. Schregel Date: 4/7/22

REVISED: 4/19/22

DU/GP/bf
X:\Current_Planning\Files\Rezonings\2022\Z-2022-02_(1400-1404_&_1408-1416_Sweet_Home_Rd)_2022\Z-2022-02_Transmittal_032222.doc

cc: Scott Marshall, Principal Planner
Sean Hopkins, Hopkins Sorgi & McCarthy, 5500 Main Street, Suite 343, Williamsville, NY 14221
Chris Wood, Carmina Wood Morris, 487 Main Street, Suite 500, Buffalo, NY 14203

Attachment: Z-2022-02_TB_Letter_102822 (RES-2022-1078 : Adoption of Local Law to Amend the Zoning Map (1400-1404 & 1408-1416 Sweet

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Timothy Koller**
Co-Sponsored by:

DOC ID: 26584 **RESOLUTION 2022-999** **WITHDRAWN**

A Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-C

10/17/2022

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 7:13 PM.

Supervisor Kulpa presented.

There were no speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 7th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The public hearing was closed at 7:15 PM.

RESULT:	**WITHDRAWN**

LOCAL LAW NO. _____-2022

TOWN OF AMHERST

COUNTY OF ERIE, STATE OF NEW YORK

A Local Law To Override The Tax Levy Limit Established In General Municipal Law §3-c

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 To Override The Tax Levy Limit Established In General Municipal Law §3-c."

Section 2. Legislative Intent and Purpose

While a cap on the property tax levy may provide "political appeal in its simplicity," according to the New York Conference on Mayors' Mayoral Task Force on Mandate and Property Tax Relief, a cap without specific exclusions - such as costs associated with health care, pensions, extraordinary capital expenditures and reductions in state aid - and relief from state mandates results in destructive local budget deficits, decimated municipal work forces and a dangerous reduction in essential services provided by local governments.

In order to provide essential municipal services, and truly achieve property tax relief, the state must first reform the cost drivers that lead to high property taxes in New York, particularly the many mandates on local governments pertaining to collective bargaining and managing workforce costs.

In addition, lasting effects of the COVID-19 pandemic, coupled with recent inflation upwards of 8%, has increased costs in all facets of government purchasing, leading to higher operating expenses, while many areas of governmental revenue still lag. This affects the ability of government at all levels to balance their budget without eroding fund balance. Furthermore, it was proven during the COVID-19 pandemic that fund balance is essential to continuing operations during times of adversity.

It is the intent of this Local Law to allow the Town of Amherst the flexibility to adopt a budget for the fiscal year commencing 2023 that requires a property tax levy in excess of the "tax levy limit" defined by General Municipal Law §3-c if necessary to provide essential services. The law further provides the mechanism whereby if the state comptroller determines that the Town has exceeded the 2% tax levy cap, then the Town is in a position to allocate funds to pay the difference.

Attachment: LocalLaw 2022 (RES-2022-999 : A Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-C)

Section 3. Authority

This Local Law is adopted pursuant to Subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the 2023 fiscal year by the adoption of a Local Law approved by a vote of sixty percent (60%) of said governing body.

Section 4. Tax Levy Limit Override

The Town Board of the Town of Amherst is hereby authorized to adopt a budget for the fiscal year commencing in 2023 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 5. Amendment of Chapter 175

Therefore, Chapter 175 of the Code of the Town of Amherst is amended, specifically to add a new Article, Article XI. Real Property Tax Levy, to incorporate the authorization to adopt a budget for the fiscal year commencing in 2023 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 6. Severability

If a Court determines that any clause, sentence, paragraph, subdivision or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

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 Section 130 of the Town Law and Chapter 28 of the Code of the Town of Amherst.

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

Attachment: LocalLaw 2022 (RES-2022-999 : A Local Law to Override the Tax Levy Limit Established in General Municipal Law §3-C)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 26620 A **RESOLUTION 2022-1049** **ROLL CALL VOTE (ADOPTED)**

Capital Improvement Program (CIP) 2023-2028

The 2023-2028 CIP is available for viewing at the Planning Department, the Town Clerk's Office, and on the Town of Amherst Website (as part of the Town's Overall Budget). The 2023-28 CIP can be found on the following link:

https://www.amherst.ny.us/pdf/planning/cip/221007_supervisors_recommended_2023_2028_cip.pdf

10/24/2022
A motion to open the public hearing was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved 4-0. The public hearing was opened at 7:16 PM.

Supervisor Kulpa gave a brief presentation.

The following speaker addressed the Board:
Don Smith, 201 N. Long St. - CIP Budget and the Town's long term debt

There were no further speakers from the public, therefore Supervisor Kulpa moved to close the hearing and set a decision date for the November 7th Town Board meeting, seconded by Deputy Supervisor Berger and unanimously approved 4-0. The public hearing was closed at 7:39 PM.

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

tbd

RESULT:	**ROLL CALL VOTE (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: 11/07/22 07:00 PM
Department: Councilmembers
Initiated by: **Shawn Lavin**
Co-Sponsored by:

DOC ID: 26590 **RESOLUTION 2022-1079** **ADOPTED**

Appointment to Amherst Youth Board

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

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

WHEREAS, Hannah Joseph and Tiger Li, both students in the Town of Amherst, have expressed interest in serving the Amherst Youth Board.

NOW, THEREFORE, BE IT RESOLVED that Hannah Joseph and Tiger Li be appointed to the Amherst Youth Board for terms to end on December 31, 2024.

11/7/2022
Consent

FINANCIAL IMPACT:

None.

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

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 26671 **RESOLUTION 2022-1080** **ROLL CALL VOTE (ADOPTED)**

Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000)

AGENDA ITEM - NOVEMBER 7th, 2022

TO: **Town Board**

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

DATE: **November 2, 2022**

RE: **North Bailey Sewer Project**
2022-2027 C.I.P. - Project No. E-53
Order Calling Public Hearing - $100,000

Kindly adopt the attached Order Calling Public Hearing regarding the above matter by scheduling a Public Hearing for the project on December 12, 2022 at 7:00 p.m.

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

Thank you.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk
(w/attachment, **Agenda Item - November 7, 2022**)
Daryl C. Bramer, Comptroller *(w/attachment)*
Lynda Juul, Director of Finance *(w/attachment)*
Dan Howard, Director of Planning *(w/attachment)*
Jeffrey S. Burroughs, PE, Town Engineer (*w/attachment*)
Jessica Boudreau, P.E., Project Manager (*w/attachment*)

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

Bond Resolution - $100,000

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

At a regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, held at the Town Hall, 5583 Main Street, Williamsville, New York, on the 7th of November, 2022.

PRESENT:

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

In the Matter

of the

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

---

Offered by:

Seconded by:

ORDER CALLING FOR A PUBLIC HEARING TO BE HELD ON DECEMBER 12, 2022

WHEREAS, the Town Board of the Town of Amherst (herein called the "Town"), in the County of Erie, New York, on behalf of the Consolidated Sanitary Sewer District, in the Town (herein referred to as the "District"), has caused the Town Engineering Department, engineers duly licensed by the State of New York (the "Engineer") to prepare the map, plan and report, dated October 27, 2022, for the increase and improvement of facilities of the District, consisting of the planning of the North Bailey Sewer Project (CIP Project No. E-53); and

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

WHEREAS, pursuant to the direction of the Town, the Engineer has completed and filed with the Town Board such preliminary map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be $100,000; and

WHEREAS, the Town Board, as lead agency, has given due consideration to the impact that the project described herein may have on the environment and has determined that the project is a Type II action pursuant to the State Environmental Quality Review Act (SEQRA), constituting Article 8 of the Environmental Conservation Law, and 6 N.Y.C.R.R., Regulations Part 617.5;

NOW, THEREFORE, BE IT

ORDERED, that a regular meeting of the Town Board of the Town be held at the Town Hall, 5583 Main Street, Williamsville, New York, on the 12th day of December, 2022 at 7:00 o'clock P.M. (Prevailing Time) to consider said increase and improvement of the facilities of the District and to hear all persons interested in the subject thereof concerning the same

FURTHER ORDERED, that the Town Clerk publish at least once in the "*Amherst Bee,"* hereby designated as the official newspaper of the Town for such publication, and post on the Town's website at www.amherst.ny.us, on the front entrance door and rear doors of Town Hall and on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a Notice of such public hearing, substantially in the form attached hereto as Exhibit A, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing.

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

DATED: November 7, 2022

TOWN BOARD OF THE TOWN OF AMHERST

(SEAL)

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

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

The Order was declared adopted.

* * * * *

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, DO HEREBY CERTIFY that I have compared the preceding Order Calling for a Public Hearing with the original thereof filed in the office of the Town Clerk on the 7th of November, 2022, and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town on this 7th day of November, 2022.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

Exhibit A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Amherst, in the County of Erie, State of New York (the "Town"), will meet at the Town Hall, 5583 Main Street, Williamsville, New York, on December 12, 2022, at 7 o'clock P.M. (Prevailing Time), for the purpose of conducting a public hearing in relation to the proposed increase and improvement of facilities of the Town's Consolidated Sanitary Sewer District (the "District"), consisting of the planning of the North Bailey Sewer Project (CIP Project No. E-53), as described in the map, plan and report, dated October 27, 2022, prepared by the Town Engineering Department. The current approved estimated maximum cost of the project is $100,000, which is proposed to be financed through issuance of bonds by the Town of Amherst on behalf of the District, payable by levy and collections of assessments on real property in the District. Therefore, the project cost burden is expected to be borne by District property owners throughout the expected term of the bonds. However, the bonds to be issued shall be general obligation bonds of the Town and in the event the amount of assessments collected within the District is insufficient to pay the cost of the project and/or the debt service related to the project, such costs and/or debt service shall be paid from the general Town taxes.

Further details concerning such proposed increase and improvement of facilities and the estimated costs thereof are set forth in the above-mentioned map, plan and report which is available for review at the office of the Town Clerk.

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF AMHERST

Dated: November 7, 2022
Williamsville, New York

Francina J. Spoth .
Town Clerk

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, DO HEREBY CERTIFY that I have compared the preceding Order Calling for a Public Hearing with the original thereof filed in the office of the Town Clerk on the 7th of November, 2022, and that the same is a true and correct copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town on this 7th of November, 2022.

(SEAL)

Francina J. Spoth, Town Clerk
Town of Amherst

Attachment: CertOCPH (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution - $100,000))

Town of Amherst
Engineering Department

North Bailey Sewer Project

2022-2027 CIP Project E-53
Town of Amherst Project 2022.025

Map, Plan & Report

October 27, 2022

Contents:

- Approved Resolution 2022 – 2027 CIP Amendment Project E-53
- Introduction/Background
- Location
- Proposed Scope of Improvements
- Cost Estimate
- Financial / Taxation Summary
- SEQR Determination

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

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

Summary of 2022 – 2027 Capital Improvement Program Amendment Resolution: North Bailey Sewer Project

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

Francina J. Spoth
Town Clerk

Meeting: 10/03/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26515 **RESOLUTION 2022-967** **ADOPTED**

2022-2027 CIP Amendment - North Bailey Sewer Project

The Engineering Department is recommending amendment of the 2022-2027 CIP for the above mentioned project in the amount shown in the table below.

CIP No.	Project Description	2022 CIP Allocation	Amend to	Funding Source/Account
E-52	Boulevard Mall: Core Road Design	$950,000	$850,000	LA
E-53 (new)	North Bailey Sewer Project	$0	$100,000	LG

LA = General Fund Bond; LG = Sanitary Sewer District Bond

Please approve this amendment to the 2022-2027 CIP and reassign the funding as identified above. Please note that the above request is a budget neutral amendment.

Thank you for considering this request.

10/3/2022
Consent

FINANCIAL IMPACT:

budget neutral

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

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

Introduction/Background:

In 2020, the Town of Amherst created an Action Plan for the Boulevard Central District (BCD) that envisions what the future land use within the area could look like and steps to take in order to realize that vision. Exhibit 1 shows the boundary of the BCD. One of the first steps taken was to rezone much of the commercial properties within the BCD to a Mixed-Use Zoning. Redevelopment of the commercial properties into mixed-use developments will significantly alter the sanitary sewer flows generated from the area. The Boulevard Mall property, located at 1265 Niagara Falls Boulevard, is one of the largest pieces of property within the BCD where mixed-use redevelopment is expected. Unfortunately, the existing sanitary sewers servicing the Boulevard Mall will not have adequate capacity to convey the anticipated sanitary flows. Preliminary analyses determined that a new sanitary sewer connecting the site to Ridge Lea Rd. via a new sanitary sewer along North Bailey Rd. might be a better solution than upsizing the existing sewers along Niagara Falls Boulevard. The Town plans to engage a consultant to do a preliminary design of the concept in order to determine the most viable solution and expected costs of the new sewer.

Location:

The boundary of the Boulevard Central District referenced above is shown below in Exhibit 1. This is the same Exhibit used in the Draft version of the *Boulevard Central District Urban Renewal Plan* dated August 29, 2022.

The location of the likely proposed sewer alignment will begin at the intersection of Maple Road and Alberta Drive, head east along Maple Road to North Bailey Avenue, then north along North Bailey Avenue connecting to the existing sewer located on Ridge Lea crossing under the Youngman Memorial Highway (I-290). Exhibit 2 shows the anticipated new sanitary sewer alignment. Alternative alignments may be explored during the preliminary design based on minimizing impacts to traffic and conflicts with existing utilities.

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

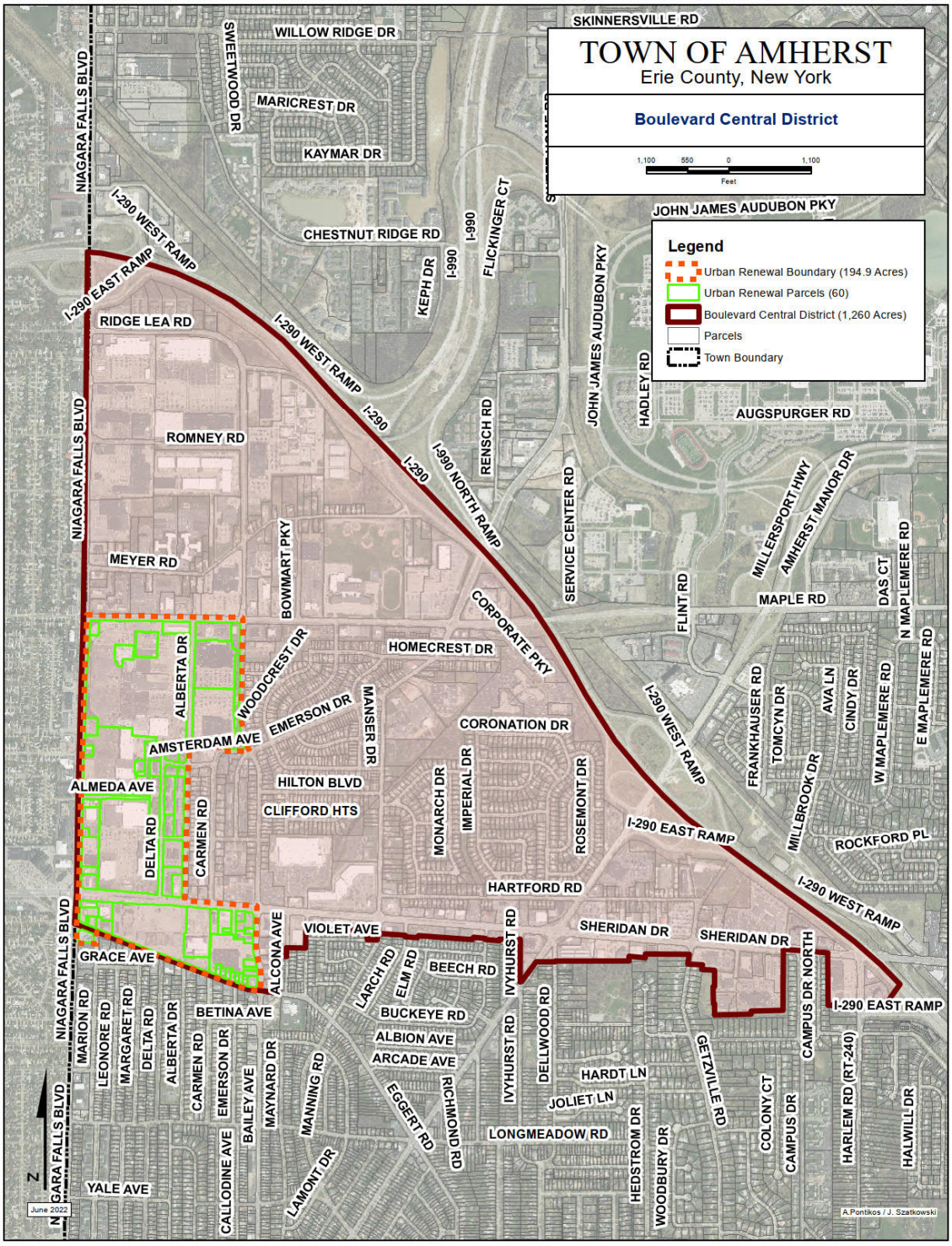


Exhibit 1: Boulevard Central District Boundary

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

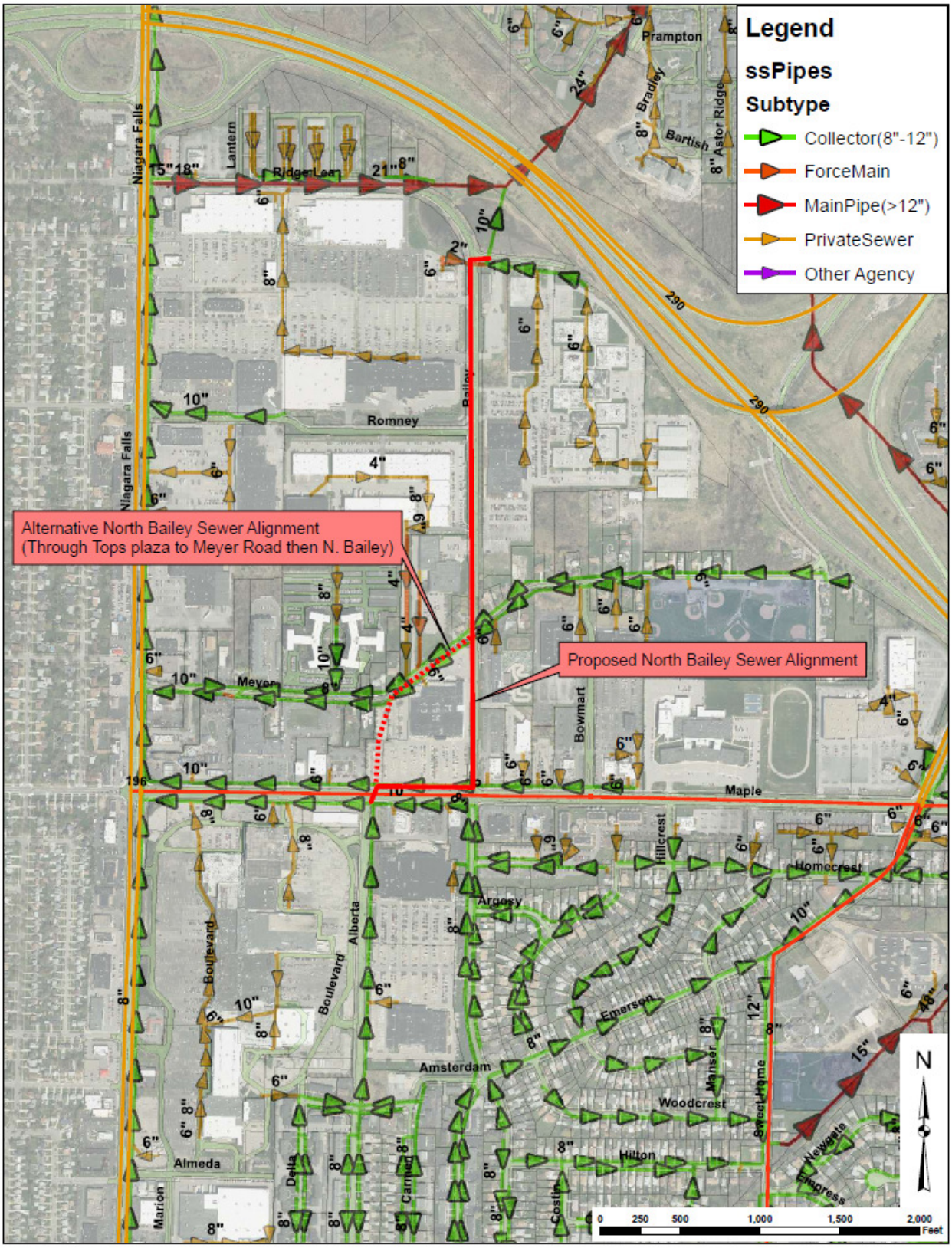


Exhibit 2: North Bailey Sewer Alignment

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

Proposed Scope of Improvements:

The design consultant will develop a preliminary design for the proposed new North Bailey sanitary Sewer. They will determine required sewer size based on anticipated flows and available slopes along the route. The alignment options will be analyzed and a final recommendation will be made. Schematic level plans (15% conceptual level) as well as a preliminary Engineer's Report will be provided describing the project constraints, assumptions, and recommended design. A Preliminary cost estimate for the final design and construction of the proposed sewer will also be provided. It is anticipated that this work will begin in late 2022 and preliminary design will be completed by the end of 2023.

Cost Estimate:

Professional Services	$ 99,500.00
Legal/Administrative/Interest	$ 500.00
	$ 100,000.00

Financial/Taxation Summary:

Total Bond Amount:	$100,000.00
Bond Term:	5 Years
Annual Tax Impacts:	$0.0021 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$0.4197 per $200,000 property

SEQR Determination:

See attached memo from the Town Planning Department.

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Transmitted electronically

MEMORANDUM October 19, 2022

TO: Jessica Boudreau, P.E., Project Manager
Engineering Department

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

RE: SEQR Determination
North Bailey Sewer Project
2021-2027 C.I.P. Project E-53 – TOA Job No. 2022.025

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

Please contact our office if you have any questions.

X:\Special_Projects\SEQR_Engineering & Other TOA\Type_II_Actions_(PJ-2015-001)\North Bailey Sewer Project_2021_2027_E-53_10_19_2022.docx

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

Attachment: MPR E-53 North Bailey Sewer Project (RES-2022-1080 : Request a Public Hearing - North Bailey Sewer Project (Bond Resolution -

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 26706 A **RESOLUTION 2022-1081** **ROLL CALL VOTE (ADOPTED)**

Issuing Negative Declaration (Purchase of Westwood)

AGENDA ITEM : NOVEMBER 7TH, 2022

TO: **Town Board**

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

RE: **Issuance of Negative Declaration Pursuant To SEQRA**
Purchase of Westwood

DATE: **November 3, 2022**

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

At a meeting of the Town Board of the Town of Amherst, held at the Town of Amherst Municipal Building, 5583 Main St., Williamsville, New York, 14221, on November __, 2022 at 7:00 p.m., local time.

The meeting was called to order by _____ and upon roll being called, the following were:

PRESENT:

ABSENT:

_____ presented the following "Resolution" which was seconded by _____:

RESOLUTION OF THE TOWN OF AMHERST TOWN BOARD DECLARING ITSELF LEAD AGENCY AND ISSUING THE NEGATIVE DECLARATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT RELATIVE TO THE TOWN'S PURCHASE OF THE WESTWOOD PROPERTY LOCATED AT 772 NORTH FOREST ROAD USING BOND FUNDING (hereinafter "Project")

WHEREAS, the Town Board of the Town of Amherst (hereafter the "Board") is proposing to purchase the 170.542 acre former Westwood Golf Course and County Club property located at 772 North Forest Road ("Property");

WHEREAS, the Town proposed to finance the purchase of the Property through the issuance of bonds XXXXXXXX [needs to be completed by Bond Counsel];

WHEREAS, the Project involves proposed purchase of the Property with the bond proceeds;

WHEREAS, pursuant to the State Environmental Quality Review Act (hereinafter "SEQRA"), the Board caused to be prepared a Full Environmental Assessment Form (hereinafter "FEAF") for the Project;

WHEREAS, the FEAF, having been reviewed by the Board, was deemed adequate and accurate relative to the Project;

WHEREAS, the Town Board has examined the Application and Part 1 of the FEAF which reveals that the Project is a "Type 1 action" as that term is defined by the SEQRA regulations at 6 NYCRR §617.4(b) and therefore is subject to a coordinated review under SEQRA;

WHEREAS, the Town Board identified the New York State Department of Environmental Conservation ("NYSDEC"); New York State Department of Transportation; Erie County Department of Environment & Planning; and Erie County Department of Public Works - Division of Highways, as involved and/or interested agencies relative to the Project (hereinafter collectively the "Involved and Interested Agencies");

WHEREAS, on September 7, 2022 the Town Board forwarded a copy of Part 1 of the FEAF, and a Map Plan and Report for the purchase of the 170+/- acre property to the Involved and Interested Agencies;

WHEREAS, the NYSDEC and the County of Erie responded by letters dated October 3, 2022, and September 22, 2022, respectively, consenting to the Town Board being the Lead Agency, and no Involved Agency objected to the Town Board acting as Lead Agency;

WHEREAS, the Board desires to make its SEQRA determination of significance for the Project in accordance with the SEQRA regulations at 6 NYCRR §617.7;

WHEREAS, the Town Board acknowledges that its review includes only the purchase of the Property with bond funding, and not the proposed future use of the Property;

WHEREAS, the Town Board acknowledges that its review constitutes segmentation as defined by the SEQRA regulations at 6 NYCRR §617.2(ah);

WHEREAS, the SEQRA regulations at 6 NYCRR §617.3(g)(1) provide that segmentation is permissible where the reviewing agency clearly states in its determination of significance the supporting reasons, demonstrates that such review is clearly no less protective of the environment and identifies and discusses related actions to the fullest extent possible;

WHEREAS, the Board now desires to make its SEQRA determination of significance for the Project in accordance with the SEQRA regulations at 6 NYCRR §617.7; and

WHEREAS, the Board further desires to set forth its supporting reasons for the segmentation of the review of the Project, to demonstrate that such review is clearly no less protective of the environment and to identify and discuss related actions to the fullest extent possible.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF AMHERST TOWN BOARD AS FOLLOWS:

1. That the Town Board is hereby established as Lead Agency for purposes of SEQRA.

2. Based upon a thorough examination and analysis of Parts 1 and 2 of the FEAF, attached hereto as Exhibits 1 and 2, and review of the SEQRA regulations at 6 NYCRR §§617.3 and 617.7 and based further on the Town Board's knowledge of the Project and such further investigation of the Project and its environmental effects as the Town Board has deemed appropriate, the Town Board finds as follows:

   a. The purchase of the Westwood Property using bonds in and of itself will not effect the environment by changing the use, appearance or condition of any natural resource or structure.

   b. The act of using the bonds by the Town Board does not commit the Board to any definite course of future decisions and is not practically determinative of future actions by the Board.

   d. The Town Board, with the assistance of qualified staff, counsel and other Involved and Interested Agencies, will engage in thorough environmental review of proposed use of the Property pursuant to SEQRA and the SEQRA regulations promulgated at 6 NYCRR Part 617.

   f. The segmentation of the review of the Project (being the purchase of the Westwood Property with bond financing) from the review of the proposed future use of the Property will, therefore be no less protective of the environment than consolidated review by the Town Board.

   g. The Project will result in no significant environmental impacts and, therefore, is one which will not have a significant effect on the environment. Therefore, the Town Board hereby determines that the Project will not have a significant effect on the environment, and the Town Board will not require the preparation of an "Environmental Impact Statement" with respect to the Project; and

   h. As a consequence of the foregoing, the Town Board has decided to prepare a "Negative Declaration" with respect to the Project, a copy of which is attached hereto as Exhibit 3.

3. The Chairperson to the Town Board is hereby directed to execute Part 3 of the FEAF and file the "Negative Declaration" (a) for publication in the Environmental Notice

Bulletin ("ENB"), (b) in the in the main office of the Town of Amherst Town Board, and (c) to provide a copy of the "Negative Declaration" to all Involved and Interested Agencies.

4. This Resolution shall take effect immediately.

THE FOREGOING RESOLUTION, was put to vote as follows:

NAME	**VOTE**
Brian J. Kulpa, Supervisor	_____
Jacqualine Berger, Deputy Supervisor/Councilwoman	_____
Deborah Bruch Bucki, RN, PhD, Councilwoman	_____
Shawn Lavin, Councilman	_____
Michael Szukala, Councilman	_____

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

I, the undersigned Town Clerk of the Town of Amherst, **DO HEREBY CERTIFY**:

That I have compared the foregoing copy of minutes of the meeting of the Town of Amhurst Town Board including the "Resolution" contained therein, held on November __, 2022 with the original hereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (i) all members of the Town Board of the Town of Amherst had due notice of said meeting, (ii) said meeting was in all respects duly held, (iii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was given in accordance with said Section 104 and (iv) there was a quorum of the members of the Town Board of the Town of Amherst present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof the attached "Resolution" is in full force and effect and has not been amended, repealed or rescinded.

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

Town Clerk

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

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

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Purchase of 772 North Forest Road aka Westwood Golf Course and County Club		
Project Location (describe, and attach a general location map): 772 North Forest Road - 170.542 acres golf course and county club		
Brief Description of Proposed Action (include purpose or need): The proposed action is the purchase by the Town of Amherst of the 170.542 acre former Westwood Golf Course and County Club property located at 772 North Forest Road. The Town will enter into an agreement to purchase the Westwood property with Mensch Capital Partners, LLC. The Town will purchase the land through a Bond. The property is currently listed in the NYSDEC Brownfield Clean-up Program (Site #915291). A Remedial Investigation Work Plan was submitted for approved by the NYSDEC in July 2021 and has since been approved. Subsequent to acquisition the Town desires to work in consultation with NYSDEC to implement remediation measures and construct a public park on the site in the future. Such action will undergo a separate SEQR review.		
Name of Applicant/Sponsor: Town of Amherst, New York	Telephone: E-Mail:	
Address: 5583 Main Street		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Emily Melski	Telephone: 716-631-7067 E-Mail: emelski@amherst.ny.us	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Mensch Capital Partners, LLC	Telephone: E-Mail:	
Address: 5477 Main Street		
City/PO: Williamsville	State: NY	Zip Code: 14221

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees ☑Yes ☐No	Town Board - Lead Agency - Purchase and SEQR TB Bond Resolution Approval	9/6/2002 and 10/17/2022 estimate
b. City, Town or Village Planning Board or Commission ☐Yes ☐No		
c. City, Town or Village Zoning Board of Appeals ☐Yes ☐No		
d. Other local agencies ☐Yes ☐No		
e. County agencies ☐Yes ☐No	ECDEP - Review ECDPW - Review	Oct 7, 2022
f. Regional agencies ☐Yes ☐No		
g. State agencies ☐Yes ☐No	NYSDEC - Review NYSDOT - Review	Oct 7, 2022
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):

Remediaton Sites:C915291, 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):

Fig. 4 Open Space and Trail Map - Bicentennial Comprehensive Plan

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

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?
RC - Recreation Conservation 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? _____

C.4. Existing community services.

a. In what school district is the project site located? Williamsville Central, Amherst and Sweethome School Districts

b. What police or other public protection forces serve the project site?
Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?
Various Fire Stations service the area, including North Bailey Fire Co, East Amherst Fire Department, Getzville Fire

d. What parks serve the project site?
Various parks service the area, including Amherst State Park, Northtown Center Ball Fields

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)? Recreational

b. a. Total acreage of the site of the proposed action? 170.542 acres
b. Total acreage to be physically disturbed? 0 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 170.542 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? N/A (Action is purchase of property) ☐ Yes ☑ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

f. Does the project include new residential uses? ☐Yes ☑No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes ☑No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes ☑No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐Other specify:
_____
iii. If other than water, identify the type of impounded/contained liquids and their source.
_____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐Yes ☑No
If Yes:
i .What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
_____
_____
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe. _____
_____
v. What is the total area to be dredged or excavated? _____acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐Yes ☐No
ix. Summarize site reclamation goals and plan: _____
_____
_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐Yes ☑No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____
_____

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

_____

_____

_____

_____

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐Yes ☐No

If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes ☐No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

_____

- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

_____

c. Will the proposed action use, or create a new demand for water? ☐Yes ☑No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐Yes ☐No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐Yes ☐No
- Is the project site in the existing district? ☐Yes ☐No
- Is expansion of the district needed? ☐Yes ☐No
- Do existing lines serve the project site? ☐Yes ☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

_____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes ☐No

If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

_____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐Yes ☑No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

_____

_____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐Yes ☐No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐Yes ☐No
- Is the project site in the existing district? ☐Yes ☐No
- Is expansion of the district needed? ☐Yes ☐No

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

- Do existing sewer lines serve the project site? ☐Yes ☐
- Will a line extension within an existing district be necessary to serve the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

_____

_____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☐No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):

_____

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

_____

_____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☐Yes ☑No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

_____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

_____

_____

- If to surface waters, identify receiving water bodies or wetlands: _____

_____

_____

- Will stormwater runoff flow to adjacent properties? ☐Yes ☐No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☑No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

_____

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

_____

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

_____

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☑No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☑No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

_____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☑No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☑No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐Weekend ☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

_____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

_____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☑No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

_____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

_____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: N/A
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐ Yes ☑ No

If yes:

i. Provide details including sources, time of day and duration:

_____

_____

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☐ No

Describe: _____

_____

n. Will the proposed action have outdoor lighting? ☐ Yes ☑ No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

_____

_____

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☐ No

Describe: _____

_____

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☑ No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

_____

_____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☑ No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally, describe the proposed storage facilities:_____

_____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☑ No

If Yes:

i. Describe proposed treatment(s):

_____

_____

_____

_____

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☑ No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____

  _____
- Operation: _____

  _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____

  _____
- Operation: _____

  _____

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

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

Action is the purchase of land. Future action under a separate SEQR review will involve soil contaminant remediation.

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): recreation

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.1		
• Forested	3		
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	N/A (Project Action is purchase of land	
• Agricultural (includes active orchards, field, greenhouse etc.)	N/A		
• Surface water features (lakes, ponds, streams, rivers, etc.)	1		
• Wetlands (freshwater or tidal)	0		
• Non-vegetated (bare rock, earth or fill)	0		
• Other Describe: Landscaped Greenspace	170		

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☑ No
i. If Yes: explain: Vacant Golf Course

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:
Williamsville Youth & Familty Center; Northtown Ball Fields

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): C915291
☐ 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): C915291, C915207

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):
C915291 - Westwood Country Club and Golf Course - Classification A- currently vacant - not in use; currently under review; C915207 - 330 Maple Road - remediation completed 5/7/2012

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

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? > 80 inches 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:

Odessa	37 %
Claverack	19 %
Cosad	%

d. What is the average depth to the water table on the project site? Average: 0.5 -1.5 feet

e. Drainage status of project site soils:

☐ Well Drained:	% of site
☑ Moderately Well Drained:	90 % of site
☑ Poorly Drained	10 % of site

f. Approximate proportion of proposed action site with slopes:

☑ 0-10%:	100 % of site
☐ 10-15%:	% of site
☐ 15% or greater:	% of site

g. Are there any unique geologic features on the project site? ☐ Yes ☑ No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑ Yes ☐ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑ Yes ☐ No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 837-25 Classification B
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☑ Yes ☐ No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____
Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life

i. Is the project site in a designated Floodway? ☑ 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: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

m. Identify the predominant wildlife species that occupy or use the project site:
Typical suburban species

n. Does the project site contain a designated significant natural community? ☐ Yes ☑ No
If Yes:
i. Describe the habitat/community (composition, function, and basis for designation):
ii. Source(s) of description or evaluation:
iii. Extent of community/habitat:
- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐ Yes ☑ No

If Yes:
i. Species and listing (endangered or threatened):

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☑ No

If Yes:
i. Species and listing:

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☑ No
If yes, give a brief description of how the proposed action may affect that use:

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☑ No
If Yes, provide county plus district name/number:

b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☑ No
i. If Yes: acreage(s) on project site?
ii. Source(s) of soil rating(s):

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☑ No
If Yes:
i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature
ii. Provide brief description of landmark, including values behind designation and approximate size/extent:

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☑ No
If Yes:
i. CEA name:
ii. Basis for designation:
iii. Designating agency and date:

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

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: Eligible property:829 NORTH FOREST RD, AMHERST

iii. Brief description of attributes on which listing is based:

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☑ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name _____ Date_____

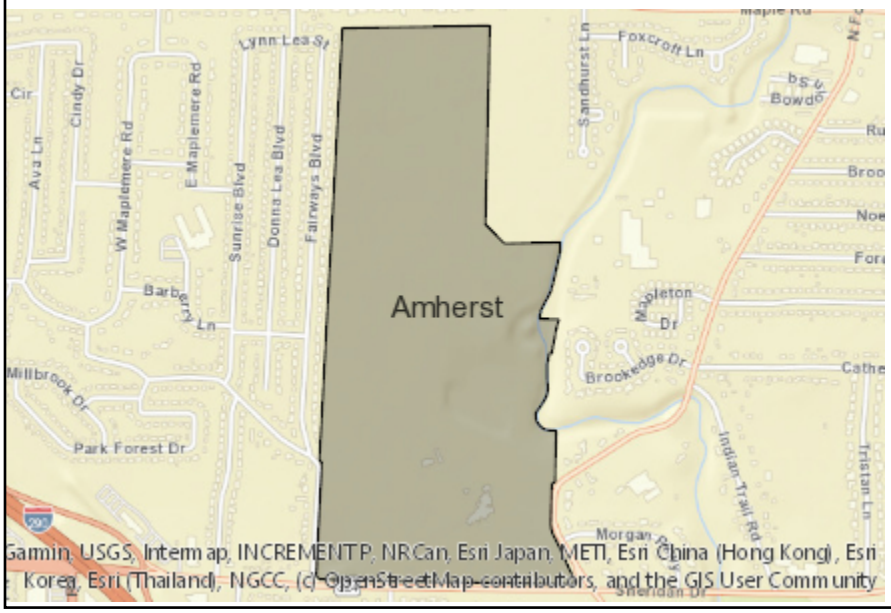
Signature_____ Title_____

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

PRINT FORM

EAF Mapper Summary Report

Friday, September 2, 2022 2:29 P...



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	Remediaton Sites:C915291, NYS Heritage Areas:West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Yes - Digital mapping data for Spills Incidents are not available for this location. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Yes
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Yes
E.1.h.i [DEC Spills or Remediation Site - DEC ID Number]	C915291
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	C915291, C915207
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-25
E.2.h.iv [Surface Water Features - Stream Classification]	B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life
E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property:829 NORTH FOREST RD, AMHERST
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment: EAF Part 1_MAPPER_download_090222 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "**Yes"** to a numbered question, please complete all the questions that follow in that section.
- If you answer "**No"** to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)
If "Yes", answer questions a - j. If "No", move on to Section 2.

☑ NO ☐ YES

Action is the purchase of land located at 772 North Forest Road only.	**Relevant Part I Question(s)**	**No, or small impact may occur**	**Moderate to large impact may occur**
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☐	☐
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☐	☐
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☐	☐
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☐	☐
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☐	☐
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☐	☐
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☐	☐
h. Other impacts: _____ _____		☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) ☑ NO ☐ YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____ _____		☐	☐

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) ☑ NO ☐ YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☐	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☐	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☐	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☐	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☐	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☐	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☐	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☐	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☐	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☐	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

l. Other impacts: _____ _____		☐	☐

4. Impact on groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)

☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: _____ _____		☐	☐

5. Impact on Flooding

The proposed action may result in development on lands subject to flooding. (See Part 1. E.2)

☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

g. Other impacts: _____ _____		☐	

6. Impacts on Air

The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) ☑ NO ☐ YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:			
i. More than 1000 tons/year of carbon dioxide (CO_2)	D2g	☐	☐
ii. More than 3.5 tons/year of nitrous oxide (N_2O)	D2g	☐	☐
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	☐	☐
iv. More than .045 tons/year of sulfur hexafluoride (SF_6)	D2g	☐	☐
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions	D2g	☐	☐
vi. 43 tons/year or more of methane	D2h	☐	☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____ _____		☐	☐

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) ☑ NO ☐ YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____ _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____ _____		☐	☐

8. Impact on Agricultural Resources

The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☑ NO ☐ YES

If "Yes", answer questions a - h. If "No", move on to Section 9.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, Elb	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	El a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

9. Impact on Aesthetic Resources

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)

☑ NO ☐ YES

If "Yes", answer questions a - g. If "No", go to Section 10.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	 ☐ ☐	 ☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	 ☐ ☐	 ☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile ½ -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: _____ _____		☐	☐

10. Impact on Historic and Archeological Resources

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)

☑ NO ☐ YES

If "Yes", answer questions a - e. If "No", go to Section 11.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical 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.	E3e	☐	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☐	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

d. Other impacts: _____ _____		☐	☐
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	☐	☐
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	☐	☐
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	☐	☐

11. Impact on Open Space and Recreation

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
(See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____ _____		☐	☐

12. Impact on Critical Environmental Areas

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
If "Yes", answer questions a - c. If "No", go to Section 13.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____ _____		☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems. ☑ NO ☐ YES
(See Part 1. D.2.j)
If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☐	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☐	☐
c. The proposed action will degrade existing transit access.	D2j	☐	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☐	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☐	☐
f. Other impacts: _____ _____		☐	☐

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy. ☑ NO ☐ YES
(See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts: _____ _____			

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting. ☑ NO ☐ YES
(See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☐	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☐	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☐	☐

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

d. The proposed action may result in light shining onto adjoining properties.	D2n	☐	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☐	☐
f. Other impacts: _____ _____		☐	☐

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.) ☑ NO ☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No,or small impact may cccur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☐	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☐	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☐	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☐	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☐	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☐	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☐	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☐	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☐	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	☐	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☐	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☐	☐
m. Other impacts: _____ _____			

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.)
If "Yes", answer questions a - h. If "No", go to Section 18.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, Elb	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____ _____		☐	☐

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3)
If "Yes", answer questions a - g. If "No", proceed to Part 3.

☑ NO ☐ YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____ _____		☐	☐

PRINT FULL FORM

Attachment: Westwood_feafpart2_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:
To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: ☑ Type 1 ☐ Unlisted

Identify portions of EAF completed for this Project: ☑ Part 1 ☑ Part 2 ☑ Part 3

Attachment: Westwood_feafpart3_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the Town of Amherst, New York as lead agency that:

☑ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Purchase of 772 North Forest Road, Williamsville, NY

Name of Lead Agency: Town of Amherst

Name of Responsible Officer in Lead Agency: Brian J. Kulpa

Title of Responsible Officer: Town Supervisor

Signature of Responsible Officer in Lead Agency: Date:

Signature of Preparer (if different from Responsible Officer) Date:

For Further Information:

Contact Person: Emily Melski, Project Manager

Address: 5583 Main Street, Williamsville, NY 14221

Telephone Number: 716-631-7067

E-mail: emelski@amherst.ny.us

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)
Other involved agencies (if any)
Applicant (if any)
Environmental Notice Bulletin: http://www.dec.ny.gov/enb/enb.html

Attachment: Westwood_feafpart3_101422 (RES-2022-1081 : Issuing Negative Declaration Pursuant to SEQRA (Purchase of Westwood))

PRINT FULL FORM

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 26684 **RESOLUTION 2022-1082** **ROLL CALL VOTE (ADOPTED AS AMENDED)**

Westwood PSA (Purchase and Sale Agreement) (CRS #3694)

AGENDA ITEM : NOVEMBER 7TH, 2022

TO: **Town Board**

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

DATE: **November 2, 2022**

RE: **Westwood PSA (Purchase and Sale Agreement) (CRS #3694)**

Kindly adopt a resolution authorizing the Supervisor to execute the attached agreement with Mensch Capital Partners, LLC (By Hamister Development Company, LLC, Manager) and to execute any and all documents needed to consummate the sale of Westwood to the Town of Amherst and to further execute any and all documents at the time of closing: (1) pending review and approval by counsel or other individual so designated by Mensch Capital Partners, LLC (By Hamister Development Company, LLC, Manager); (2) pending final review and approval by the Town Attorney; and (3) pending successful completion of the Contract Routing System.

SJS:nmb
Attachment
c: Tim Koller, Deputy Town Clerk (**Agenda Item - November 7, 2022**)

11/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The amendment adds the underlined language. A motion to approve as amended was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via roll call vote 5-0.

FINANCIAL IMPACT:

$7,750,000 - Account TBD

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

CONTRACT

Date: November __, 2022 (the "Effective Date" as defined on the signature page)

Seller and Purchaser agree as follows:

Seller	**MENSCH CAPITAL PARTNERS, LL**C
Address:	c/o Hamister Group, LLC, 10 Lafayette Square, Suite 1900, Buffalo, New York 14203
Purchaser:	**TOWN OF AMHERST**
Address:	5583 Main Street, Williamsville, New York 14221

1. **AGREEMENT**. Seller is the owner of the Property described below. Purchaser desires to buy the Property on the terms and conditions set forth below. In consideration of the forgoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller shall sell and Purchaser shall buy the Property on the terms stated in this Contract.

2. **PROPERTY**. The Property is described as follows: 772 North Forest Road, SBL # 68.01-1-1, 385 Maple Road, SBL #55.18-4-9 and 391 Maple Road, SBL #55.18-4-10: and being approximately 171 +/- acres, all located in the Town of Amherst, County of Erie and State of New York as more particularly described on Exhibit A, attached hereto and incorporated herein.

   Purchaser will accept the Property subject to restrictions of record providing they have not been violated, unless their enforcement is barred by law, and subject to water lines, sanitary sewer, drainage, gas distribution line and main, electrical and telephone easements and rights-of-way of record.

3. **PRICE**. The purchase price is $7,750,000.00

   And is payable as follows:

   Initial Deposit 1.00

   Held In Escrow By: Purchaser's Attorney

   On delivery of deed (in cash or certified funds) $ adjusted balance*

   (*Purchase price less deposits (if any), subject to closing adjustments.)

4. **THIS SALE INCLUDES**. All rights of Seller to all streets, highways, alleys, driveways, easements and rights-of-ways relating to the Property; all buildings and improvements.

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

5 **ADJUSTMENTS AT CLOSING**. There shall be prorated and adjusted, as of 12:00 midnight prior to delivery of the deed, non-delinquent taxes and assessments appearing on current tax bills computed on a fiscal year basis.

Purchaser will accept title to the Property subject to, and will pay all assessments and installments of assessments for special or local improvements not yet due and payable as of the closing date, provided they appear on the current tax rolls.

6 **SEARCH AND SURVEY**.

(a) Within three (3) business days after the Effective Date the Seller shall order, at its sole cost and expense and, immediately after receipt, deliver to Purchaser an abstract of title for the Westwood Land(s) (minimum 1920 search) (the "Abstract") updated until a date after the Effective Date, a copy of any existing reports of title and/or title insurance as may have been issued for the Westwood Land s and a copy of Seller's existing Map of Survey for the Westwood Land. If Seller is unable to provide an "affidavit of no change" since the Map of Survey provided was last updated, then the Seller shall be required to provide an updated Map of Survey (prepared to standards at least equaling those established by the New York State or Western New York Land Survey's Association) at its sole cost and expense (the "Survey"). Collectively the Abstract and the Survey are referred to as the "Initial Title Documents". Prior to Purchaser closing on Purchaser's acquisition of the Property the Seller shall also be required to obtain, at its sole cost and expense, an updated Abstract for the entire parcel to be purchased by the Purchaser ("Final Title Documents"). Purchaser shall have forty five (45) days after receipt of the Initial Title Documents ("Title Review Periods") to obtain an initial title commitment (the " Initial Title Commitment") for the Westwood Land and to furnish Seller with a written statement of initial objections, if any, to the marketability of title of the Westwood Land or to exception documents which, if not omitted from the initial title commitment, will preclude the Westwood Land from being used for the purchaser's intended use as a public park or materially interfere with such use ("Initial Objections"). Should Purchaser fail to timely notify Seller of any Initial Objections to title to the Westwood Land which are contained in such Initial Title Commitment(s) or which are shown on the Survey, Purchaser shall be deemed to have agreed to accept title subject to its review of the Final Title Documents. All title matters and exceptions set forth in the Initial Title Commitment(s) and all state of facts shown on the Survey which are not Objections that Seller agrees to satisfy pursuant to this Agreement and all title matters and exceptions which are waived or deemed to be waived by Purchaser are hereafter referred to as the "Initial Permitted Exceptions."

(b) If Purchaser notifies Seller within the Initial Title Review Periods of Objections, then within five (5) business days after Seller's receipt of Purchaser's notice (the "Seller Response Periods"), Seller shall notify Purchaser of the Objections which Seller agrees to satisfy on or prior to the Closing, at Seller's sole cost and expense, and of the Objections that Seller

Seller Initials: _____

Purchaser Initials: _____

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

cannot or will not satisfy ("Seller's Title Notices"). However, if an Owner's title Insurance Policy can be obtained to correct the title Objection(s) and provided the Title Insurance Company issuing same agrees to re-insure same in the future on behalf of the Purchaser, then the Seller shall agree to pay for the cost of the title insurance premium and the Town shall agree to accept same as though more fully cured by the Seller. If Seller fails to notify Purchaser within the Seller Response Period whether or not Seller will satisfy the Objections or if Seller notifies Purchaser that Seller will not satisfy all of the Objections, then Purchaser shall have the option to cancel this Contract within thirty (30) days after the expiration of the Seller Response Period or accept title as Seller can convey in which event those Objections shall become Permitted Exceptions. Notwithstanding anything herein to the contrary, Seller shall, at or prior to Closing, eliminate: (a) any mortgages created by Seller and encumbering the Westwood Land; (b) all past due ad valorem taxes and past-due assessments of any kind constituting (or which may constitute) a lien against the Westwood Land; (c) any mechanics' or materialmen's liens encumbering the Westwood Land resulting from labor or materials supplied to or on behalf of Seller, and/or (d) any monetary judgments against Seller and encumbering the Westwood Land; provided that in no event shall Seller be obligated to spend more than the aggregate sum of the Purchase Price to pay and/or discharge any liens referenced in subdivisions (c) and (d) hereof (collectively, "Seller's Mandatory Title Cure Obligations").

(c) Within fifteen (15) business days prior to the closing on the acquisition of the Westwood Property, the Seller shall order and deliver to Purchaser, at Seller's sole cost and expense a current update to the Abstract and an update to the Survey, if necessary to reflect any plottable new exception items referenced on the updated Abstract (collectively the "Final Title Documents"). Should any defect, lien or encumbrances arise in the updated Abstract and/or update Survey not previously set forth on the Abstract, the provisions set forth above shall apply with the exception that Seller shall be notified immediately of any such defect and shall respond as to its intentions regarding the curing of any such defect within three (3) business days after receipt of such notice. Purchaser may delay Closing, if necessary, to permit Seller a reasonable period of time to use its best efforts to cure any newly discovered title Objections.

(d) Except as otherwise stated herein, it is a condition to Purchaser's obligation to close that Purchaser shall pay the premium and all other costs and expenses of the Title Company, meet the requirements of the Title Company applicable to Purchaser and comply with its obligations under this Agreement including, without limitation, to pay the Purchase Price, the Title Company shall issue a standard American Land Title Association Owners fee title policy (on the current form) (the "Title Policy") to Purchaser in the amount of the Purchase Price, insuring that Purchaser has good and indefeasible title to the Properties, subject only to the Permitted Exceptions. Except as stated hereinabove, Purchaser shall pay for the Title Policy and for any extended coverage including, without limitation, for survey coverage or for any affirmative coverages or endorsements which require an additional or special premium.

(e) Seller shall, however, have the right, at its option, to remedy any title defects or objections and for such purpose shall be entitled to one or more adjournments of the Closing, but

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

not for more than an aggregate of thirty (30) days beyond the date Purchaser gives written notice of such defect or objection, and Seller's and Purchaser's respective obligations shall remain in full force and effect in the meantime. Notwithstanding the forgoing, in the event of a marketability issue affecting the chain of title that the Title Company agrees to insure and to re-insure on future policies Purchaser shall have the right to require that Seller pay the base premium for an owner's policy of title insurance in the amount of the Purchase Price which the Town shall accept as a cure of the lack of marketability of the Property.

7 **DEED**. At closing, Seller shall deliver to Purchaser a warranty deed with lien covenants. The Deed shall further provide good, and marketable title in fee simple, free and clear of all encumbrances except as stated in this Contract.

8 **POSSESSION & ACCESS**.

(a). Sellers shall retain possession and occupancy, of all the Property until the time of the delivery of the deed, subject to any temporary tenancies existing at the time of closing subject to 8(b) below.

(b). Subject to written or email notification to Seller of not less than three (3) business days Purchaser, its consultants, agents, or employees shall have access to any portion of the Property for the purposes of inspecting the property, including photographing, measuring, or conducting non-intrusive activities. In the event Purchaser wishes to conduct any intrusive activities, said shall be conducted pursuant to a work plan approved by the Seller, which shall not be unreasonably delayed, conditioned and/or denied.

9 **COSTS**. Seller shall pay for the tax and title searches and their continuation to the date of closing, for the survey, for the required New York State and county transfer taxes and for the recording fee for the deed. Seller shall pay any fees for obtaining or recording any documents necessary to clear title. All other closing costs will be paid as is customary in Erie County, New York.

10. **DEFAULT/REMEDIES:**

Default by Seller: In the event of a Seller default not cured within five (5) days after delivery of written notice from Purchaser the Seller shall have the right to institute an action for specific performance and for the payment of all out of pocket costs and expenses incurred by Seller in connection with such action including an award of reasonable attorney's fees and related costs and to pay to Purchaser the $124,840.99 which is currently included in the purchase price due from Seller to Purchaser representing services and fees incurred by the Town related to past litigation with the Seller. In the event of a willful or intentional termination by the Seller the Purchaser shall also perverse any and all rights it has in equity or at law against the Seller.

Default by Purchaser: In the event of a Purchaser default not cured within five (5) days after receipt of written notice from Seller the Purchaser shall have the right to (a) terminate this

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

Agreement in which event neither party shall have any further rights or obligations hereunder except those that specifically survive a termination including the Statute of Limitation Tolling Agreement between the parties dated as of July 6, 2020 which shall remain in full force and effect. In the event of a willful or intentional termination by the Purchaser the Seller shall also perverse any and all rights it has in equity or at law against the Town.

11. **BROWNFIELD PROGRAM**.

(a) At the time of Closing, Seller shall have delivered all documents and certificates required by this Agreement to be delivered by Seller duly executed and in form and substance reasonably satisfactory to Purchaser, including Seller's executed irrevocable Notice of Termination from Seller's termination under Brownfield Site Cleanup Agreement dated July 1, 2015, Amended June 16,2020: Site # B9-915291, Index # C915291-02-15 entered into by Mensch Capital Partners, LLC (the "BCA") in the form attached hereto as Exhibit "B" which shall be electronically sent by seller to DEC at the time of Closing.

(b) This Agreement and the transactions contemplated herein are subject to the notice provisions contained in the Environmental Conservation Law. As soon as practical but no longer than fifteen (15) days after this Agreement is fully executed by all Sellers and Purchaser, Sellers and Purchaser shall complete, sign and deliver to DEC a completed 60 Day Advance Notification of Site Change of Use and/or Ownership (the contents of which to be jointly prepared by Purchaser and Seller) to allow DEC to begin the process to consent to the transfer of title to Purchaser as required pursuant to any statute, regulation or guidance of DEC, including 6NYCRR Part 375.

12 **ENVIRONMENTAL ASSESSMENTS/ AS-IS**.

(a) To the best of Seller's knowledge, it has delivered to Purchaser and/or agrees to deliver copies of all environmental inspection and other reports or documents in Seller's possession and/or control including, in the possession of Seller's consultants, agents or employees to the extent Seller has knowledge of any reports or documents and such items are available to Seller , including but not limited to, copies of all reports submitted to the New York State Department of Environmental Conservation or other municipal authorities regarding environmental conditions at the Property. The parties acknowledge that the Property is currently in the New York State Brownfields Cleanup Program and the Purchaser shall be solely responsible for any required environmental remediation activities at the Property post-Closing, subject to the Approvals set forth in Paragraph 11 herein.

(b) Purchaser agrees that (a) except as otherwise specifically set forth herein and/or contained in any warranties provided by the Seller, Purchaser will accept the Property in "as is" condition at Closing, and (b) neither Seller nor any representative of Seller has made any representation upon which Purchaser relied with respect to the condition of the Property except as expressly set forth herein and in reports or documents submitted to DEC, or any municipal

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

authorities ("Written Warranties"). Except as expressly set forth under this Agreement or in any Written Warranties provided by the Seller, Seller has not made, does not make and specifically negates and disclaims any representations or warranties of any kind of character whatsoever concerning or with respect to the nature, quality of condition of the Property.

(c) This section 12 shall survive the Closing and the transfer of title.

13. **CONTINGENCY FOR MUNICIPAL APPROVAL**.

(1) Purchaser's obligation to complete this Contract is contingent upon Purchaser securing all appropriate bonding as well as municipal and other governmental approvals for the completion of the Contract on or before December 31, 2022 (the "Approval Period"). Should Purchaser not obtain the Approvals prior to the expiration of the Approval Period either party may extend the Approval Period for a period of up to thirty (30) days upon delivery of written notice to the other party (the "Extended Approval Period"). Should the Approval Period not be extended or should the Approvals not be granted on or before the expiration of the Extended Approval Period either party may terminate this Agreement upon written notice to the other party, at which time neither party shall have any further rights or obligations hereunder except those that specifically survive a termination of this Agreement.

14. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

Seller represents and warrants as of the Effective Date and as of the date of Closing as follows:

(a)To Seller's knowledge, Seller has not received written notice of any pending or threatened eminent domain proceedings affecting the Westwood Land, in whole or in part.

(b)Seller is not a foreign person (as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder).

(c)Seller has not received any written notice from any governmental authority relating to any material violation or alleged material violation of any of governmental codes, ordinances, laws, rules or regulations affecting the Property, except as attached hereto as Exhibit "C" and has complied with Paragraph 12 herein.

(d)Seller is not a party as debtor, including, but not related, to any insolvency or bankruptcy proceeding or assignment for the benefit of creditors under the Bankruptcy Code or of any state insolvency laws and, to Seller knowledge, none have been threatened.

Seller Initials: _____

Purchaser Initials: _____

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

(e)Seller is not subject to sanctions of the United States government or in violation of any federal, state, municipal or local laws, statute codes, ordinances, orders, decrees, rules or regulations ("Laws") relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order") and the Uniting and Strengthening of America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56 the "Patriot Act"). Seller is not a "Prohibited Person," which term is defined as follows: (i) a person or entity that is or listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (ii) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (iii) a person or entity with whom Purchaser is prohibited from dealing or otherwise engaging in any transaction by any terrorism or anti-money laundering law, including the Executive Order and the Patriot Act; (iv) a person or entity who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or (v) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website, http://www.treas.gov/ofac/tllsdn.pdf or any replacement website or other replacement official publication of such list.

(f) Seller is a New York Limited Liability Company duly formed and organized and in good standing and Seller will supply any required consents and resolutions that the Title Company requires at Closing regarding incumbency and authority.

The representations and warranties contained in this section 15 shall survive Closing and the transfer of title under or any termination of this Agreement until the last day of the twenty fourth (24th) calendar month after Closing.

15. **PRE-OCCUPANY**. Intentionally Omitted.

16. **ENVIRONMENTAL LIABILITY**.

(a) Subject to the terms of this Agreement , including the Approvals required from DEC as set forth in Paragraph 11 herein, Purchaser agrees that it shall be responsible for and shall hold Seller and its officers, directors, members harmless from and against any and all claims relating to the investigation and remediation for all hazardous materials at the Property as the Volunteer as may be required by DEC under the BCA for the issuance of a Certificate of Completion (COC) for the Property , including post COC requirements under a DEC approved Site Management Plan.

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

(b) Notwithstanding 17(a), Purchaser shall have no responsibility for the defense of any third-party claims or lawsuits regarding the Property, including attorney's fees, fines, penalties, or any costs, property or personal damages or expenses ("Third -party Defense and Claims") which Third-party Defense and Claims shall be the sole and exclusive responsibility of Purchaser.

17. **CLOSING**. This contract shall be closed through escrow within thirty (30) days, following the release of all contingencies contained in this Contract or at such time and place as Seller and Purchaser mutually agree upon, but not later than February 28, 2023. Time is not of the essence as to the closing date; either party may after the above date, upon fourteen (14) days prior notice, declare time to be of the essence and set such a closing date.

18. **BROKER'S COMMISSION**. Seller and Purchaser agree that No Broker, brought about this sale and that no commission is due Broker.

19. **ENTIRE AGREEMENT**. This Contract of sale with one Exhibit (Exhibit A) contains the entire agreement between the Seller and Purchaser and nothing is binding on either of them which is not contained in this Contract. This Contract is intended to bind the Seller and Purchaser and those who succeed to their interests.

20. **CONSTRUCTION**. The interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New York.

21. **BENEFITS**. This Agreement shall inure to the benefit of and shall be binding upon the heirs, successors, and assigns of the respective parties.

22. **NOTICES**. Any and all notices, elections, demands, requests and responses thereto permitted or required to be given under this Agreement shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective (i) upon being personally delivered, (ii) on the date that is three (3) Business Days after being deposited in the United States mail, postage prepaid, certified with return receipt requested, (iii) on the date that is one (1) day after being deposited with Federal Express or another national overnight courier service with recognized reliability, or (iv) upon delivery by e-mail transmission, provided that another method of delivery listed in (i)-¬(iii) above is contemporaneously utilized, to the other party at the address of such other party set forth below or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any such notice, election, demand or request must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective until the date of receipt thereof. Personal delivery to a party or to any officer, partner, agent or employee of such party at such address shall constitute receipt. Rejection or other refusal to accept or inability to deliver

Seller Initials: _____

Purchaser Initials: _____

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

because of changed address of which no notice has been received shall also constitute receipt. Notices given by a party's attorney shall have the same effect as if given by the applicable party itself. Any such notice, election demand, request or response, if given to Purchaser, shall be addressed as follows:
If to Seller:

Mensch Capital Partners, LLC
c/o Hamister Development Company, LLC
10 Lafayette Square #1900
Buffalo, NY 14203
Attn: Daniel Hamister.
Email: dmh@hamistergroup.com

With a copy to the following:

Lippes Mathias Wexler Friedman LLP
50 Fountain Plaza, Suite 1700
Buffalo, New York 14202
Attn: Blaine S. Schwartz, Esq.
Email: bschwartz@lippes.com

and, if given to Purchaser, shall be addressed as follows:

Town of Amherst Town Supervisor
Amherst Municipal Building
5583 Main Street
Williamsville, New York 14221
E-mail: bkulpa@amherst.ny.us

with a copy to:

Town of Amherst Town Attorney
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221
E-mail: ssliwa@amherst.ny.us

And

Steven B. Bengart, Esq.
Bengart & DeMarco, LLP
2655 Sheridan Drive
Tonawanda, NY 14150-9413

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

Email: sbengart@bengartdemarcolaw.com

23. **SEVERABILITY**. Whenever possible, each provision of this Agreement and every related document shall be interpreted in such manner as to be valid under applicable law; but, if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision, or the remaining provisions of this Agreement.

24. **CONSTRUCTION**. The parties acknowledge that each party and its counsel have had the opportunity to review, comment on, and approve this Agreement, and any rule of construction that provides ambiguities within this Agreement are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

25. **TIME PERIODS**. In the event that any time period set forth in this Agreement would otherwise expire on a Saturday, Sunday, or holiday, such time period shall be deemed to be automatically extended to the next business day.

26. **ATTORNEY'S FEES**. In the event of litigation between the parties concerning the provisions of this Agreement, cost and expenses and reasonable attorneys' fees as determined by the Supreme Court located in the County of Erie and State of New York.

27. **ASSIGNMENT**. Purchaser shall at all times have the right to assign, sell, transfer, convey, and/or encumber any or all of its rights and interests under this Agreement upon delivery of prior written notice to Seller to a governmental entity affiliated with Purchaser. Any other assignment shall require Seller's consent, such consent to not be unreasonably, delayed conditioned and/or withheld, but any such assignee shall agree in writing to comply with all of the terms and conditions set forth herein. Seller shall have the right to assign this Agreement upon delivery of written notice to Purchaser upon the reasonable consent of the Town.

28. **GOVERNING LAW AND JURISDICTION**. This Agreement shall be governed by and interpreted under the laws of the State of New York, and the Supreme Court of the State of New York County of Erie shall have exclusive jurisdiction to hear any dispute in connection with this Agreement. resulting in litigation as a result of not being resolved through mediation as set forth above. Any action commenced and/or maintained by any party to this Agreement shall be heard in the Supreme Court, County of Erie. Purchaser and Seller hereby waive any right to a trial by jury in any court in connection with any contractual, tortuous or statutory claim, counterclaim or cross claim against the other arising out of or connected in any way to this Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Seller Initials: _____

Purchaser Initials: _____

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

IN WITNESS WHEREOF the parties have executed this Agreement effective as of the last date set forth below (the "Effective Date").

SELLER:

Mensch Capital Partners, LLC
By Hamister Development Company, LLC, Manager

By: _____
Name: Daniel M. Hamister, Manager

Date: _____

PURCHASER:

The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on November 7, 2022. 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.

Town of Amherst

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

Date: _____

Attachment: FINAL PSA 11-2-22 (RES-2022-1082 : Westwood PSA (Purchase and Sale Agreement) (CRS# 3694))

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 26674 **RESOLUTION 2022-1083** **ADOPTED**

Authorization to Pay Outside Counsel from Trust and Agency Account - Jurek Post Purchase

AGENDA ITEM : NOVEMBER 7th, 2022

TO: **Town Board**

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

DATE: **November 1, 2022**

RE: **Authorization To Pay Outside Counsel Invoice From Trust and Agency Account For Services Related To Jurek Post Purchase**

Kindly adopt a resolution authorizing the Comptroller and/or Finance Director to issue payment to Bengart & DeMarco, LLP in the amount of $4,660.50 from the established Trust and Agency Account (T2107.4001) for legal services performed relative to the purchase of the Jurek Post.

Thank you.

SJS:nmb:hs
c: Timothy Koller, Deputy Town Clerk
(**Agenda Item : November 7, 2022**)
Daryl C. Bramer, Town Comptroller
Lynda Juul, Director of Finance

11/7/2022
Consent

FINANCIAL IMPACT:

$4,660.50 From T2107.4001

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: 11/07/22 07:00 PM
Department: Town Clerk
Initiated by: **Francina J. Spoth**
Co-Sponsored by:

DOC ID: 26646 **RESOLUTION 2022-1084** **ADOPTED**

Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.

We are requesting approval for and directive to the Comptroller for pre-payment to DXO Communications of Buffalo, Inc. for the mailing of the 2023 Town & County Tax Bills ($13,257.00) and for the 2023 Town & County Tax Receipts ($11,661.00).

11/7/2022
Consent

FINANCIAL IMPACT:

$13,257.00 Postage for the mailing of the 2023 Town & County Bills from A 1410 4020

$11,661.00 Postage for the mailing of the 2023 Town & County Receipts from A 1410 4020

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

Invoice # B39658pstg

Invoice Date: 19-Oct-22

Customer: Town of Amherst
Town Clerks Office
5583 Main St
Amherst NY 14221

Postage

Quantity	Services	Rate Per Pc	Amount
27,000	**Postage Invoice** *First-Class Postage for 2023 Town Tax Bills * if mailed before 1/22/2023 when USPS *has scheduled a rate increase.* ***Checks made payable to:*** DXO Communications of Buffalo ***Send remittance to:*** DXO Communications of Buffalo 4444 Broadway Ste 2 Depew NY 14043	$ 0.491	**$ 13,257.00**
		Balance Due	**$ 13,257.00**

Attachment: DXO 2023 T&C Postage-Bills (RES-2022-1084 : Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.)

Invoice #	B39659pstg	**Customer:**	Town of Amherst Town Clerks Office
Invoice Date:	19-Oct-22		5583 Main St Amherst NY 14221

Postage

Quantity	Services	Rate Per Pc	Amount
23,000	**Postage Invoice** *First-Class Postage for 2023 Town Tax Receipts DXO COMMUNICATIONS of Buffalo, Inc. *Rates due to increase 1/22/2023, but are not approved as of yet. Rate *provided here is the USPS 'Proposed' rate.* ***Checks made payable to:*** DXO Communications of Buffalo ***Send remittance to:*** DXO Communications of Buffalo 4444 Broadway Ste 2 Depew NY 14043	$ 0.507	**$ 11,661.00**
		Balance Due	**$ 11,661.00**

Attachment: DXO 2023 T&C Postage-Receipts (RES-2022-1084 : Authorization for Pre-Payment to DXO Communications of Buffalo, Inc.)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Assessor
Initiated by: **Emily Murphy**
Co-Sponsored by:

DOC ID: 26649 **RESOLUTION 2022-1085** **WITHDRAWN**

GAR Confidentiaity Agreement

Upon the recommendation of the Town Assessor, kindly adopt a new Confidentiality Agreement with GAR for the Reassessment project.

FINANCIAL IMPACT:

n/a

RESULT: WITHDRAWN

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Mark S. Berke**
Co-Sponsored by:

DOC ID: 26656 **RESOLUTION 2022-1086** **ADOPTED**

Edmund Govtech Inc - Maintenance Contract CRS #3682

Please authorize the Supervisor to sign the contract between the Town of Amherst, Building Department and Edmund GovTech Inc., 301 Titon Rd, Northfield, New Jersey 08225. Subject to completion of the contract routing process.

11/7/2022
A motion to approve was made by Supevisor Kulpa, seconded by Councilmember Lavin and unanimously approved 5-0.

FINANCIAL IMPACT:

B 3620 4110 $ 32,875.50

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

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: Edmunds GovTech Inc

Signature: [signature]

Print Name: Richard Eddy

Title: Sr VP

Date: 9/28/22

Sworn To Before Me This

28 Day of Sept, 2022

[signature]

Notary Public

MARY SUSAN LOV...
ID # 2431590
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires March 22, 2...

Revised 4.2017

Attachment: EDMUNDS GOVTECH 2023 MAINTENANCE CONTRACT (RES-2022-1086 : Edmund Govtech Inc CRS #3682)

Consultant Major Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-

Attachment: EDMUNDS GOVTECH 2023 MAINTENANCE CONTRACT (RES-2022-1086 : Edmund Govtech Inc CRS #3682)

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. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: EDMUNDS GOVTECH 2023 MAINTENANCE CONTRACT (RES-2022-1086 : Edmund Govtech Inc CRS #3682)

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:

Edmunds GovTech Inc
Print Name of Company

By: _____
Signature

Richard Feay
Printed name

Date: 9/28/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: EDMUNDS GOVTECH 2023 MAINTENANCE CONTRACT (RES-2022-1086 : Edmund Govtech Inc CRS #3682)

edmunds GovTech

2023 MCSJ Software Support & License Agreement

To receive continued Application Software Support and MCSJ System upgrades from Edmunds GovTech (EGT), you must enter into this agreement.

1. Any defects in the EGT Application Software as determined by EGT will be corrected at no cost to the user, provided the said defect is not the result of misuse, operator error, or is beyond the original requirements of the system specifications.
2. EGT is responsible for providing software support under this agreement only for its proprietary application software. This includes all MCSJ licensed products. Support for third party products, i.e.; Microsoft Office, UCAARS, etc. are not covered under this agreement and all phone or on- site support is a billable service. Our minimum hourly rate is $150 with at least one-half hour billable.
3. EGT proprietary end user documentation, FAQs, helpful hints, video tutorials and such are for client use only and not to be distributed.
4. Standard telephone support will be available from 8:00am to 5:00 pm EST, Monday through Friday excluding holidays.
5. Each user of EGT MCSJ software is required to have a high-speed connection. EGT will provide support, enhancements and instruction for our application software via the Internet. Lack of compliance that requires an onsite visit is billable at the rate of $ 150 per hour for each person and reasonable travel expenses.
6. EGT's liability, damages or remedy on any claim shall not exceed the original cost of theEGT MCSJ software system. In no event shall EGT be held liable for consequential, incidental, indirect, special, punitive or exemplary damages, for loss, damage or expense directly or indirectly arising from the client's inability to use our products.
7. No action arising from use of EGT's MCSJ software systems may be commenced more than 1 year after the basis for such claim could reasonably have been discovered.
8. EGT reserves the right to withdraw without penalty any EGT application software package from coverage at our sole discretion upon one-hundred-twenty (120) days' notice.
9. This agreement must be signed and returned by December 31, 2022 for continued support. The effective date of this agreement is January 1, 2023 through December 31, 2023.

Client Name: _____

Authorized Representative: _____ Date: _____
Signature

Printed Name: _____

Edmunds Representative: _____ Date: 10/1/2022

Software Maintenance Schedule for 2023
Tax Collection & RPS Tax File Processing Fee - **$7,623.00** (01/01/2023-12/31/2023)
IPS - **$24,297.00** (02/01/2023-01/31/2024)
IPS - Workflow Automation - **$4,903.50** (02/01/2023-01/31/2024)
IPS Web Portal - **$3,675.00** (02/01/2023-01/31/2024)
Clerk - **$5,401.68** (05/01/2023-04/30/2024)
Clerk Online Dog - **$324.45** (05/01/2023-04/30/2024

301 Tilton Road, Northfield, NJ 08225
www.EdmundsGovTech.com | 609.645.7333 | AR@EdmundsGovTech.com

Attachment: EDMUNDS GOVTECH 2023 MAINTENANCE CONTRACT (RES-2022-1086 : Edmund Govtech Inc CRS #3682)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Building/Building Maintenance
Initiated by: **Mark S. Berke**
Co-Sponsored by:

DOC ID: 26665 **RESOLUTION 2022-1087** **ADOPTED**

Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679

Please authorize the Supervisor to sign contract between Town of Amherst and The Davey Tree Expert Company, 1200 Commerce Pkwy, Lancaster, NY 14086.

11/7/2022
Consent

FINANCIAL IMPACT:

A1620 -- 4220 $7240.00

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

DAVEY
Proven Solutions for a Growing World

The Davey Tree Expert Company
1200 Commerce Pkwy
Lancaster, NY 14086-1796
Phone: (716) 684-2700 Fax: (716) 684-2705
Email: Tim.Czarnecki@davey.com
NY Business Reg 05850

Client

10/7/2022

TOWN OF AMHERST PLANNING DEPARTMENT
Municpal Bldg/ Attn Greg Bennett
5583 MAIN ST
Williamsville, NY 14221-5488

Proposal #: 725952-1665076267
Account #: 7852819
Home: (716) 631-7082
Mobile: (716) 435-0043
Fax: (716) 631-7153
Email: gbennett@amherst.ny.us

	Tree Care	Service Period	Price	Tax	al
☐	Tree Removal	Target Date: October	$6,375.00	$6,3	0

Remove the sugar maple behind the Municipal Building (Irishman Pub side). Cut the tree to a low stump. Remove, chip and haul away all debris.

	Landscape	Service Period	Price	Tax	al
☐	Stump Removal (Landscape)	Target Date: October	$865.00	$8	0

Grind the sugar maple stump below grade. Leave the stump grindings.
Davey will contact DIG SAFE NEW YORK to mark public underground utilities. Private utilities such as irrigation lines, d fences and landscape lighting are not located by DIG SAFE NEW YORK. Davey can not assume liability for damage to t fixtures.

☐ Yes, please schedule the services marked above.

$ _____ Deposit Required / $ _____ Deposit Received

Upon completion of work, please charge balance to credit card ____Yes ____No

Deposit payment options we accept are check or credit ca

To pay by check mail to
The Davey Tree Expert Company
1200 Commerce Pkwy
Lancaster, NY 14086-1796

To pay by credit card c
(716) 684-2700

ACCEPTANCE OF PROPOSAL: The above prices and conditions are hereby accepted. You are authorized to do this work as specified. I am familiar with ar agree to the terms and conditions appended to this form. All deletions have been noted. I understand that once accepted, this proposal constitutes a bin contract. This proposal may be withdrawn if not accepted within 30 days.

Timothy Czarnecki

Timothy Czarnecki
NY Applicator Certified # C9600545

Authorization

Date

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

Client Guarantee

We use quality products that are administered by trained personnel. We guarantee to deliver what we have contracted to deliver. If we do not, we will work with you until you are satisfied, or you will not be charged for the disputed item. Our Client Care Guarantee demonstrates our commitment to creating lifelong relationships.

Tree Care

PRUNING: Performed by trained arborists using industry and Tree Care Industry Association (TCIA) approved methods.
TREE REMOVAL: Removal to within 6" of ground level and cleanup of debris.
STUMP REMOVAL: Mechanical grinding of the visible tree stump to at or just below ground level. Stump area will be backfilled with stump chips and a mo remaining chips will be left on site unless otherwise stated in the contract. Chip removal, grading and soil backfill are available.
CLEAN-UP: Logs, brush, and leaves, and twigs large enough to rake are removed. Sawdust and other small debris will not be removed.
CABLING/BRACING: Cabling and bracing of trees is intended to reduce damage potential. It does not permanently remedy structural weaknesses, is not a guarantee against failure and requires periodic inspection.

Tree and Shrub Fertilization/SoilCare

Your arborist will assess your property's overall soil conditions either through physical assessment or through soil testing and will recommend a soil management program to help the soil become a better medium to enable healthy plants to thrive or unhealthy plants to regain their vitality. SoilCare progr will include fertilizers, organic humates, fish emulsions and other organic soil conditioners.

Our advanced formula, Arbor Green PRO, works with nature to fertilize without burning delicate roots, building stronger root systems and healthier foliage contains no chlorides or nitrates. It is hydraulically injected into the root zone and the nutrients are gradually released over time. Research and experience shows the dramatic benefits Arbor Green PRO provides: greater resistance to insects and diseases, greater tolerance to drought stress, increased vitality, healthier foliage.

Tree and Shrub Plant Health Care

PRESCRIPTION PEST MANAGEMENT: Customized treatments to manage disease and insect problems specific to plant variety and area conditions. Due to short term residual of available pesticides, repeat applications may be required.
INSECT MANAGEMENT: Inspection and treatment visits are scheduled at the proper time to achieve management of destructive pests. Pesticides are appl label specifications.
DISEASE MANAGEMENT: Specific treatments designed to manage particular disease problems. Whether preventative or curative, the material used, the pl variety being treated, and the environmental conditions all dictate what treatment is needed.
EPA approved materials will be applied in accordance with State and Federal regulations.

Lawn Care

FERTILIZER AND MECHANICAL SERVICES: Balanced fertilizer treatments applied throughout the growing season help provide greener turf color and dense development. To help bring about a better response to these applications, we also provide aerification, lime, overseeding, and lawn renovation.
WEED CONTROL AND PEST MANAGEMENT: Broadleaf weed control is applied either as a broadcast or a spot treatment. Granular weed management may broadcast. We also offer pre-emergent crabgrass management in the spring and, if needed, a post emergent application later in the year. Our surface inse management is timed to reduce chinch bugs, sod webworms, and billbugs. We also offer a grub management application. Disease management materials treatments are matched to particular disease problems. This usually requires repeat applications.

Other Terms and Contract Conditions

INSURANCE: Our employees are covered by Worker's Compensation. The company is insured for personal injury and property damage liability. Proof of insurance can be verified by requesting a copy of our Certificate of Insurance.
WORKING WITH LIVING THINGS: As trees and other plant life are living, changing organisms affected by factors beyond our control, no guarantee on tree, or general landscape safety, health or condition is expressed or implied and is disclaimed in this contract unless that guarantee is specifically stated in wr by the company. Arborists cannot detect or anticipate every condition or event that could possibly lead to the structural failure of a tree or guarantee that will be healthy or safe under all circumstances. Trees can be managed but not controlled. When elevated risk conditions in trees are observed and identifi our representatives and a contract has been signed to proceed with the remedial work we have recommended, we will make a reasonable effort to proceed the job promptly. However, we will not assume liability for any accident, damage or injury that may occur on the ground or to any other object or structure to us beginning the work. Site inspections do not include internal or structural considerations unless so noted. Unless otherwise specified, tree assessme not include investigations to determine a tree's structural integrity or stability. We may recommend a Risk Assessment be conducted for an additional cha
TREE CARE STANDARDS: All work is to be performed in accordance with current American National Standards Institute (ANSI) Standard Practices for Tree Operations.
OWNERSHIP OF TREES/PROPERTY: Acceptance constitutes a representation and warranty that the trees and property referenced in this quote are either o by the signee or that written permission has been received to work on trees which are not on the signee's property.
TIME & MATERIAL (T&M): Jobs performed on a T&M basis will be billed for the time on the job (not including lunch break), travel to and from the job, and materials used.
BILLING & SALES TAX: All amounts deposited with us will either be credited to your account or applied against any amounts currently due. Our invoices a net 30 days from invoice date. Services may be delayed or cancelled due to outstanding account balances. Sales tax will be added as per local jurisdictior Clients claiming any tax exempt status must submit a copy of their official exempt status form including their exemption number in order to waive the sal capital improvement tax.
PAYMENT: We accept checks and credit cards. Credit card payments may be made online at our web site. Paying by check authorizes us to send the infor from your check to your bank for payment.
UNDERGROUND PROPERTY: We are not responsible for any underground property unless we have been informed by you or the appropriate underground l agency.
SCHEDULING: Job scheduling is dependent upon weather conditions and work loads.

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Revised 12.30.19

Oct 20 2022 01:25PM HP Fax

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

Oct 20 2022 01:25PM HP Fax

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: THE DAVEY TREE EXPERT CO

Signature: Tim Czarnecki

Print Name: TIM CZARNECKI

Title: SALES ARBORIST

Date: 10/21/2022

Carol A. Graham
Notary Public, State of New York
No. 01GR6358981
Qualified in Erie County
Commission Expires May 30, 2024

Sworn To Before Me This
21st Day of October, 2022
Carol Graham
Notary Public

Revised 4.2017

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

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:

THE DAVEY TREE EXPERT Co

Print Name of Company

By: _____

Signature

TIM CZARNECKI

Printed name

Date: 10/21/2022

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/22/2022

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 POLICI BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZ REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorse 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 Marsh USA Inc. 200 Public Square, Suite 3760 Cleveland, OH 44114-1824 130531 RESICA Cole	**CONTACT NAME:** Marsh | U.S. Operations **PHONE (A/C, No, Ext):** (866) 966-4664 **FAX (A/C, No):** **E-MAIL ADDRESS:** Cleveland.CertRequest@marsh.com	
	INSURER(S) AFFORDING COVERAGE	**NAIC**
	INSURER A : Old Republic Insurance Company	24147
INSURED The Davey Tree Expert Company 1500 N. Mantua Street Kent, OH 44240	**INSURER B :**	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** CLE-006479886-06 **REVISION NUMBER:** 10

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERI INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TH CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			MWZY 314042 22	09/01/2022	09/01/2023	EACH OCCURRENCE	$ 5,0
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 5,0
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$ 5,0
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 5,0
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 5,0
	OTHER:							$
A	AUTOMOBILE LIABILITY			MWTB 314041 22	09/01/2022	09/01/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 5,0
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			MWC 314040 22 (AOS)	09/01/2022	09/01/2023	X PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$ 5,0
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 5,0
							E.L. DISEASE - POLICY LIMIT	$ 5,0
A	Excess Workers Compensation			MWXS 314043 22 (NC, OH, PA, WA)	09/01/2022	09/01/2023	Workers Compensation	St
A	SIR: $5,000,000			MWXS 316391 22 (CA)	09/01/2022	09/01/2023	Employer's Liability	1,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is(are) included as Additional Insured(s) as respects General Liability and Automobile Liability where required by written contract or agreement and only as respects operations performed on th behalf by the Named Insured. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured where required by written cont 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 BEFO THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Marsh USA Inc.

© 1988-2016 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

AGENCY CUSTOMER ID: CN101565730
LOC #: Cleveland

ACORD®

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Marsh USA Inc.	The Davey Tree Expert Company 1500 N. Mantua Street Kent, OH 44240
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Workers Compensation does not apply in MN. Coverage is obtained from Workers Compensation reinsurance association (W.C.R.A.) as required by the state. Minnesota Employers Liability is covered by policy number MWC 314040 22.

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

© 2008 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) The Davey Tree Expert Company 1200 Commerce Parkway Lancaster, NY 14086 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 845.354.3400 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 34-0176110
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst Planning Department 5583 Main St Williamsville, NY 14221-5488	3a. Name of Insurance Carrier Old Republic Insurance Company 3b. Policy Number of Entity Listed in Box "1a" MWC 314040 22 3c. Policy effective period 09/01/22 to 09/01/23 3d. The Proprietor, Partners or Executive Officers are ☒ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3 on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is cancele due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Anne M. Lovato
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Anne M. Lovato 10/20/22
(Signature) (Date)

Title: Policy Production Specialist

Telephone Number of authorized representative or licensed agent of insurance carrier: 262-797-3400

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NC authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

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 a permit for or in connection with any work involving the employment of employees in a hazardous employment defin by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permi shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory the chair, that compensation for all employees has been secured as provided by this chapter. Nothing here however, shall be construed as creating any liability on the part of such state or municipal department, boa 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 ir any contract for or in connection with any work involving the employment of employees in a hazardous employme defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, sh not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfacto to the chair, that compensation for all employees has been secured as provided by this chapter.

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

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 Davey Tree Expert Company
1500 N Mantua St.
Kent, OH 44240

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured

1c. Federal Employer Identification Number of Insured or Social Security Number

34-0176110

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)

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

3a. Name of Insurance Carrier

First Unum Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"

702199

3c. Policy effective period

10/1/2022 to 10/1/2023

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 10/26/2022 By Danielle N Hammond
Danielle N Hammond
Portland, ME
2022.10.26 13:41:57-04'00'
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 207-575-6059 Name and Title Danielle Hammond, DBL Specialist

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: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

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: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

ACCREDITED BUSINESS
BBB.
A+ RATED

Barden Tree Service
941 Losson Road
Cheektowaga, NY 14227

Phone: (716) 465-5966
www.Bardentree.com
Email: Bardentree@aol.com

Tree estimate for Amherst Town Hall
10/14/2022

We propose to:

- Remove the Maple tree that is behind the building and grind out the stump to a depth of 6 inches below grade.
- All debris will be removed off site and disposed of but the stump grindings will remain.
- A manlift will be used for the removal and protective mats will be placed on the ground in an effort to prevent marks and/or ruts as a result of driving over grassy areas.
- There will be dents and divots in the lawn as a result of the weight of the wood.

Total cost for labor and materials: $7000.00 plus tax

*Price is valid for 30 days from the date of the quote.

Payment is due in full upon completion.

Note: Contractor is not responsible for damage to any driveways or sidewalks as a result of driving equipment over them. Every effort and precaution will be taken to avoid any damage however sometimes they do occur.

- Contractor is fully insured and can produce a certificate of insurance upon request.
- Homeowner consents to an advertisement sign being placed on the front lawn for at least 1 week after job completion.

The above prices and conditions are acceptable and the above stated contractor is authorized to perform the work as described above.

Name_____Phone Number_____
Date_____

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

Proposal

AJ's Tree Servic
PO Box 6
East Amherst, NY 140
716-908-12

Tuesday, September 27, 20

Job Name
Creamer 20220927

Town of Amherst
Dominick Creamer
1042 North Forest Road
Williamsville, NY 14221
-Phone:7162086286

Salesperson: Not Assigned
Email:
Phone:

Worksite: 5583 Main St
Williamsville, NY 14221

#	Item	Description	Qty	Cos
1	Maple (Sugar)	**Remove Tree/shrub (grind stump, leave grindings)** Large Maple behind the building removed. Remove tree and grind the stump. Leave stump grindings for homeowner. Clean up and remove all other debris.	1	**$7,950.**

Subtotal:	$7,950.
Tax:	$0.
Section Total:	**$7,950.**

Subtotal:	**$7,950.**
Tax:	**$0.**
Total:	**$7,950.**

Signature **Date**

Attachment: Davey Tree Expert Contract (RES-2022-1087 : Removal of Sugar Maple Tree and Stump at Town Hall CRS #3679)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 26681 **RESOLUTION 2022-1088** **ADOPTED**

Budget Transfers and Amendments

November 7, 2022 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 11/2/2022
Re: Various Department Budget Transfers / Amendments

I have received the following request(s) requiring budget transfers and / or amendments. Based on my review, I ask that the Town Board approve the following list;

BUDGET TRANSFERS - 2022

FROM:	***TO:***
A1345.2100 Finance - Furniture $400.00	A1345.4010 Office Supplies $400.00
Requested per department.	
N2063.4000 CDBG Mortgage $20,000.00	N2060.4000 CDBG Emerg Rental $20,000.00
Requested per department.	
A1440.4040 Engineering - Travel $76.51	A1440.9000 Interfund Transfer $76.51
To transfer funds from Engineering into KP1847 Engineering Facilities Rehab for office flooring.	

BUDGET AMENDMENTS - 2022

INCREASE:	***INCREASE:***
N2255.02785 Amherst HOME Rental- PI $10,264.50	N2255.4000 Contractual $10,264.50
N2254.02785 Amherst Home Admin- PI $1,140.50	N2254.4003 10 % Admin $1,140.50
To recognize Community Development program income from 91 Millbrook, Amherst.	
N2223.02785 CDBG & VG- PI $75.00	N2223.4000 Contractual $75.00
To recognize Community Development program income from 299 Harding, Amherst.	
N2244.02785 Cheektowaga Housing Rehab - PI $10,710	N2244.4000 Contractual $10,710
N2249.02785 Cheektowaga Home Admin - PI $1,190	N2249.4003 10% Admin $1,190
To recognize Community Development program income from 234 Curtiss, Cheektowaga.	
N2244.02785 Cheek. Housing Rehab - PI $22,287.92	N2244.4000 Contractual $22,287.92
N2249.02785 Cheek. Home Admin - PI $2,476.44	N2249.4003 10% Admin $2,476.44
To recognize Community Development program income from 81 S. Huxley, Cheektowaga	
N2250.02785 Tonawanda HOME- PI $10,502.10	N2250.4000 Contractual $10,502.10
N2253.02785 Tonawanda Admin- PI $1,166.90	N2253.4003 Admin $1,166.90
To recognize Community Development program income from 299 Liston, Tonawanda.	
N2250.02785 Tonawanda HOME- PI $6,750.00	N2250.4000 Contractual $6,750.00
N2253.02785 Tonawanda Admin- PI $750.00	N2253.4003 Admin $750.00
To recognize Community Development program income from 380 Dushane, Tonawanda.	

KP1847.05031 Interfund Transfers $76.51 KP1847.4972 Construction $76.51
To setup budget for Interfund transfer from A1440 into KP1847.

KP1847.05710 Bonds $75,250.00 KP1847.4970 Legal $500.00
KP1847.4972 Construction $74,750.00
To setup budget for KP1847 Engineering Facilities Rehab.

A1410.05001 Town Clerk - Refund of C/Y Exp. $14,000 A1410.2600 Other Equipment $14,000
To recognize refund of current year expense and increase other equipment for a shredder and folder inserter.

11/7/2022
Consent

FINANCIAL IMPACT:

See Descriptions

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

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Court
Initiated by: **Kim Kern**
Co-Sponsored by: **Councilmember Shawn Lavin**

DOC ID: 26647 **RESOLUTION 2022-1089** **ADOPTED**

Lori Weaver - Court Reporting Services - CRS #3647

Lori Weaver - Court Reporting Services - CRS #3647. Please authorize the Supervisor to sign this contract between Lori Weaver and Amherst Town Court for Court Reporting Services. This contract CRS #3647 has been successfully routed through the Contract Routing System.

11/7/2022
Consent

FINANCIAL IMPACT:

There is sufficient money in the Court's budget to cover the contract.

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

LORI L. WEAVER

COURT REPORTING SERVICE AGREEMENT

SERVICE AGREEMENT

-BETWEEN-

THE SERVICE PROVIDER

Lori L. Weaver – Court Reporter
1 Waxwing Lane
East Amherst, NY 14051
PHONE: (716)481-9939

-AND-

THE CUSTOMER

Amherst Town Court
400 John James Audubon Pkwy.
Amherst, New York 14228
PHONE: (716) 689-4200
FAX: (716) 689-4284

START DATE - 11/22/22
END DATE - 11/22/23

BACKGROUND

Amherst Town Court is of the opinion that Lori L. Weaver has the necessary qualifications, experience and abilities to provide the Court Reporting Services that are needed at Amherst Town Court. Lori L. Weaver, Court Reporter, is agreeable to providing such services for Amherst Town Court, on the terms and conditions set forth in this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in the Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to the Agreement agree as follows:

Attachment: DOC102622-001 (RES-2022-1089 : Lori Weaver - Court Reporting Services - CRS #3647)

SERVICES

Amherst Town Court hereby agrees to engage the services of Lori L. Weaver to provide services consisting of Court Reporting Services.

PERFORMANCE

Lori L. Weaver agrees to provide Court Reporting Services at Amherst Town Court when needed.

COMPENSATION

For the court reporting services provided by Lori L. Weaver, Amherst Town Court agrees to pay $40.00 per hour (minimum 3 hours ($120.00) per working day). In addition, Amherst Town Court must provide a seven day notice to cancel scheduled court reporting services. In the event of an unexpected court cancellation, where at least a seven day notice is not given, Amherst Town Court agrees to pay the minimum of three hours which equals $120.00.

Transcripts - $3.75 per page

EQUIPMENT

Lori L. Weaver, Court Reporter, agrees to provide all necessary court reporting equipment that will be used to perform the agreed upon duties i.e. Court Reporting Services.

TERM OF AGREEMENT

The term of Agreement will begin on the date of this Agreement and will continue for one year. This contract can be cancelled with a 14 day written notice by the Court Reporter.

ASSIGNMENT

This Agreement is being entered into in reliance and upon the consideration of the skill and qualifications of Lori L. Weaver. In her absence she agrees to find a court reporter who is qualified to provide Court Reporting Services for Amherst Town Court. In the event that a replacement is necessary the replacement will receive the agreed upon compensation as written above.

Lori L. Weaver — 10/6/22

LORI L. WEAVER
COURT REPORTER — DATE

BRIAN KULPA
AMHERST SUPERVISOR — DATE

Attachment: DOC102622-001 (RES-2022-1089 : Lori Weaver - Court Reporting Services - CRS #3647)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/06/2022

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:	
Hiscox Inc. 5 Concourse Parkway Suite 2150 Atlanta GA, 30328	PHONE (A/C, No, Ext): (888) 202-3007	FAX (A/C, No):
	E-MAIL ADDRESS: contact@hiscox.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Hiscox Insurance Company Inc	10200
INSURED Lori Weaver 1 Waxwing Lane EAST AMHERST, NY 14051	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	N		UDC-5254031-CGL-22	11/21/2022	11/21/2023	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 $ 100,000 $ 5,000 $ 2,000,000 $ 2,000,000 $ S/T Gen. Agg
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS 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)

CERTIFICATE HOLDER	CANCELLATION
The Town of Amherst 400 John James Audubon Pkwy Amherst NY 14228	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Attachment: DOC102622-001 (RES-2022-1089 : Lori Weaver - Court Reporting Services - CRS #3647)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Economic Development
Initiated by: **Angela Rossi**
Co-Sponsored by:

DOC ID: 26645 **RESOLUTION 2022-1090** **ADOPTED**

Authorize Supervisor to Sign Contract with NYSDEC - Organics Management Grant, CRS #3633

WHEREAS, kindly authorize the Supervisor to sign a contract with the New York State Department of Environmental Conservation (NYSDEC) to receive grant funds for the Amherst Organics Management Plan, CRS #3633, and;

WHEREAS, the awarded grant is $30,000 and the designated matching funds are $30,000, and;

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes the Supervisor to sign the contract with the NYSDEC for the Amherst Organics Management Plan, CRS #3633.

11/7/2022
Consent

FINANCIAL IMPACT:

C3623 03089 ($30,000) GRANT

C3621 4099 $30,000 MATCH

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

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

STATE AGENCY (Name & Address):

Department of Environmental Conservation

625 Broadway
Albany, NY 12233-1080

BUSINESS UNIT/DEPT. ID: DEC01

CONTRACT NUMBER: DEC01-T01237GG-3350000

CONTRACT TYPE:

- [ ] Multi-Year Agreement
- [ ] Simplified Renewal Agreement
- [X] Fixed Term Agreement

CONTRACTOR SFS PAYEE NAME:

AMHERST TOWN OF

TRANSACTION TYPE:

- [X] New
- [ ] Renewal
- [ ] Amendment

CONTRACTOR DOS INCORPORATED NAME:

Amherst, Town of

PROJECT NAME:

Town of Amherst Organics Management Plan

CONTRACTOR IDENTIFICATION NUMBERS:

NYS Vendor ID Number: 1000003949

Federal Tax ID Number: 166002157

DUNS Number (if applicable): 030212336

AGENCY IDENTIFIER:

CFDA NUMBER (Federally Funded Grants Only):

CONTRACTOR PRIMARY MAILING ADDRESS:

1042 N Forest Rd
Williamsville, NY 14221

CONTRACTOR PAYMENT ADDRESS:

- [X] Check if same as primary mailing address

CONTRACT MAILING ADDRESS:

- [X] Check if same as primary mailing address

CONTRACTOR STATUS:

- [ ] For Profit
- [X] Municipality, Code:
- [ ] Tribal Nation
- [ ] Individual
- [ ] Not-for-Profit

Charities Registration Number:

Exemption State/Code:

- [ ] Sectarian Entity

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

CURRENT CONTRACT TERM:

From: 03/15/2022 To: 03/14/2027

CURRENT CONTRACT PERIOD:

From: 03/15/2022 To: 03/14/2027

AMENDED TERM:

From: To:

AMENDED PERIOD:

From: To:

CONTRACT FUNDING AMOUNT

(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):

CURRENT: $30,000.00

AMENDED:

FUNDING SOURCE(S)

- [X] State
- [ ] Federal
- [ ] Other

FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:

(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1				
2				
3				
4				
5				

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

ATTACHMENTS PART OF THIS AGREEMENT:

Attachment A:

- [X] A-1 Program Specific Terms and Conditions
- [ ] A-2 Federally Funded Grants

Attachment B:

- [X] B-1 Expenditure Based Budget
- [ ] B-2 Performance Based Budget
- [ ] B-3 Capital Budget
- [ ] B-4 Net Deficit Budget
- [ ] B-1 (A) Expenditure Based Budget (Amendment)
- [ ] B-2 (A) Performance Based Budget (Amendment)
- [ ] B-3 (A) Capital Budget (Amendment)
- [ ] B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other:

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:

AMHERST TOWN OF

By: _____

_____

Printed Name

Title: _____

Date: _____

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Environmental Conservation

_____

By: _____

_____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Contract Number: # DEC01-T01237GG-3350000

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds $50,000 (or $85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

***Budget Changes*:** An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2[1], Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2[2], Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as "Contract Funding Amount" on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

[1] To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

[2] To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

   a) by certified or registered United States mail, return receipt requested;

   b) by facsimile transmission;

   c) by personal delivery;

   d) by expedited delivery service; or

   e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).

3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

any of the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.[3]

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

[3]As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. *General Renewal*: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. *Renewal Notice to Not-for-Profit Contractors*:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ("Unusual Circumstances"), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

C. Termination:

1. *Grounds*:

a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.

c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. *Notice of Termination*:

a) Service of notice: Written notice of termination shall be sent by:

(i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. ***Effect of Notice and Termination on State's Payment Obligations*:**

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property*:

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.

2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.

3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.

4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.

5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.

6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.

7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).

2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).

3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.

4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:[4] Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:[5] Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:[6] Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:[7] The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

[4] A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.
[5] Fee for Service is a rate established by the Contractor for a service or services rendered.
[6] Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.
[7] Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:[8] Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

[8] Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report* (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of $100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of $100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds $100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit.

a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.

c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.

f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. *General*:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. *Cost Allocation*:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. *Federal Funds*: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than $1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and

4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non- responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:[9] If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

[9] Not applicable to not-for-profit entities.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

ATTACHMENT A-1
PROGRAM SPECIFIC TERMS AND CONDITIONS

Standard Clauses for All New York State
Department of Environmental Conservation Contracts

The parties to the attached contract, license, lease, grant, amendment, or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "DEC").

A) AGENCY SPECIFIC TERMS AND CONDITIONS

I. Postponement, suspension, abandonment, or termination by the DEC: Within 15 days of receipt of notice, the Contractor shall deliver to the DEC all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans, and shop drawings. In any of these events, the DEC shall make settlement with the Contractor upon an equitable basis as determined by the DEC which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment, or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension, or termination of the contract.

II. Conflict of Interest

(a) Organizational Conflict of Interest - To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the DEC.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the DEC.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the DEC. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the DEC, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary, or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) Personal Conflict of Interest - The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the DEC immediately of any actual or potential personal conflict of interest with regard to any such person working on or

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The DEC will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract, that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the DEC which will advise the Contractor of the appropriate action to be taken.

(3) Unless waived by the DEC, the Contractor shall certify annually that, to the best of the Contractor's knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the DEC. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the DEC. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the DEC or first generated during contract performance, of a sensitive nature which should not be released without DEC approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the DEC, Department of Health, or the New York Department of Law, any information or data provided by the DEC or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the DEC. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the DEC so that the DEC can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) Remedies - The DEC may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the DEC, the DEC may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Attachment or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the DEC.

III. Dispute Resolution

The parties agree to the following steps, or as many as are necessary to resolve disputes between the DEC and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual ("DAI") within twenty days of receipt of that decision.

(b) Upon receipt of the written appeal, the DAI, will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.

(1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or

(2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or

(3) Make a determination on the record as it exists.

(c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee ("CRC") within twenty days of receipt of that decision.

The designated individual to hear disputes is:

Mark Lowery
Assistant Director, Office of Climate Change
NYS Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-1500
(518) 402-9507

The designated appeal individual to review decisions is:

Jon Binder
Office of General Counsel
NYS Department of Environmental Conservation
625 Broadway, 9th Floor
Albany, NY 12233-1030
(518) 402-8448

The Chair of the Contract Review Committee is:

Department of Environmental Conservation
Nancy W. Lussier, Chair
Contract Review Committee
625 Broadway
Albany, NY 12233-5010
Telephone: (518) 402-9228

(d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

the Office of General Counsel will take one of the following actions, or a combination thereof, with written notice to the Contractor.

(1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or

(2) Adopt the decision of the DAI; or

(3) Consider the matter for review by the CRC in accordance with its procedures.

(e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC's established contract dispute resolution guidelines. The proceeding will provide the Contractor with an opportunity to be heard.

(f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Deputy Commissioner for Administration who shall render the final DEC determination.

(g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.

(h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.

(i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.

(j)(1) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC:
Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the DEC's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the DEC's determination.

(2) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

IV. Tax Exemption

Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

V. Litigation Support

In the event the DEC becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Any compensation paid to the Contractor under this paragraph will be negotiated and based on the rates established in the contract, or as may otherwise be provided in the contract. No compensation for such support will be paid if the litigation is the result of the Contractors

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

misconduct, negligence, or omissions.

VI. Inventions or Discoveries

The Scope of work of this agreement shall not include any inventions. If, however, an invention results from this project it shall be owned as follows:

Any invention or discovery first made or conceived and reduced to practice in the performance of this Contract solely by the Contractor shall remain with the Contractor; provided that the Contractor shall grant to the DEC and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the DEC and the State the subject copyright throughout the world, where the Contractor is able to do so.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract solely by DEC or State shall remain with the State; provided that the DEC or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Any invention or discovery made or conceived and reduced to practice in the performance of this Contract jointly by Contractor and DEC or State in the performance of this work shall be jointly held by the Contractor and DEC or State.

VII. Intellectual Property and Copyright Materials

(a) Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by Contractor in the performance of this work shall remain with the Contractor; provided that the Contractor shall grant to the DEC and the State a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for on behalf of the DEC and the State the subject copyright throughout the world, where the Contractor is able to do so.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by DEC or State in the performance of this work shall remain with the State; provided that the DEC or State shall grant to the Contractor a nonexclusive, nontransferable, irrevocable, paid-up license to use for non-commercial research, educational, and public service purposes.

Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created jointly by Contractor and DEC or State in the performance of this work shall be jointly held by the Contractor and DEC or State.

VIII. Patent and Copyright Protection

If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.

(a) The Contractor shall, at its expense, defend any suit instituted against the DEC and indemnify the DEC against any award of damages and costs made against the DEC by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright, or other proprietary right; provided the DEC gives the Contractor:

(1) prompt written notice of any action, claim or threat of infringement suit, or other suit, and

(2) the opportunity to take over, settle or defend such action at the Contractor's sole expense, and

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

(3) all available information, assistance, and authority necessary to the action, at the Contractor=s soleexpense.

The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the DEC fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

(1) procure for the DEC the right to continue using the same item or parts thereof;

(2) modify the same so that it becomes non-infringing and of at least the same quality and performance;

(3) replace the item(s) or parts thereof with non-infringing items of at least the same quality and performance;

(4) if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

(c) In the event that an action at law or in equity is commenced against the DEC arising out of a claim that the DEC's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the DEC to the Contractor for defense and indemnification pursuant to this Article, the DEC shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the DEC and the Office of the Attorney General of the State of New York in writing and shall specify to what extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the DEC and State of New York and secure a continuance to permit the State of New York to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the DEC and State shall have.

(d) The Contractor shall, however, have no liability to the DEC under this Article if any infringement is based upon or arises out of:

(1) compliance with designs, plans, or specifications furnished by or on behalf of the DEC as to the items;

(2) alterations of the items by the DEC;

(3) failure of the DEC to use updated items provided by the Contractor for avoiding infringement;

(4) use of items in combination with apparatus or devices not delivered by the Contractor;

(5) use of items in a manner for which the same were neither designed nor contemplated; or

(6) a patent or copyright in which the DEC or any affiliate or subsidiary of the DEC has any direct or indirect interest by license or otherwise.

(e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

IX. Freedom of Information Requests

In response to a Freedom of Information Law (FOIL) request received by the DEC, the Contractor agrees to provide to the DEC records generated by the Contractor as a result of this contract's scope of work that are responsive to the FOIL request. The contractor may request that the DEC except from disclosure records on the basis that they contain trade secrets or confidential commercial information in accordance with FOIL (Public Officers Law Section 87 and 6 NYCRR Part 616).

X. Article 15-Requirements

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

(a) General Provisions

(1) The DEC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

(2) The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State DEC, to fully comply and cooperate with the DEC in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

(3) Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.

(b) Contract Goals

(1) For purposes of this procurement, the DEC hereby establishes an overall goal of up to **30%** for Minority and Women-Owned Business Enterprises ("MWBE") participation, (based on the current availability of qualified MBEs and WBEs).

(2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address: https://ny.newnycontracts.com

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

(3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DEC for liquidated or other appropriate damages, as set forth herein.

(c) MWBE Responsibilities & Requirements

(1) Contractors must read, sign, and submit the NYSDEC MWBE Responsibilities & Requirements document. This document describes the MWBE requirements and provides directions for completing the required MWBE Utilization Plan form and subsequent Quarterly Reports.

(2) By signing and submitting this document, the Contractor acknowledges they understand the assigned MWBE goals, the MWBE Utilization Plan form requirements, the MWBE Quarterly Report requirements, and understand what Good Faith Efforts they must put forth to meet their assigned MWBE goals.

(d) MWBE Utilization Plan

(1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.

(2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section X-B-1 of this Attachment.

(3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DEC shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Equal Employment Opportunity (EEO)

(1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the State of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A:

(i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(ii) The Contractor shall submit an EEO policy statement to the DEC within seventy-two (72) hours after the date of the notice by DEC to award the Contract to the Contractor.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

(iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the DEC may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8.

(iv) The Contractor's EEO policy statement shall include the following language:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce.

b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c. The Contractor shall request each employer DEC, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employer DEC, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

(2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a Staffing Plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing Plan as part of the MWBE Utilization Plan and submit at the time of award of the contract.

(3) Workforce Employment Utilization Report Form ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DEC of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

(4) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(f) Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the DEC by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

(g) Waivers

(1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the DEC shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(3) If the DEC, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DEC may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

(h) Liquidated Damages - MWBE Participation

(1) Where DEC determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the DEC liquidated damages.

(2) Such liquidated damages shall be calculated as an amount equaling the difference between:

(i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals;and

(ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DEC, Contractor shall pay such liquidated damages

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

to the DEC within sixty (60) days after they are assessed by the DEC unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DEC.

(i) Forms

Forms referenced in this Article can be found at http://www.dec.ny.gov/about/48854.html

XI. Iran Divestment Act Requirements

By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

XII. Americans With Disabilities Act

In the event the monies defined herein are to be used for the development of facilities, outdoor recreation areas, transportation or written or spoken communication with the public, the Contractor shall comply with all requirements for providing access for individuals with disabilities as established by Article 4A of the New York State Public Buildings Law, Americans with Disabilities Act, and relevant sections of the New York State Uniform Fire Prevention and Building Code. Standards for certain Recreation Facilities are found in the 2010 ADA Standards for Accessible Design while others are found in the Architectural Barriers Act Accessibility Guidelines for Outdoor Recreation Areas, https://www.access-board.gov/guidelines-and-standards

XIII. Public Access to Facilities

If applicable to the project, the Contractor agrees to allow public access to any facilities developed with monies defined herein on the same basis to all residents of New York State for a period not less than five (5) years after the date of final payment under this Contract or five (5) years after the date that the final payment was due. Failure to comply with the provisions of this clause shall be considered an abandonment of the Project.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

XIV. Project Insurance Considerations

Refer to project insurance requirements as set forth in A-1 (B) Program Specific Terms and Conditions.

XV. Amendment/Extensions

The Contract may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Contract and will not take effect until approved by all applicable State agencies and final approval by the Office of the State Comptroller, if applicable. Contract amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the DEC.

XVI. Environmental Protection Fund Acknowledgement

If applicable, in recognition of a portion of the DEC funds utilized for any work completed under this Contract, the Contractor agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State DEC of Environmental Conservation.

XVII. Vendor Responsibility

A. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. The DEC recommends that vendors file a required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at http://www.osc.state.ny.us/vendrep/vendor_index.htm or go directly to the VendRep System online at https://portal.osc.state.ny.us.

C. Vendors must provide their New York State Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the Department of the Office of the State Comptroller's Help Desk for a copy of the paper form.

D. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate DEC officials or staff, the Contract may be terminated by the Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

XVIII. Permits

A. If applicable, the Contractor agrees to obtain all required permits, including but not limited to, local, state, and federal permits prior to the commencement of any project related work. The Contractor agrees that all work performed in relation to the project by the Contractor or its agents, representatives, or contractors will comply with all relevant federal, state and local laws, rules, regulations and standards, zoning and building codes, ordinances, operating certificates for facilities, or licenses for an activity.

B. With respect to the project, the contractor certifies that is has complied, and shall continue to comply with

all requirements of the State Environmental Quality Review Act (SEQRA). The Contractor agrees to provide all environmental documents as may be required by the DEC. The Contractor has notified, and shall continue to notify, the DEC of all actions proposed for complying with the environmental review requirements imposed by SEQRA.

XIX. Approvals

The Contractor agrees that the project will be performed in accordance with the condition of any applicable administrative, judicial, or governmental orders or approvals.

XX. Site Access

If applicable, the Contractor represents it has or will obtain title to or sufficient interest in the project site, including rights-of-way and necessary easements, before the start of the project to ensure undisturbed use and possession for purposes of construction and completion of the project, as well as operation of the project throughout its useful life.

XXI. Cost Overruns

If applicable, any cost overruns will not be paid by the DEC and the DEC is not committed to seeking additional appropriations or re-appropriation of funds and will not be responsible for the maintenance and operation of any facility which may be developed or equipment which may be purchased with the funds herein identified.

XXII. Construction Plans

It is the Contractor's responsibility (if applicable to the Project) to have all construction contract plans, specifications and cost estimates certified by a professional engineer licensed to practice in the State of New York. All certified plans and specifications shall become part of this Contract and shall be kept on the project site at all times.

XXIII. Payment and Reporting

A. The Contractor agrees to fully fund the Project and then seek reimbursement from the DEC for eligible project costs. The DEC will not process final payment for this Contract, until the DEC determines that the project was completed satisfactorily and upon receipt of all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

B. The Contractor will be entitled to receive reimbursement payments for work, projects, and/or services rendered as detailed and described in Attachment C and Attachment D of this Contract. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the DEC and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices, canceled checks/or the latest cumulative work- in-place estimate for each construction Contract, and any further documentation as may be required by the DEC and/or the Comptroller. The DEC reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the Contractor is in satisfactory form and substance. A final payment determination will be based upon the DEC's review of the Contractor's final voucher submission and reporting as described in Attachment D.

XXIV. On-Site Inspections

The State, DEC, or authorized representatives will conduct a review of the Project funded from this Contract, which may include on-site inspections, at a time that is satisfactory to the DEC.

XXV. Prohibition on Purchase of Tropical Hardwoods

The Contractor certifies and warrants that all wood products to be sued under this contract award will be

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State of any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

B) PROGRAM SPECIFIC TERMS AND CONDITIONS

I. Notices:

The DEC's authorized representative for the implementation of this Contract and for approval, direction and receipt of all Project reports called for in this Contract is listed below. Whenever it is provided in this Contract that notice must be given or other communications sent to the DEC, the notices or communications must be in writing and delivered or sent to the DEC's authorized representative at:

New York State Department of Environmental Conservation
Office of Climate Change
625 Broadway – 9th Floor
Albany, NY 12233-1030
518-402-8448

A copy of all legal notices shall be sent to:

General Counsel
New York State Department of Environmental Conservation
625 Broadway - 14th Floor
Albany, New York 12233-1500

The Contractor's authorized representative for the implementation of this Contract is the person authorized in the Resolution of Support for the contract. Notices or communications regarding this Contract should be in writing and delivered or sent to the Contractor's authorized representative at the address identified on the Face Page, with copies sent to the Contractor's contract administrator as identified in the contract application.

Notices delivered or sent shall be deemed for all purposes as notice to all persons who are Parties to this Contract as DEC or Contractor.

II. Project Insurance Considerations

The Contractor agrees to procure and maintain at its own expense and without expense to the DEC until final acceptance by the DEC of the services covered by this Contract, insurance of the kinds and amounts as determined by the DEC and based upon the project work plan. The insurance policies should be provided by insurance companies licensed to do business in the State of New York. Any

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

delay or time lost as a result of the Contractor not having insurance required by the Contract shall not give rise to a delay claim or any other claim against the DEC.

Upon execution of this Contract, the Contractor shall furnish to the DEC a certificate or certificates, satisfactory to the DEC, showing that it has complied with this Article. The insurance documentation shall provide that:

A. Liability and protective liability insurance policies shall provide primary and non-contributory coverage to the NYS DEC for any claims arising from the Contractor's Work under this contract, or as a result of Contractor's activities.
B. The State of New York, NYS DEC, its officers, agents, and employees, NYS DEC Office of Climate Change, 625 Broadway, 9th Floor, Albany, NY 12233-1030, shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsements(s) and on additional supporting documentation.
C. The policies shall include a waiver of subrogation endorsement in favor of the DEC as an additional insured. The endorsement shall be on ISO Form Number CG 24 04 or a similar form with same modification to the policy.
D. Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the DEC; as evidenced by an endorsement or declarations page.
E. Insurance documentation shall disclose any deductible, self-insured retention, aggregate limit, or anyexclusion to the policy that materially changes the coverage required by the Contract.
F. Endorsements in writing must be added to and made part of the insurance contract for the purpose of changing the original terms to reflect the revisions and additions as described. A copy of these endorsements must be provided to the DEC within a reasonable amount of time.
G. Applicable insurance policy number(s) reference on the ACORD form must be referenced in the supporting documentation requested by the DEC and supplied by the insurance company (e.g. endorsement page, declarations page, etc.).
H. This Contract shall be void and of no effect unless the Contractor procures the required insurance policies and maintains them until completion of the work or acceptance by the DEC, whichever event is later.

The kinds and amounts of insurance required are as follows:

A. Workers' Compensation coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain full New York State coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	**FORM TITLE**
C-105.2	Certificate of Workers' Compensation Insurance
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12/ GSI-105.2	Certificate of Workers' Compensation Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

B. Disability Benefits coverage must be provided for work to be performed in New York State. The Contractor shall provide and maintain coverage during the life of the contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the DEC and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	FORM TITLE
DB-120.1	Certificate of Disability Benefit Insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is **NOT** an acceptable proof of Workers' Compensation coverage. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME** The State of New York and The New York State Department of Environmental Conservation, Office of Climate Change, 625 Broadway, Albany, NY 12233-1030, as the Entity Requesting Proof of Coverage.

Additional information can be obtained at the Worker's Compensation website:
http://www.wcb.ny.gov/content/main/Employers/Employers.jsp

Upon review of the scope of work outlined in the Grant Application by the DEC, the following types of liability insurance may be required:

C. Commercial General Liability Insurance with a limit of not less than $2,000,000 each occurrence, and $5,000,000 General aggregate. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a contract (including tort liability of another assumed in a contract). Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

D. Business Automobile Liability with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of any registered motor vehicle including owned, leased, hired and non-owned vehicles. If the Contractor does not own, rent or lease any registered vehicles and will not be using any vehicles on State Land proof of Business Automobile Liability Insurance shall not be required for this Contract. The Contractor shall assume full responsibility and liability that owners and operators of any registered vehicles entering State Land to conduct work under this contract carry the same Business Automobile Liability Insurance of the kinds and amounts listed above. NYS DEC reserves the right to request proof of the same.

E. Environmental Liability with a limit of not less than $1,000,000 providing primary coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the DEC arising from the Contractor's Work.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

F. Professional Liability Insurance includes coverage for its negligent act, error or omission in rendering or failing to render professional services required by this contract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants. The Contractor, any subcontractor, or supplier retained by the Contractor to work on the contract shall procure and maintain during, and for a period of three (3) years after completion of this contract, Professional Liability Insurance in the amount of $1,000,000. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor shall purchase at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

G. Marine Protection & Indemnity: Anytime the activity involves work on navigable water or the work is connected to water related activities, the Contractor shall procure Marine Protection & Indemnity and Hull and Machinery coverage, if available. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Contractor shall obtain Protective and Indemnity Liability insurance for all marine operations under the contract, with a minimum $2,000,000 limit.

Should the Contractor engage a subcontractor, the Contractor shall impose the insurance requirements of this document on the subcontractor. Contractor shall determine the required insurance types and limits, commensurate with the work of the Subcontractor. The Contractor will maintain the certificate or certificates and endorsements for all subcontractors hired as part of the Contractor's records.

III. Local Match Requirements

For all Climate Smart Communities Projects, including Climate Protection Implementation Projects and Climate Smart Communities Certification Projects, the DEC share will not exceed fifty percent (50%) of the approved project costs, up to the Contract Funding Amount identified on the Face Page, and the Contractor must provide fifty percent (50%) of required eligible share with eligible costs not paid with state grant funds nor federal funds. This percentage will be specified in the Attachment B-1 (Expenditure Budget).

IV. Construction

A. The Contractor agrees to proceed expeditiously with the Project and shall complete the Project in accordance with the performance measures set forth in Attachment C (Work Plan) or any amendments to such Work Plan which are approved by the DEC in writing.

B. The Contractor agrees that it shall notify the DEC in writing thirty (30) calendar days prior to the start of construction or, if the start of construction began on or before the contract execution date, upon approval of the Contract the Contractor shall notify the DEC in writing within thirty (30) calendar days as to the status of any construction.

C. The Contractor agrees that it shall notify the DEC in writing thirty (30) days following initial start-up operation of the Project.

D. The Contractor agrees that it shall cause the Project to be designed and constructed in accordance with the engineering report or facilities plan, and if applicable to the project, the plans and specifications for the Project shall be stamped with the seal of a licensed professional engineer and shall be signed with the personal signature of such engineer in compliance with Education Law §7209(1) and (2), and which have been delivered to and

approved by the DEC, as well as any amendments thereto.

E. The Contractor agrees that it shall permit the DEC to participate in all its meetings and conferences with respect to the Project. Upon request from the DEC, the Contractor must submit to the DEC reports, documents, data, contractual documents, administrative records, and other information pertinent to the Project.

F. The Contractor agrees to permit representatives of the DEC to have unrestricted access to the Project at all reasonable times, and all contracts of the Contractor for construction or operation of all or a portion of the Project shall contain provisions that permit such access to the Project or work relating to the Project, wherever it is in preparation or progress, and that contractors or subcontractors shall provide proper facilities for such access and inspection and shall permit extracts and copies of Project records to be made by the representatives of the DEC.

V. Engineering Certification/As-built Plans

Within sixty (60) calendar days after the end of the Contract Term, or upon final completion of the Project, the Contractor agrees that it will deliver the following to the DEC:

A. A certification stating that all portions of the Project funded by this award have been completed in accordance with this Contract, and constructed per the approved plans and specifications, and any approved amendments thereto.

B. The certified "as built" plans and specifications for the Project. Any work not in accordance with the approved plans and specifications shall be remedied, unless such non-compliance is agreed to be waived by the DEC.

C. The Contractor shall retain all as-built plans and specifications for the Project for the useful life of the Project. Within sixty (60) calendar days after the end of the contract term, or upon final completion of the Project, the Contractor agrees that it will deliver the following to the DEC:

VI. Useful life of Project

The Contractor agrees that it is fully responsible for ensuring the proper and efficient monitoring, operation, and maintenance of the Project satisfactory to the DEC, including, but not limited to, retaining a sufficient number of qualified staff and ensuring performance of required tests and requirements. After completion of the Project, the Contractor shall, for a period of ten (10) years (the useful life of the Project as provided 6 NYCRR section 492-3.3e) operate the Project or otherwise cause the Project to be operated properly in a sound and economical manner and shall maintain, preserve and keep the Project, or cause the Project to be maintained, preserved and kept in good repair, working order and condition and shall make, or cause to be made, all necessary and proper repairs, replacements and renewals from time to time, so that at all times the Project may be operated properly in a manner consistent with the Project performance standards contained in the engineering report or facilities plan for the Project, with this Contract, and with the requirements of any related permit or other governmental approval of the Project.

VII. Mitigation or Adaptation Monitoring and Reporting

The grant recipient shall provide estimates of the project's GHG emissions reductions, risk reduction, or other appropriate metrics, as approved by the program manager, through the end of the contract term, in the quarterly report, and/or final project report as applicable.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

VIII. Agreements

A. Climate Change Mitigation Easement

If the grant recipient develops, improves, restores, or rehabilitates real property that is not owned by the Contractor as part of the work of this Contract, the Contractor shall obtain a climate change mitigation easement (CCME) from the owner of the real property. CCMEs shall be enforced as conservation easements are enforced in ECL section 49-0305. The grant recipient shall develop, execute, and file the CCME with the County Clerk. The CCME must ensure the following:

- The property shall be accessible to the municipality for any necessary work to achieve the funded purpose throughout the anticipated life of the project.
- The property shall provide the identified public benefit, e.g., publicly accessible clean vehicle charging or fueling, throughout the anticipated life of the project.
- The property shall be used to achieve climate protection and mitigation goals pursuant to ECL Article 54 Title 15 "Climate Smart Community Projects," e.g., reduction of greenhouse gas emissions from municipal and community transportation, throughout the anticipated life of the project.
- The property owner shall provide information and data to the municipality or will provide access to the municipality for collection of data, as specified in the rebate contract.
- The term for the easement shall adequately accommodate the required expected useful life of the project, which is 10 years.

B. Partnership Agreement

For projects involving multiple entities formal, finalized agreements, (such as memoranda of understanding [MOU]) executed by all parties substantiating the collaboration and detailing the responsibilities, role, and match contribution of each party to the agreement must be executed and received by the DEC before the grant contract will be moved to final execution.

IX. Funding Acknowledgement

A. The following statement acknowledging DEC funding for the project must be included in any press releases or other public announcement, including newspaper articles and web posting, as well as all documents, brochures, reports, signage, maps, and exhibits: "This project has been funded in part by The Climate Smart Community Grant Program, Title 15 of the Environmental Protection Fund through the NYS Department of Environmental Conservation." If a ribbon-cutting or other promotional event is planned for the project, the event must be coordinated with the DEC Press Office.

B. Construction projects require the installation of an Environmental Protection Fund funding acknowledgement sign and a 30-day notice of construction commencement. An approved sign design will be provided to the grantee upon full execution of the contract. The signage must remain in place for the life of the project.

X. Ownership

Pursuant to ECL 54-1515, all infrastructure funded through the CSC program must be owned by the grantee and cannot be transferred to another entity for the duration of the infrastructure's useful life. Through a Climate Change Mitigation Easement, the infrastructure may be placed on property

not owned by the municipality.

XI. Retainage

Per 6 NYCRR Part 492, Climate Smart Communities Projects, a retainage of 5% will be withheld from each payment request for adaptation and mitigation projects (implementation). The retainage is held in case a project is not completed or all required match is not provided by the grantee. All accumulated retainage will be added to the final payment request upon project completion, match fulfillment, and submission of all deliverables.

XII. Climate Smart Communities Certification Projects

A. For certification actions funded in the Climate Smart Communities Certification Project category, the grant recipient shall include in the work plan all deliverables required for each action as described in the Climate Smart Communities Certification Portal Actions Page at https://www.ClimateSmart.ny.gov under subheadings "E. How to Obtain Points for this Action" and "F. What to Submit" and provide these items as deliverables under the MCG.

B. Work plans for certification actions funded in the climate smart communities Certification Project category must include a submittal of documentation required for certification approval through the Climate Smart Communities Certification Portal at https://www.ClimateSmart.ny.gov

XIII. Contract Dates

The contract start date for all contracts awarded through this request for application will be March 15, 2022. Only those eligible project related costs incurred between March 15, 2022 and March 14, 2027 will be eligible for reimbursement of grant funding. Payments will not be approved or processed by the DEC until a MCG is fully approved by the DEC and, as applicable, the Attorney General and the State Comptroller, and work has been completed under the state contract. Advance payments are not authorized as part of the Climate Smart Communities Program. One-year extensions will be considered on a case-by-case basis.

XIV. Job Creation

Grantees will report on jobs created as a result of the funded project in the quarterly report.

XV. Compliance

Upon notification from the municipality that the project is complete, the Department will determine if the project is operating in accordance with applicable laws and regulations. 6 NYCRR 492-3.5(d).

XVI. Reclaim of Funds

The DEC reserves the right to reclaim funds paid to a grantee if false statements regarding eligibility of the project or any if its components are discovered after award or payment has been made.

XVII. State Assistance Payments

After approval of the Climate Smart Communities Grant award, the commissioner may, in the name of the state, enter into contracts or purchase orders with municipalities to provide state assistance payments toward the cost of cost of climate smart communities projects. Contracts and purchase orders shall include the following provisions:

a) an estimate of the costs of the project, as determined by the commissioner;
b) an agreement by the commissioner to make state assistance payments toward the cost of the project by periodically reimbursing the municipality during the progress of project development or following completion of the project as may be agreed upon by the parties, in an amount not to exceed the amounts established elsewhere in this title; and
(i) an agreement by the municipality to proceed expeditiously with and complete the

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

project as approved by thecommissioner;

(ii) to undertake and maintain the climate smart community project in accordance with applicable law and rules and regulations;

(iii) to provide for the payment of the municipality's share of the cost of the project;

(iv) to assume the full cost of any additional elements or continued operation of the project;

(v) to repay within one year of notification by the commissioner, any state assistance payments made toward the cost of the project or an equitable portion of such monies declared appropriate by the commissioner, if the municipality fails to complete the project as approved. No repayment, however, shall be required where the commissioner determines that such failure, disposition, or change of use was immediately necessary to protect public health and safety; and

(vi) to apply for and make reasonable efforts to secure federal assistance for the project.

In connection with each contract, the commissioner shall keep adequate records of the amount of the payment by the state, if any, received by the municipality. Such records shall be retained by the commissioner and shall establish the basis for recalculation of the state payment as required herein.

The commissioner shall impose such contractual requirements and conditions upon any municipality which receives state assistance payments pursuant to this title as may be necessary and appropriate to ensure that a public benefit shall accrue from the use of public funds by such municipality. Such conditions shall include limitations on the right of the municipality to demolish or convey such property; provisions for public access or use where appropriate; a requirement that all plans for restoration, rehabilitation, improvement, demolition or other physical change must be subject to the commissioner's approval; and such other conditions which shall assure the preservation and protection of the project.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

SUMMARY

PROJECT NAME: Town of Amherst Organics Management Plan

CONTRACTOR SFS PAYEE NAME: AMHERST TOWN OF

CONTRACT PERIOD: From: 03/15/2022

To: 03/14/2027

CATEGORY OF EXPENSE	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
1. Personal Services					
a) Salary	$12,500.00	$12,500.00	100 %	$0.00	$25,000.00
b) Fringe	$0.00	$0.00	0 %	$0.00	$0.00
Subtotal	$12,500.00	$12,500.00	100 %	$0.00	$25,000.00
2. Non Personal Services					
a) Contractual Services	$15,000.00	$15,000.00	100 %	$0.00	$30,000.00
b) Travel	$1,500.00	$1,500.00	100 %	$0.00	$3,000.00
c) Equipment	$0.00	$0.00	0 %	$0.00	$0.00
d) Space/Property & Utilities	$0.00	$0.00	0 %	$0.00	$0.00
e) Operating Expenses	$0.00	$0.00	0 %	$0.00	$0.00
f) Other	$1,000.00	$1,000.00	100 %	$0.00	$2,000.00
Subtotal	$17,500.00	$17,500.00	100 %	$0.00	$35,000.00
TOTAL	$30,000.00	$30,000.00	100 %	$0.00	$60,000.00

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT B-1 EXPENDITURE BASED BUDGET

PERSONAL SERVICES DETAIL

SALARY					
POSITION TITLE	**ANNUALIZED SALARY PER POSITION**	**STANDARD WORK WEEK (HOURS)**	**PERCENT OF EFFORT FUNDED**	**NUMBER OF MONTHS FUNDED**	**TOTAL**
Sustainability Coordinator	$5,000.00	40	50	60	$25,000.00
				Subtotal	$25,000.00
TOTAL FRINGE					
				PERSONAL SERVICES TOTAL	$25,000.00

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
Consulting Fees for assistance with development of organics mgmnt plan	$30,000.00
TOTAL	$30,000.00

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/DESCRIPTION	TOTAL
Compost Operation Training Class- Member Price with Membership included	$1,238.36
Lodging for duration of Compost Operation Training Class for municipal staff- approx. cost	$800.00
2023 NYSAR3 Organics Summit	$175.00
Misc. costs & fees associated with travel and training municipal staff	$786.64
TOTAL	$3,000.00

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

OTHER - TYPE/DESCRIPTION	TOTAL
CREF "Composting Handbook"	$158.00
Various other training manuals, webinars, and training sessions for sustainability coordinator	$1,842.00
TOTAL	$2,000.00

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT C - WORK PLAN

SUMMARY

PROJECT NAME: Town of Amherst Organics Management Plan

CONTRACTOR SFS PAYEE NAME: AMHERST TOWN OF

CONTRACT PERIOD: From: 03/15/2022

To: 03/14/2027

Project Summary: A high-level overview of the project, including the overall goal and desired outcomes.

With the impending start of the NYS Food Donation and Food Scraps Recycling Act in January 2022, the Town of Amherst recently began a pilot food scrap recycling initiative program for residents. While we have seen some success from this program in reducing tonnage sent to landfill (approximately 50 tons since the inception of the program), we feel that we are ready to take the program to the next level and offer this initiative to more residents and expand our number of locations where we can accept material. We have already put into place various aspects of our next step (purchasing of kitchen size compost bins to distribute to interested residents, printing and marketing of materials describing our program and eventual goals, etc.), but now we must formally develop an organics management plan and train staff to properly operate our compost piles.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT C - WORK PLAN

DETAIL

Objective	
1	Project Administration - Administration of CSC Grant

Tasks

1.1 Initial Contract Meeting with grantee and DEC Office of Climate Change - Meeting to plan grant phases

Performance Measures

1.1.1 Meeting Summary - Meeting outline showing plan between DEC and ToA.

Tasks

1.2 Public Relations - Notify OCC of any press events, releases, or groundbreaking ceremonies.

Performance Measures

1.2.1 Notify OCC - Notify OCC of any press events, releases, or groundbreaking ceremonies

1.2.2 Attribution Statement MUST be included in all press - "This project has been funded in part by the Climate Smart Communities Grant Program, Title 15 of the Environmental Protection Fund through the New York State Department of Environmental Conservation."

Tasks

1.3 Reporting - Quarterly and Annual Reports

Performance Measures

1.3.1 Quarterly Progress Reports - Quarterly progress reports submitted to OCC within 30 days of the close of the quarter.

1.3.2 Reimbursement Requests - Reimbursement requests submitted as needed, but only at the end of a quarter. Final reimbursement request due to OCC within 120 days of the contract end date.

1.3.3 Final Project Summary Report - Final project summary report and all deliverables submitted to OCC within 60 days of the contract end date.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT C - WORK PLAN

DETAIL

Objective	
2	Procure Consultant(s) - Procedures for Consultant hiring through RFP process

Tasks	
2.1	Draft RFP - Contains Four required elements for PE5 Action: Organics Management Plan: 1) a record of community engagement,2) goals for the organics program, 3) a list of organics management strategies, and 4) an implementation timeline.
	Performance Measures
2.1.1	Submit Draft RFP - Submit draft RFP to OCC for review.

Tasks	
2.2	Release RFP - Publishing and Release of RFP
	Performance Measures
2.2.1	Publish RFP - Copy of final RFP and copies of advertisements placed for RFP through appropriate media, such as local newspaper and professional journals submitted to OCC.

Tasks	
2.3	Select Consultant / Contractor - Begin process of selection and award
	Performance Measures
2.3.1	List of Applicants - List of applicants, intent to hire letter, and copy of executed contract submitted to OCC.

Tasks	
2.4	Project Kickoff - Meeting with Consultant, grantee, and OCC.
	Performance Measures
2.4.1	Meeting Summary - Summary of meeting and timeline/plan for completing the scope of work submitted to OCC.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT C - WORK PLAN

DETAIL

Objective	
3	Public Outreach & Engagement - Notifying public to engage

Tasks	
3.1	Develop List of Stakeholders - Develop list of relevant stakeholders to be included in the planning project, including but not limited to: students, elderly, advocacy groups, neighborhood associations, chambers of commerce, and low income, minority, and vulnerable populations.
	Performance Measures
3.1.1	List of Identified Stakeholders - List of identified stakeholders submitted to OCC

Tasks	
3.2	Public Outreach - Public outreach & engagement plan
	Performance Measures
3.2.1	Public Outreach & Engagement Plan - Copy of public outreach and engagement plan submitted to OCC.
3.2.2	Meeting Schedules - Copy of committee, workshop, and public meeting schedule submitted to OCC.
3.2.3	Meeting Summaries - Summary of each meeting and public comment; copy of all public meeting materials and presentations submitted to OCC.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT C - WORK PLAN

DETAIL

Objective	
4	Develop & Adopt Organics Management Plan - Develop & Adopt Organics Management Plan

Tasks	
4.1	Create a baseline assessment - Gather data and/or conduct studies to determine food waste content in the municipal waste stream as well as an assessment of the number of residents that could benefit from an organics program.

Performance Measures

4.1.1	Baseline Assessment - Submit to OCC

Tasks	
4.2	Draft Organics Management Plan - including, at minimum, the four required elements: 1) a record of community engagement, 2) the goals of the program, 3) a list of the proposed organics management strategies, and 4) an implementation timeline. For the list of proposed organics mgmnt.

Performance Measures

4.2.1	Submit to OCC - Draft organics management plan submitted to OCC
4.2.2	Point Memo - Memo indicating which organics management strategies in the draft plan correspond to which point tiers within PE5 Action: Organics Management Plan.

Tasks	
4.3	Finalize and adopt plan - Make the final plan available to the public.

Performance Measures

4.3.1	Final plan submission - Final organics management plan submitted to OCC
4.3.2	Copy of Resolution - Copy of resolution adopting the plan submitted to OCC
4.3.3	Web Address - Web address for final plan available to the public submitted to OCC

Tasks	
4.4	Prepare for CSC Cert. - Prepare to submit for CSC certification

Performance Measures

4.4.1	Upload Copy - Upload a copy of the adopted organics management plan to the CSC portal ii. Upload a copy of the meeting minutes or resolution showing the plan was adopted iii. Submit evidence that the final plan was made available to the public

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

ATTACHMENT D

PAYMENT AND REPORTING SCHEDULE

I. **PAYMENT PROVISIONS**

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment, Initial Payment and Recoupment Language (if applicable):

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of ___ percent (___%) the budget as set forth in the most recently approved applicable Attachment B form (Budget).

2. The State Agency will make an initial payment to the Contractor in the amount of ___ percent (___%) of the annual budget as set forth in the most recently approved applicable Attached B form (Budget). This payment will be no later than ___ days from the beginning of the budget period.

3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period	Amount	Due Date

4. Recoupment of any advance payment(s) or initial payment(s) shall be recovered by crediting (___%) of subsequent claims and such claims will be reduced until the advance or initial payment is fully recovered within the contract period.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

B. Interim and/or Final Claims for Reimbursement

Claiming Frequency: Quarterly Reimbursement

Number of Days/Claims: 30

For Quarterly, Monthly and Biannual Reimbursement Claim Frequency, the above field represents the number of days after the claim period that the claim is due to the State from the Grantee.

For Interim Reimbursement as Requested by Contractor the Number of Days/Claims is not applicable.

For all other selected Claim Frequency, the Number of Days/Claims represents the number of claims due under the contract and listed in the table below.

Expenditure Period Dates		Due Date
From	To	

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

[X] Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

[ ] Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than ___ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

[X] Expenditure Report

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

[X] Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 60 days after the end of the contract period.

[ ] Consolidated Fiscal Report (CFR) [1]

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

[1] The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until ___ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is ___. The agency shall complete its audit and notify vendor of the results no later than ___. The Contractor shall submit the report not later than ___ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

TABLE 1 - REPORTING SCHEDULE

PROGRESS REPORT #	PERIOD COVERED		Due Date
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Attachment: ContractDocumentsU-DEC01-T01237GG-3350000-P1-072122 (RES-2022-1090 : Authorize Supervisor to Sign Contract with NYSDEC

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Emergency Services
Initiated by: **Jim Zymanek**
Co-Sponsored by:

DOC ID: 26669 **RESOLUTION 2022-1091** **ADOPTED**

Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment

The Town of Amherst Department of Emergency Services & Safety supports the request to have the Amherst Town Board consent to the Swormville Fire Co. Inc. Certificate of Amendment to become a 501(c)(3) tax exempt corporation. The Town Attorney has the original Certificate of Amendment.

11/7/2022
Consent

FINANCIAL IMPACT:

na

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

Attachment: Swormville 501c3 (RES-2022-1091 : Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment)

CERTIFICATE OF AMENDMENT

OF

THE SWORMVILLE FIRE COMPANY, INC.

PURSUANT TO SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

FILED BY: PINSKY LAW GROUP, PLLC
ATTN: BRADLEY PINSKY, ESQ.
4311 EAST GENESEE STREET
SYRACUSE, NEW YORK 13214
(315) 428-8345

CERTIFICATE OF AMENDMENT
OF THE
CERTIFICATE OF INCORPORATION
OF
THE SWORMVILLE FIRE COMPANY, INC.

UNDER SECTION 803 OF THE NOT-FOR-PROFIT CORPORATION LAW

The undersigned, being the president and secretary of the The Swormville Fire Company, Inc. do hereby certify and set forth:

1. The name of the Corporation is The Swormville Fire Company, Inc.

2. The certificate of incorporation of the Corporation was filed by the Department of State on the 10h day of December, 1923. The Corporation was formed pursuant to the Membership Corporation Law.

3. The Corporation purports to be a Charitable Corporation as defined in Section 201 of the Not-For-Profit Corporation Law. The Corporation is a corporation as defined in Section 102(a)(5) of the Not-For-Profit Corporation Law.

1. The first paragraph of the Certificate of Incorporation, which sets forth the objects/purposes of the Corporation is hereby amended to restate the purposes of the Corporation, as follows:

   The purposes for which the Corporation is organized are:

   A. To recruit and retain firefighters;

   B. To train and educate firefighters;

   C. To provide fire, rescue and emergency medical services in the fire protection district and elsewhere as contracts and mutual aid requires;

   D. To own and acquire land and to construct, erect and maintain buildings for Corporate purposes;

   E. To provide social activities which promote the health and wellness of the members;

   F. To house apparatus and equipment utilized in providing fire protection, rescue and emergency medical services;

   G. To stay abreast of issues affecting the fire service;

   H. To honor the traditions of the Fire Company and its members;

Attachment: Swormville 501c3 (RES-2022-1091 : Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment)

I. To assist and honor present and past firefighters and their families, and fire departments, and other fire departments and other organizations that support firefighters in need of such assistance;

J. To maintain the reputation and honor of the Fire Company throughout the community;

K. To support fraternal organizations relating to the fire service;

L. To support issues important to the fire service;

M. To educate the community in fire prevention;

N. To support the community and its residents in times of need;

O. In accordance with the above, to have and exercise all powers available to corporations organized pursuant to the Not-For-Profit Corporation Law of the State of New York.

4. The third paragraph of the Certificate of Incorporation is hereby amended to remove the maximum number of directors of the Corporation, as follows:

The number of directors of the Corporation shall not be less than three (3).

5. The Certificate of Incorporation is hereby amended to add a new Article 10, which contains provisions relating to the management of the Corporation, to read:

10. Some or all of the duties, responsibilities and obligations of the management of the Corporation may be vested in the members of the Corporation.

7. The Certificate of Incorporation is hereby amended to add a new paragraph which contains provisions prohibiting certain distributions of corporate assets, to read:

No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation, or to any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation), and no member, trustee or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the Corporation's assets upon dissolution of the Corporation.

8. The Certificate of Incorporation is hereby amended to add a new paragraph, which contains provisions regarding the Corporation acting consistent with the federal tax code, to read:

Notwithstanding anything herein to the contrary, the Corporation shall exercise only such powers as are in furtherance of and consistent with the exempt purposes of organizations

Attachment: Swormville 501c3 (RES-2022-1091 : Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment)

set forth in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and regulations promulgated there under, as the same now exist or as they may hereafter be amended from time to time.

9. The Certificate of Incorporation is hereby amended to add a new paragraph, which contains provisions prohibiting violations of the federal tax code, to read:

Notwithstanding any other provisions of this certificate, the Corporation shall not carry on activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

10. The Certificate of Incorporation is hereby amended to add a new paragraph which contains provisions relating to limiting the corporate lobbying and other political activities of the Corporation, to read:

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Internal Revenue Code Section 501 [h]), or participating or intervening in (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidates for public office.

11. The Secretary of State is designated as the agent of the Corporation upon whom service of process against the Corporation may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

The Swormville Fire Company
Attn: President
6971 Transit Road
Swormville, NY 14146

12. These amendments to the Certificate of Incorporation of the Corporation were authorized pursuant to section 802 of the Not-For-Profit Corporation Law, by a majority of the votes cast at a meeting of members by the members entitled to vote thereon, and that the affirmative votes cast in favor of these amendments were at least equal to the quorum required for such meeting.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 18th day of July, 2022.

, President

, Secretary

Attachment: Swormville 501c3 (RES-2022-1091 : Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment)

TOWN OF AMHERST CONSENT

The Town of Amherst, Erie County, hereby approves and consents to the filing of this certificate of amendment of the certificate of the incorporation of the The Swormville Fire Company, Inc.

Board Members:

_____ _____

_____ _____

_____

Dated: _____, 2022

Secretary Certification: I hereby certify that this is a true and accurate copy of the resolution of the Town of Amherst and that such resolution was approved at a duly organized meeting of the Board.

_____
, Secretary

Dated: ____ _____, 2022

Attachment: Swormville 501c3 (RES-2022-1091 : Consent Requested for Swormville Fire Co., Inc. Certificate of Amendment)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26691 **RESOLUTION 2022-1092** **ADOPTED**

Joint Application for a Strengthening Mobility and Revolutionizing Transportation (Smart) Grant

WHEREAS, the Bipartisan Infrastructure Law (BIL) established the Strengthening Mobility and Revolutionizing Transportation (SMART) discretionary grant program with $100 million appropriated annually for fiscal years 2022-2026, and

WHEREAS, the SMART program was established to provide grants to eligible public sector agencies to conduct demonstration projects focused on advanced smart community technologies and systems in order to improve transportation efficiency and safety, and

WHEREAS, the Fiscal Year 2022 Notice of Funding Opportunity (NOFO) is open through November 18, 2022, and

WHEREAS, the Town of Amherst has invested in smart signal technologies that allow for other funding opportunities such as the SMART grant program, and

WHEREAS, there is benefit in leveraging the Town's smart signal network in applying for a planning project to:

- Prioritize emergency vehicles, buses, and other public fleets through traffic signal priority,
- Reduce congestion by leveraging trajectory analysis along a corridor to adjust signal timing to current conditions,
- Address non-reoccurring congestion, prioritize investments for pedestrians and cyclists, or other complex problems, leveraging advanced tools such as AI,
- Improve the operation and management of traffic signals and develop evaluation criteria that support agency goals leveraging Automated Traffic Signal Performance Measure (ATSPM) equipped signals, and

NOW, THEREFORE, BE IT RESOLVED, that the Amherst Town Board supports either a joint application with neighboring communities or a regional application by the Greater Buffalo Niagara Regional Transportation Council to submit a SMART application to leverage the region's smart signal technologies currently in place.

11/7/2022
Consent

FINANCIAL IMPACT:

N/A

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: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26692 **RESOLUTION 2022-1093** **ADOPTED**

Verizon Intelligent Lighting Agreement Street Lighting Acquisition and Upgrade Project CRS #3692

The Street Lighting Acquisition and Upgrade Project includes a smart city component where Asset Management Control (AMC) nodes will be installed as part of the project. AMC nodes allow for an outage reporting system and greater street light functionality and control. There is no cost associated with this agreement.

Would you please authorize the Supervisor to sign the attached Verizon Intelligent Lighting Agreement, Exhibit B? This request is pending successful completion of the contract review process. Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

N/A

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

Verizon Contract ID: 3958425

MASTER RESELLER AGREEMENT
INTELLIGENT LIGHTING

This MASTER RESELLER AGREEMENT (the "**Agreement**") is between Cellco Partnership, a Delaware General Partnership, doing business as Verizon Wireless, having its principal place of business at One Verizon Way, Basking Ridge, NJ 07920, on behalf of itself and its controlled and/or managed affiliates ("**Verizon Wireless**") and ----, a ---- corporation located at ----- ("**Reseller**") (each a "party" and together the "parties").

Reseller's Information			
Company Name:			
Company Street Address:	**City:**	**State:**	**ZIP:**
	Fed. Tax ID #:	**D&B #:**	
Legal Notices Address (if different from above)			
Address:	**City:**	**State:**	**ZIP:**
Points of Contact			
Name: Richard Anderson	**Name:**		
Address:	**Address:**		
Title: **Phone:**	**Title:**	**Phone:**	
Company E-mail:	**Company E-mail:**		

1. **Definitions**.
   a. **Affiliate**: With respect to a party, an entity controlled by, controlling, or under common control with such party.
   b. **Equipment**: The Intelligent Lighting Light Sense nodes that communicate with the Platform over the Verizon Wireless network.
   c. **Equipment Delivery Date**: The date the Equipment ordered by Reseller is provided to the shipper for shipment to the designated delivery address.
   d. **In-Service Date**: For any given order of Equipment under this Agreement, the In-Service date is the earlier of the date Equipment installation is complete for such order or three (3) months after the first Equipment Delivery Date.
   e. **Intelligent Lighting Materials**: Hard or electronic copies of any technical manual, sales and marketing material, hardware, or software related to the Intelligent Lighting Service that Verizon Wireless makes available to Reseller.
   f. **Intelligent Lighting Service**: The Intelligent Lighting solution as further described in Section 2 below.
   g. **Intellectual Property Rights**: Any and all now known or hereafter existing rights associated with intangible property including, but not limited to, registered and unregistered United States and foreign copyrights, trade dress, trade names, corporate names, logos, inventions, patents, patent applications, software, know-how, and all other intellectual property and proprietary rights (of every kind and nature throughout the universe and however designated).
   h. **Legal Notice**: A written communication given by one party to the other that advises of a dispute under or termination of this Agreement, or that is otherwise required by this Agreement.
   i. **Participation Agreement**: An agreement that permits an Affiliate of Reseller to exercise the resale rights granted herein to Reseller on the same terms and conditions set forth in the Agreement.
   j. **Participating Affiliate**: An Affiliate of Reseller that has entered into a Participation Agreement.
   k. **Platform**: The Intelligent Lighting NetSense™ software platform hosted and managed by Verizon Wireless that is accessed and used by a Reseller Customer as part of the Intelligent Lighting Service to manage Equipment.
   l. **Portal**: A web-based portal for Reseller Customers to access and use the platform.
   m. **Professional Services**: Technical and consultative services of a fixed scope and/or duration related to Service provisioning, management and/or support.
   n. **Reseller Customer**: A US-based legal entity that purchases the Intelligent Lighting Service from Reseller.
   o. **Territory**: All geographic areas within the United States where Verizon Wireless is authorized to provide wireless mobile service over its owned and operated networks.

DRAFT - SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

p. **Wireless Service**: Radio service provided directly or indirectly by Verizon Wireless in the Territory in connection with the Intelligent Lighting Service.

2. **Intelligent Lighting Service:** The Intelligent Lighting service ("Service") uses advanced monitoring and analytics to permit a Reseller Customer to manage and control its LED street lights through a web-based portal. The Service is comprised of the following components: (a) hosted Intelligent Lighting software platform; (b) Equipment for gathering lighting-related information and management of luminaires; (c) wireless connectivity over the Verizon Wireless network for two way communication with the Equipment and the software platform; (d) professional services; and (e) support..

3. **Term of Agreement**: Unless earlier terminated, this Agreement will commence on the date the last party signs (the "**Effective Date**") and will continue for a period of two years ("**Initial Term**") and then continue on a month-to-month basis (together with the Initial Term, the "**Term**") until either party provides 30 days' prior Legal Notice to the other of its intent to terminate this Agreement. Upon termination of the Agreement, Verizon Wireless will continue to fulfill orders entered into during the Term until such orders expire according to their terms, provided that Reseller breaches no terms related to Verizon Wireless's fulfillment of such orders. If Reseller is the terminating party, Reseller will be responsible for any early termination fees due under this Agreement in addition to all charges incurred by Reseller under this Agreement.
   a. **Early Termination**: Verizon Wireless may terminate this Agreement at any time if Reseller breaches any of the terms and conditions herein and fails to cure such breach within 30 days of receiving notice. If a breach is not capable of cure, Verizon Wireless reserves the right to terminate the Agreement for cause by providing 10 days' Legal Notice to Reseller. Termination of this Agreement will also terminate the Intelligent Lighting Service under this Agreement. Nothing in this Section shall limit Reseller's liability for any and all charges incurred by Reseller under this Agreement. ***Termination will not relieve Verizon of obligation to continue to provide Intelligent Lighting Service to Reseller Customers through their service terms, provided Reseller continues to meet its obligations under agreement with respect to that Reseller Customer (e.g., make payment for service).***
   b. **Survival**: All provisions of this Agreement that by their nature are intended to survive termination or expiration will so survive.

4. **Resale Appointment**: This Agreement allows Reseller and each of its Participating Affiliates to resell the Intelligent Lighting Service as a Verizon Wireless-hosted platform-as-a-service (PaaS) to Reseller Customers in the United States only for their own use, subject to the following:
   a. **Service Term**: So long as this Agreement is in effect and subject to the terms and conditions herein, Reseller may resell the Intelligent Lighting Service to Customers for a term based on the duration of the licenses purchased by Reseller on behalf of such Reseller Customer, which duration will include both the initial term and any renewal term(s) of the license as further described in Exhibit A ("**Service Term**"). The Service Term may not exceed a maximum of ten (10) years without Verizon Wireless' prior written approval.
   b. **Resale Restrictions**: Reseller is prohibited from: (i) reselling the Intelligent Lighting Service to retail distributors; or (ii) allowing its agents or subcontractors to resell the Intelligent Lighting Service under this Agreement.
   c. **Customer Agreement**: Each Reseller Customer will be subject to a customer agreement between such Reseller Customer and Verizon Wireless that describes the terms and conditions applicable to the Intelligent Lighting Service ("**Customer Agreement**"). A copy of the form of the Customer Agreement is appended to this Agreement as Exhibit B. Before Reseller and Reseller Customer enter into their agreement, Verizon Wireless and Reseller Customer will negotiate the Customer Agreement beginning with the form of the Customer Agreement as appended to this Agreement as Exhibit B, which may also include a statement of work ("**SOW**") for professional services, as required or desired by such Reseller Customer. The Customer Agreement must be executed by Reseller Customer and Verizon Wireless to be effective. VERIZON WIRELESS WILL NOT HAVE ANY OBLIGATIONS TO A RESELLER CUSTOMER UNTIL AND UNLESS THE PARTIES HAVE BOTH SIGNED A CUSTOMER AGREEMENT.
   d. **Marketing**: Reseller shall use commercially reasonable efforts to market and promote use of the Intelligent Lighting Service.
   e. **Payment of Charges**: All charges related to purchases and/or use of the Intelligent Lighting Service by a Reseller Customer, and any professional or other similar services provided under a SOW between a Reseller Customer and Verizon Wireless pursuant to Section 4.c above, will be billed to Reseller and Reseller will pay such charges in accordance with Section 11 below.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

f. **Internal Use License**: Reseller will be permitted to use the Intelligent Lighting Service on behalf of Reseller Customers or potential Reseller Customers for the following purposes only: (i) market the Intelligent Lighting Service and (ii) demonstrate the Intelligent Lighting Service to potential Reseller Customers.

5. **Orders**. Reseller will have the right to purchase the Intelligent Lighting Service for use by Reseller Customers pursuant to a Customer Agreement signed by Verizon Wireless by issuing an order to Verizon. All orders will be accepted by Verizon Wireless if they contain the following: (i) name and address of the Reseller Customer, (ii) contact name; and (iii) a copy of the signed Customer Agreement; and (iv) pricing consistent with Exhibit A of this Agreement.

6. **License to Materials**:
   a. **Reseller Marketing Materials**: Verizon Wireless grants Reseller a non-exclusive, non-transferable, non-sublicensable right and license during the Term of this Agreement to: (i) use the Intelligent Lighting Materials during the Term of this Agreement solely in conjunction with the marketing, promotion and resale of the Intelligent Lighting Service; and (ii) modify certain Intelligent Lighting Materials expressly designated for such purpose by incorporating Reseller trademarks and/or brand features (**"Reseller Branding"**) in a manner approved by Verizon Wireless.
   b. **License to Marks**: Verizon Wireless grants Reseller a limited, non-exclusive, non-transferable, non-sublicensable, non-assignable license to display the Verizon Wireless trademarks or service marks contained in the Intelligent Lighting Materials or in any other materials that are supplied by Verizon at the request of Reseller and in accordance with Verizon written trademark guidelines and policies as supplied by Verizon and updated from time to time in writing connection with this Agreement (the **"Marks"**). Reseller shall use such Verizon Marks solely in marketing materials, advertising and promotional literature (collectively, **"Verizon Materials"**) in furtherance of the purposes of this Agreement and in accordance with the terms and conditions of this Agreement.
   c. **Branding**: The permitted use shall include use in a co-branding context, i.e., use of the Marks in close proximity of Reseller Branding, but the permitted use shall not include domain name registration and use incorporating the Marks. Prior to Reseller's first use of the Marks, Reseller shall submit a sample of such proposed use for prior written approval by Verizon. Once approval is given for a particular use, no approval shall be required for future uses of the same Mark in the same manner. Further, neither party shall create a combination mark consisting of one or more Marks of each party.
   d. **Ownership**: Reseller acknowledges the ownership of the Marks by Verizon Wireless and agrees that Reseller will not do anything inconsistent with such ownership. Reseller agrees that its use of the Marks and all the goodwill developed there from shall inure to the benefit of Verizon Wireless and its licensors. Nothing in this Agreement shall give Reseller any right, title, or interest in or to the Marks other than the right to use the Marks in accordance with this Agreement. Reseller agrees that Reseller will not attack Verizon Wireless' title to the Marks, or the validity of this Agreement.

7. **Proprietary Rights**: Reseller acknowledges that Verizon Wireless and its licensors retain all Intellectual Property Rights and title in and to all of their Confidential Information or other proprietary information, the Intelligent Lighting Service, and the ideas, concepts, techniques, inventions, processes, software or works of authorship developed, embodied in, or practiced in connection with the services provided by Verizon Wireless hereunder, including without limitation all modifications, enhancements, derivative works, configurations, translations, upgrades, and interfaces thereto. Except as otherwise expressly provided herein, nothing in this Agreement creates any right of ownership or license in or to Verizon Wireless' Intellectual Property Rights.
   a. Upon termination of this Agreement or notice to cease and desist use of Verizon Wireless's Marks for any reason, Reseller agrees to cease all use of such Marks and return any existing supply of approved materials to Verizon within thirty (30) days after receiving such termination or cease and desist notice.

8. **Warranties**:
   a. **Resale Conduct**: Reseller will: (i) be solely responsible for all aspects of its business and its relationship with Reseller Customers other than with respect to Verizon Wireless's provision of Intelligent Lighting Service to a Reseller Customer pursuant to the terms of a Customer Agreement; (ii) conduct business in a manner that reflects favorably at all times on the Intelligent Lighting Service and the good name, good will, and reputation of Verizon Wireless; (iii) promote proper use of the Intelligent Lighting Service; (iv) avoid false, deceptive, misleading, or unethical practices that are or might be detrimental to Verizon Wireless, the Intelligent Lighting Service or the public; and (v) not make

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

any representation, warranty, or guarantee to Reseller Customers or to other third parties with respect to the specifications, features, warranties or capabilities of the Intelligent Lighting Service that are inconsistent with or are in addition to those published by Verizon Wireless (and if Reseller does make any such representation, warranty, or guarantee to Reseller Customers in breach of this provision, then without limiting Verizon Wireless' other remedies hereunder, Reseller is solely responsible to the Reseller Customers for any such representation, warranty, or guarantee).

b. **Compliance with Laws**: Reseller shall comply with all federal, state and local laws, treaties, rules, regulations and ordinances in performing this Agreement. Without limiting the scope of the foregoing, Reseller agrees to comply with the U.S. Export Administration Act, the regulations that the U.S. Department of Commerce promulgates under it, the embargoes and sanctions established by the Department of Treasury, Office of Foreign Assets Control and any other applicable laws or regulations.

9. **Rates**: Rates for the Intelligent Lighting Service ordered by Reseller are set forth in Exhibit A to this Agreement. Additional systems integration or other SOW-based services may be provided to Reseller Customers by Verizon Wireless. Charges for the Intelligent Lighting Service and any additional services will be incorporated into the agreement between Reseller and the Reseller Customer and will be paid for by Reseller pursuant to this Agreement. For any non-recurring charges provided by Verizon to a Customer relating to SOW-based services, Verizon Wireless will provide a statement of charges relating to such services to Reseller along with a copy of the related Customer SOW that details such services.

10. **Billing and Payments:**
    a. **Bills:** Reseller's bills will be available through an online portal. Printed paper bills will not be provided. Reseller is responsible for all amounts billed by Verizon Wireless to Reseller, including taxes, for purchases made by Reseller in connection with this Agreement. Service fees are generally billed in advance but may vary based on the specific plans purchased by Reseller, as further detailed in Exhibit A. Payments are nonrefundable. Reseller shall pay all charges attributable to Reseller Customer and other third-party fraudulent use of the Intelligent Lighting Service or any underlying Wireless Service.
    b. **Payment Terms:** Reseller is required to pay undisputed charges within 45 days of the date of each bill.
    c. **Disputed Charges:** Reseller must dispute any charges within 180 days from the due date of the bill by providing written notice to Verizon Wireless, including the date of the bill, the disputed amount, the reason for the dispute, and any supporting documentation. The parties will make a good faith effort to reconcile the dispute within 60 days of the date of notice. If both parties cannot reach an agreement in that time, either party may invoke the "Dispute Resolution" process described below.
    d. **Failure to Pay:** If Reseller fails either to make a payment on time or to dispute charges as required and fails to cure such deficiency within 10 days of written notice by Verizon Wireless, Verizon Wireless may upon prior written notice to Reseller, suspend or terminate the Intelligent Lighting Service. If Verizon Wireless sends Reseller's account to a third party for collection, Verizon Wireless will charge a collection fee. Verizon Wireless may require Reseller to provide a deposit to secure payments under this Agreement. Such a deposit shall not relieve Reseller of its obligation to make future payments and shall bear interest as required by law.
    e. **Refunds:** In the event a Reseller Customer validly terminates the Intelligent Lighting Service for cause as provided in the associated Customer Agreement, Verizon Wireless will issue a partial refund to Reseller for fees already paid by Reseller to Verizon Wireless in respect of the terminated services and/or returned Equipment. The amount of the refund will be equal to the pro rata portion of the Software-as-a-Service (license) fees that are prepaid but unused as of the date of termination, based on a straight line allocation of the license fees over the term of the license. Fees for Equipment and professional services (including provisioning services) are not refundable. In no event will the refund exceed the total amount of fees actually paid by Reseller on behalf of the terminating Reseller Customer. Refunds will be paid within 90 days following the date of the Customer's valid termination for cause.

11. **Taxes:**
    a. If any federal, state, or local tax, fee, or other governmental imposition, including any sales, use, or other transaction tax (each, a "Tax"), is due to be collected or paid with respect to a charge billed by Verizon Wireless to Reseller under this Agreement, then (i) Verizon Wireless may bill such Tax to Reseller, (ii) Reseller shall promptly pay any such billed amount of Tax to Verizon Wireless, and (iii) Verizon Wireless shall remit any such paid amount of Tax to the appropriate tax authorities; provided, however, that Verizon Wireless shall not bill to or otherwise attempt to collect from Reseller any Tax with respect to which Reseller has provided Verizon Wireless with an exemption certificate or

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

other reasonable basis for relieving Verizon Wireless of its responsibility to collect such Tax from Reseller; and provided further, however, that if such exemption certificate or other basis for relieving collection responsibility is determined by a taxing authority to be invalid or ineffective, then Reseller shall be responsible to Verizon Wireless or, as between Reseller and Verizon Wireless, to the taxing authority for the uncollected Tax plus interest and penalty.

b. All payments by Reseller to Verizon Wireless under this Agreement shall be made within the United States and shall be made without deduction or withholding for any Tax or, if any deduction or withholding for any Tax is required by law, then (i) the sum payable by Reseller in respect of which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, Verizon Wireless receives and retains (free from any liability in respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required, (ii) Reseller shall pay the full amount required to be deducted or withheld to the relevant governmental authority in accordance with applicable law, and (iii) Reseller shall promptly provide Verizon Wireless satisfactory evidence of such payment to the relevant governmental authority upon request.

12. **Confidentiality:**

a. **Confidential Information**: The parties acknowledge that by reason of their relationship under this Agreement, they may have access to and acquire knowledge, material, data, systems and other information concerning the operation, business, projections, market goals, financial affairs, Services, services, customers and Intellectual Property Rights of the other party that may not be accessible or known to the general public ("**Confidential Information**"). Confidential Information includes (i) the terms of this Agreement; (ii) Intelligent Lighting Materials; (iii) information which concerns technical details of operation of any of the Intelligent Lighting Service; and (iv) any information that is identified as confidential (or a similar designation) at the time of disclosure or, if not so marked would be understood by a reasonable person to be confidential.

b. **No Disclosure**: Each party receiving Confidential Information (the "**Receiving Party**") shall keep all such Confidential Information received from the other party (the "**Disclosing Party**"), both orally and in writing, confidential and shall not disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the Disclosing Party; provided, however, that the Receiving Party may disclose Confidential Information to those advisors, Affiliates, agents, assigns, attorneys, employees, directors, officers and/or members ("Agents") with a need-to-know the Confidential Information for the purposes of this Agreement. Receiving Party shall be responsible for any breach of this Agreement by the Receiving Party or its Agents. The Receiving Party shall use the same degree of care to protect the Confidential Information as the Receiving Party employs to protect its own information of like importance, but in no event less than a reasonable degree of care based on industry standard. The Receiving Party further shall use the Confidential Information only for the purpose of performing this Agreement. In addition, the Receiving Party shall not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody Confidential Information and which are provided to the Receiving Party hereunder. Upon termination or expiration of this Agreement, the Receiving Party shall immediately return to the Disclosing Party all manifestations of the Confidential Information or, at the Disclosing Party's option, shall destroy all such Confidential Information as the Disclosing Party may designate; provided that Confidential Information may be retained by the Receiving Party to the extent that retention of such Confidential Information is necessary to comply with the Receiving Party's internal document retention policies aimed at legal, corporate governance or regulatory compliance and any such retained Confidential Information shall remain subject to the disclosure and use restrictions set forth herein, notwithstanding any termination or expiration of this Agreement.

c. **Exclusions**: The Receiving Party's obligations under the provisions above shall not apply to Confidential Information which: (i) is or becomes a matter of public knowledge through no fault of or action by the Receiving Party; (ii) was rightfully in the Receiving Party's possession prior to disclosure by the Disclosing Party; (iii) subsequent to disclosure, is rightfully obtained by the Receiving Party from a third party who is lawfully in possession of such Confidential Information and is permitted to disclose such information; (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; or (v) is required by law, regulation or legal process. In the event Receiving Party is required by law, regulation or legal process to disclose Confidential Information, Receiving Party will (to the extent practicable and not prohibited by law, regulation, or legal process) use commercially reasonable efforts to (a) promptly notify Disclosing Party in writing prior to making any such disclosure in order to afford Disclosing Party an opportunity to seek a protective order or other appropriate remedy

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

to prevent such disclosure, (b) cooperate with Disclosing Party in seeking such order or other remedy; and (c) furnish only that portion of the Confidential Information which is legally required.

d. **Remedies**: Both parties acknowledge that the restrictions contained in this Section are reasonable and necessary to protect their legitimate interests and that any violation of these restrictions will cause irreparable damage to the other party. Each party agrees that damages are not an adequate remedy for any such violation and that the other party will be entitled, in addition to any other rights and remedies it may have at law or in equity, to seek an injunction from doing or continuing to do any such act and other violations or threatened violations of this Section.

13. **Customer Data**: Verizon Wireless will, by virtue of providing the Intelligent Lighting Service for Reseller Customers, come into possession of Customer Data, which means information made available to Verizon Wireless in connection with the access and use of the Intelligent Lighting Service by Reseller and/or its Customers. "**Customer Data**" includes, but is not limited to, electricity transmission, distribution and/or supply data, utility usage data and other data that may contain personal information of Reseller Customers, their customers, employees, and/or users of the Intelligent Lighting Service, and other data provided to or obtained by Verizon Wireless, its affiliates, subcontractors and agents, in connection with the provision of the Intelligent Lighting Service. Reseller agrees that Verizon Wireless its affiliated companies, subcontractors, and agents may use, disclose, or permit access to Customer Data as required in order to provide the Intelligent Lighting Service, as is permitted in a Customer Agreement, to comply with lawful legal process, and with respect to aggregate and de-identified Reseller Customer Data, for certain other business purposes such as improving the Intelligent Lighting Service.
    a. **Restrictions**: Reseller shall not use Customer Data other than as required to market, demonstrate and resell the Intelligent Lighting Service or to fulfill its obligations to the Customer under its agreement with the Customer. Reseller shall not reverse engineer or attempt to re-identify any aggregate or de-identified Customer Data. Reseller will use commercially reasonable efforts to protect Customer Data in its possession against accidental or unlawful destruction or accidental loss, unauthorized disclosure or access.

14. **Project Managers**: Each party will appoint a project manager for serving as the first point of contact for all issues related to or arising out of this Agreement.

15. **No Agency**: Reseller acknowledges that it is a non-exclusive reseller of the Intelligent Lighting Service and that nothing in this Agreement will be construed to create a relationship between it and Verizon Wireless of partners, agents, joint venturers, or employer/employee. For clarity, neither party is authorized to act as a legal representative of the other party.

16. **Wireless Service Availability**: Reseller agrees to represent Wireless service as follows, Wireless Service uses radio technologies and is subject to transmission and service area limitations, interruptions and dropped calls caused by atmospheric, topographical or environmental conditions, cell site availability, equipment or its installation, governmental regulations, system limitations, maintenance or other conditions or activities affecting wireless service operation. Wireless service is only available within each applicable plan coverage area, within the operating range of the wireless systems, and with Smart Meters that are approved to operate on the Verizon Wireless network. Reseller acknowledges that in some areas, wireless service may be provided by a third-party roaming carrier, subject to our agreements with such carriers. Data service on these roaming carriers' networks may be limited or slowed. Third party roaming carriers are not Verizon Wireless affiliates or subcontractors and Verizon Wireless bears no liability for their network performance or their actions or omissions.

17. **Damages Exclusions/Limitations of Liability**: EXCEPT WITH RESPECT TO INDEMNITY AND DEFENSE OBLIGATIONS RELATED TO THIRD PARTY CLAIMS, OR TO BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, NO PARTY TO THIS AGREEMENT IS LIABLE TO THE OTHER PARTY, ITS EMPLOYEES, AGENTS OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES OR FOR LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, SAVINGS, OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE INTELLIGENT LIGHTING SERVICE OR INTELLIGENT LIGHTING MATERIALS, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OF ANY KIND. WITH RESPECT TO A BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE IN THE AGGREGATE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES OR FOR LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, SAVINGS, OR GOODWILL THAT EXCEEDS ONE MILLION U.S. DOLLARS ($1,000,000).

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

THE TOTAL LIABILITY OF A PARTY TO THE OTHER PARTY FOR PROVEN DAMAGES IN CONNECTION WITH THIS AGREEMENT AND THE INTELLIGENT LIGHTING SERVICE IS LIMITED TO THE GREATER OF: (A) THE AGGREGATE AMOUNT PAID OR DUE FROM RESELLER TO VERIZON WIRELESS UNDER THE ORDER FROM WHICH THE CAUSE OF ACTION AROSE DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM; OR (B) ONE MILLION U.S. DOLLARS ($1,000,000), IN EACH CASE TO THE MAXIMUM EXTENT PERMITTED BY LAW. THE LIMITATION OF LIABILITY DOES NOT APPLY TO INDEMNITY AND DEFENSE OBLIGATIONS RELATED TO THIRD PARTY CLAIMS, OR DAMAGES CAUSED BY GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD.

18. **Verizon and Reseller Indemnification**:
    a. Reseller agrees to defend, indemnify, and hold Verizon Wireless and its vendors, subcontractors, parents and Affiliates harmless from any and all liabilities, penalties, claims, causes of action, and demands, regardless of the time when they occur, that arise out of any action brought by any Reseller Customer or third party (including costs, expenses, and attorneys' fees) resulting from or relating to Reseller's gross negligence or willful misconduct in the performance of this Agreement.
    b. Verizon agrees to defend, indemnify, and hold Reseller and its Affiliates harmless from any and all liabilities (including costs, expenses, and attorneys' fees), penalties, claims, causes of action, and demands, regardless of the time when they occur, that arise out of any action brought by any third party resulting from or relating to Verizon's gross negligence or willful misconduct in the performance of this Agreement.
    c. Verizon agrees to defend, indemnify, and hold Reseller and its Affiliates harmless from any and all liabilities, penalties, claims, causes of action, and demands, regardless of the time when they occur, that arise out of any action brought by any third party (including costs, expenses, and attorneys' fees) alleging that the use of the Intelligent Lighting Service or Intelligent Lighting Materials, or any portion thereof, as contemplated hereunder infringes the Intellectual Property Rights of such third party, provided that Reseller (i) promptly gives written notice of the claim to Verizon Wireless; (ii) gives Verizon Wireless sole control of the settlement of the claim, provided that Verizon Wireless may not settle any claim: (a) unless it unconditionally releases Reseller of all liability, and (b) it does not contain a stipulation to, or an admission or acknowledgement of, any wrongdoing on the part of Reseller; and (iii) provides to Verizon Wireless, at Verizon Wireless' cost, all reasonable assistance in the defense of the claim. Verizon Wireless may select counsel to defend the claim; provided, such counsel shall communicate and correspond with Reseller's designee regarding the status and progress of the case. Notwithstanding anything to the contrary above, Reseller reserves the right to retain counsel, at Reseller's expense, and to participate in the defense and settlement of any such claim.
    d. **Notice and Defense:** Verizon Wireless shall: (i) provide Reseller with prompt Legal Notice of the claim; (ii) allow Reseller to control the defense and settlement of the claim, provided that Reseller shall not agree to any injunctive relief or settlement that obligates Verizon Wireless to perform any obligation, make an admission of guilt, fault or culpability, or incur any expense, without Verizon Wireless's prior written consent; (iii) have the right to obtain its own counsel at its own expense; and (iv) provide reasonable cooperation to Reseller.

19. **Termination of Intelligent Lighting Service**: VERIZON WIRELESS CAN, WITHOUT NOTICE, LIMIT, SUSPEND OR CANCEL RESELLER'S ACCESS TO OR USE OF THE INTELLIGENT LIGHTING SERVICE IN CONNECTION WITH THIS AGREEMENT FOR GOOD CAUSE, which shall include, but not be limited to, (a) breach of the terms of this Agreement; (b) accessing, using, or allowing access to Reseller Customer Data other than as approved in this Agreement; (c) using the Intelligent Lighting Service in a way that adversely affects the Verizon Wireless network or Verizon Wireless's customers; (d) breach by Reseller of a responsibility to comply with any applicable federal, state and local government laws, rules and regulations, industry practices, third-party guidelines, or other applicable policies and requirements; (e) the suspension or termination by any governmental body of competent jurisdiction of Reseller's activities or the institution of a requirement, ruling or regulation that conflicts with this Agreement; or (f) for operational or other governmental reasons. Verizon Wireless will not provide Reseller with any refunds or relief from its obligations under its Agreement for any termination under this section. The parties acknowledge that the termination charges set forth in this Section are a genuine estimate of the actual damages that Verizon Wireless will suffer and are not a penalty.

20. **Miscellaneous**:
    a. **Publicity**: All press releases, publicity, marketing or sales materials, or other materials developed by a party to further the purposes of this Agreement that refer to this Agreement or the relationship between the parties, which use the name or Marks of a party, reference a party or from which the connection to a party or its Marks could be inferred,

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

shall be subject to prior review and written approval by the appropriate managerial representative of the applicable party.

b. **Force Majeure:** Any failure of a party to timely perform hereunder shall be excused if the delay is caused by failure of a third-party wireless or telecommunications provider serving a particular area, power failure, national emergency, interference by any governmental agency, sanction, embargo, act of God, strike or other labor disturbance, fire, terrorism, riot, war, or any other causes beyond the affected party's reasonable control, provided that the affected party excercised due diligence to avoid and mitigate the delay.

c. **Governing Law**: Both parties agree that the laws of the State of New York shall govern the validity, construction and performance of this Agreement, subject to the provisions of the "Dispute Resolution" section below, and without reference to New York's conflict of laws or other rules that would require the application of the laws of another jurisdiction. Each party submits to personal jurisdiction exclusively in New York, New York, and waives all objections to a New York, New York venue

d. **Dispute Resolution**: If there is a dispute, the parties shall meet within 30 days after Legal Notice of such dispute is given to attempt to resolve the matter in good faith. If the dispute cannot be resolved within thirty (30) days of the meeting, the parties agree to waive a jury trial.

e. **Notices**: Verizon Wireless will provide notices, requests or other communications hereunder via mail or e-mail to Reseller's Point of Contact, or via a message with Reseller's monthly bill. Any "Legal Notice" required by this Agreement must be given in writing and delivered by registered or certified mail, hand delivery, or express courier to the receiving party's address on the cover page of this Agreement and will be deemed effective upon delivery or refusal. Legal Notices to Verizon Wireless should be sent to the following address:

Verizon Wireless
Legal & External Affairs Dept.
One Verizon Way
Basking Ridge, NJ 07920
Attention: HQ Legal - B2B Contract Administration

f. **Assignment**: Except for an assignment by Verizon Wireless to an Affiliate or Reseller to an Affiliate, neither party may assign, delegate, sub-contract or otherwise transfer this Agreement or any of its rights and obligations hereunder, whether voluntarily, by operation of law or otherwise, without the other party's prior written approval, not to be unreasonably withheld, delayed or conditioned, unless the assignment is to a successor into which all or substantially all of assets of the assigning party are merged or otherwise consolidated, regardless of whether the assigning party is the surviving entity in such merger or consolidation, in which case prior written approval is not required.

g. **No Waiver; Severability**: Failure by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. The exercise by either party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

h. **Counterparts**: This Agreement may be signed in one or more counterparts. Each counterpart will be deemed to be an original. All counterparts when taken together will constitute the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile transmission or scanned image (e.g., .pdf or .tiff file extension name) as an attachment to e-mail shall be effective as delivery of a manually executed counterpart of this Agreement.

i. **Entire Agreement**: The provisions of this Agreement, including any exhibits and attachments, constitutes the entire agreement between the parties with respect to the subject matter hereof and this Agreement supersedes all prior agreements or representations, oral or written regarding such subject matter. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party.

[*Signature page follows*]

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers or representatives.

CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS:	**RESELLER:**
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

EXHIBIT A
Intelligent Lighting Service Pricing

For purposes of this Exhibit, the following terms are defined as follows. The following terms refer to required Professional Services for setup and implementation of the Service.

- **Implementation Engineering Service**. Setup and configuration of a portal account for Customer for a unique Intelligent Lighting project.
- **Project Management**. Remote guidance and training for designated Customer users on installation, activation, and troubleshooting of the Service and data collection from Equipment via the Intelligent Lighting platform.
- **Provisioning Support**. Provisioning support includes receipt, validation and uploading of Equipment installation data and related GIS information into the Intelligent Lighting Platform.

INTELLIGENT LIGHTING EQUIPMENT				
SKU	**Description**	**Quantity**	**List Price**	**Reseller Price**
S80-000123	Light Sense node, 4G LTE, 0-10V, NEMA, 120-277V	Per node	$100.00	$85.00
Notes: Charges are invoiced upon shipment of nodes.				

INTELLIGENT LIGHTING PROFESSIONAL SERVICES				
SKU	**Software Plan ID**	**Description**	**Quantity of Nodes per order**	**Price per Node**
IL-VES-PS-PROV	670452	Intelligent Lighting - Provisioning Support	1 – 1,000	$2.31
			1,001 – 2,500	$1.27
			2,501 – 5,000	$0.89
			5,001 – 10,000	$0.64
			10,001+	Custom*

Notes: Quantity of provisioning must be equal to the number of nodes in the corresponding order. Price listed above is a non-recurring per-node charge for provisioning support. Charges for initial order of Equipment for a given Customer are invoiced upon In-Service Date. For subsequent orders of Equipment, provisioning charges will be billed upon shipment.

Tiered pricing is on a per-order basis. Separate orders for nodes cannot be combined for tiered discounts.

*Contact Verizon Wireless for custom pricing.

SKU	Software Plan ID	Description	Quantity (Hours)	Price
IL-VES-PS-IE	640960	Intelligent Lighting – Implementation Engineering	8	$144.00/hr

Notes: Standard pricing is based on 8 hours of work for up to 1,000 nodes. Price listed above is a non-recurring per hour charge for project implementation for up to 1,000 nodes. Charges are invoiced upon In-Service date for an initial order of Equipment for a given Customer. There is no Implementation Engineering fee for subsequent orders of Equipment for a given Customer.

For implementation engineering services for over 1,000 nodes, contact Verizon Wireless. Pricing will be set forth in a separate statement of work (SOW).

SKU	Software Plan ID	Description	Quantity (Hours)	Price
IL-VES-PS-PM	640963	Intelligent Lighting – Project Management	4	$144.00/hr

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Notes: Standard pricing is based on 4 hours of work for up to 1,000 nodes. Price listed above is a non-recurring per hour charge for project implementation for up to 1,000 nodes. Charges are invoiced upon In-Service date for an initial order of Equipment for a given Customer. There is no Project Management fee for subsequent orders of Equipment for a given Customer.

For project management services for over 1,000 nodes, contact Verizon Wireless. Pricing will be set forth in a separate SOW.

INTELLIGENT LIGHTING SOFTWARE-AS-A-SERVICE (LICENSES)					
SKU	**Software Plan ID**	**Description**	**Quantity**	**List Price**	**Reseller Price**
Upfront payment options					
S07-000012-N	654953	Intelligent Lighting SaaS 1 year, upfront payment	Per node	$6.00	$5.00
S07-000013-N	654957	Intelligent Lighting SaaS 2 years, upfront payment	Per node	$12.00	$10.00
S07-000014-N	654961	Intelligent Lighting SaaS 3 years, upfront payment	Per node	$18.00	$15.00
S07-000015-N	654964	Intelligent Lighting SaaS 5 years, upfront payment	Per node	$30.00	$22.50
S07-000016-N	654967	Intelligent Lighting SaaS 10 years, upfront payment	Per node	$60.00	$45.00

Notes: SKUs listed above have one-time upfront charges that are invoiced on In-Service Date for an initial Customer order. For subsequent orders, charges will be invoiced upon shipment of Equipment. Reseller may only order one SaaS plan per Customer purchase order (PO).

SKUs include wireless service. Coverage includes the Verizon Wireless CAT-M1 network. Lines activated on these SKUs cannot be used outside the United States. Coverage maps can be found at www.verizonwireless.com. Only the Intelligent Lighting Light Sense node devices may be activated on these SKUs. All lines on these SKUs must be on a separate account profile from Reseller's other voice, data and M2M Lines.

SKU					
Annual payment options					
S07-000013-A	654956	Intelligent Lighting SaaS 2 years, annual payment	Per node/year	$6.00	$5.00
S07-000014-A	654960	Intelligent Lighting SaaS 3 years, annual payment	Per node/year	$6.00	$5.00
S07-000015-A	654963	Intelligent Lighting SaaS 5 years, annual payment	Per node/year	$6.00	$5.00
S07-000016-A	654966	Intelligent Lighting SaaS 10 years, annual payment	Per node/year	$6.00	$5.00

Notes: SKUs listed above are invoiced on In-Service Date for an initial Customer order and annually thereafter, if applicable. For subsequent orders, charges will be invoiced upon shipment of Equipment. Reseller may only order one SaaS plan per Customer PO.

SKUs include wireless service. Coverage includes the Verizon Wireless CAT-M1 network. Lines activated on these SKUs cannot be used outside the United States. Coverage maps can be found at www.verizonwireless.com. Only the Intelligent Lighting Light Sense node devices may be activated on these SKUs. If applicable, all lines on these SKUs must be on a separate account profile from Customer's other voice, data and M2M Lines.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Exhibit B

Form of Intelligent Lighting Customer Agreement

Verizon Wireless
Intelligent Lighting Agreement

This INTELLIGENT LIGHTING AGREEMENT (the "**Agreement**") is between Cellco Partnership, a Delaware General Partnership, doing business as Verizon Wireless, having its principal place of business at One Verizon Way, Basking Ridge, NJ 07920, on behalf of itself and its controlled and/or managed affiliates ("**Verizon Wireless**") and the company listed below ("**Customer**") (each a "party" and together the "parties").

This Agreement makes reference to "----," which refers to ---, a reseller of the Intelligent Lighting Service with whom Customer has entered into an agreement for purchase of the Intelligent Lighting Service. The parties acknowledge that --- will be responsible for payment of fees related to the Intelligent Lighting Service under this Agreement.

The Agreement will be effective as of the date of last signature ("**Effective Date**").

Customer's Information			
Company Name:			
Company Street Address:	**City:**	**State:**	**ZIP:**
	Fed. Tax ID #:	**D&B #:**	
Legal Notices Address (if different from above)			
Address:	**City:**	**State:**	**ZIP:**
Points of Contact			
Name:	**Name:**		
Address:	**Address:**		
Title: **Phone:**	**Title:**	**Phone:**	
Company E-mail:	**Company E-mail:**		

1. **DEFINITIONS:**

   a. **Documentation**: User manuals and other written information (whether contained in user or technical manuals, training materials, specifications or otherwise) provided by Verizon Wireless that pertain to the Service or any components thereof, including the Software, Equipment or Professional Services.
   b. **Equipment**: The Intelligent Lighting Light Sense nodes that communicate with the Platform over the Verizon Wireless network.
   c. **Legal Notice**: A written communication given by one party to the other regarding a dispute under or termination of this Agreement, or that is otherwise required by this Agreement.
   d. **License**: A license purchased by Customer corresponding to a single piece of Equipment for use of the Service for and with that Equipment.
   e. **Platform**: The hosted Intelligent Lighting software platform that gathers information from Equipment and enables remote management of luminaries.
   f. **Portal**: A web-based portal for Customer's Users to access and use of the Platform.
   g. **Professional Services**: Technical and consultative services of a fixed scope and/or duration related to Service provisioning, management and/or support.
   h. **Service**: The Intelligent Lighting Service as described in Section 2 below.
   i. **Software**: All software embedded in or otherwise made available in connection with the Equipment or the Platform.

DRAFT - SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

j. **Statement of Work** (or "**SOW**"): A statement of work entered into pursuant to this Agreement for supplemental support or services.

2. **INTELLIGENT LIGHTING SERVICE OVERVIEW:** The Intelligent Lighting service (the "Service") uses advanced monitoring and analytics to enable Customer to manage and control its LED street lights through a web-based portal. The Service is comprised of the following components:
   - Equipment (Light Sense Nodes) for gathering lighting-related information and management of luminaires;
   - Hosted Intelligent Lighting software platform ("Platform");
   - Wireless connectivity over the Verizon Wireless network for two way communication with the Equipment and the Platform; and
   - Professional Services for (i) provisioning Equipment, (ii) Service implementation and (iii) project management.

   In addition, the Parties may enter into one or more SOWs to this Agreement for supplemental support and services.

   a. **Verizon Wireless Responsibilities**:

      i. **Service Deployment**. Verizon Wireless will provide initial Service deployment, including provisioning of Equipment for the Service as further described in Section -- (Professional Services) below.

      ii. **Portal Access**. The Service will be available to Customer through the Portal. Verizon Wireless will provide Customer with a URL and login credentials to the Portal, through which Customer can manage and view information related to the Service. Customer is responsible for securing an internet connection and must use a supported browser to access the Portal. Verizon will provide Customer with an initial user name and password after which Customer is solely responsible for all control, management, dissemination of and creation of new user credentials.

      iii. **Delivery of Equipment**. Verizon Wireless will fulfill orders placed by Customer for Equipment during the Term, subject to availability. For purposes of this Agreement, the "**Equipment Delivery Date**" will be deemed to be the date the Equipment ordered by Customer is provided to the shipper for shipment to the Customer-designated address.

      iv. **Operation of Wireless Network and Platform**. In connection with the Service, Verizon Wireless will operate, by itself and/or through its third party vendors, its cellular network and the Platform as required for Customer to access and use the Service in accordance with this Agreement.

      v. **Customer Support**. Verizon Wireless will provide support for the Service described in Appendix 3 during the Service Term. Customer acknowledges and agrees that under this Agreement, Verizon Wireless will directly and remotely communicate with the Platform in order to (a) verify Customer credentials; (b) issue reports and alerts (such as automated support requests and alert messages); (c) provide maintenance, Service Updates (defined below) and other technical support; (d) apply policy and configuration changes; and (e) extract usage information, service performance information, and infection logs.

      vi. **Service Updates**. Verizon Wireless may, but is not required to, make new applications, tools, data, features or functionality available from time to time through the Service and add new services to the "Service" definition from time to time (collectively, "**Service Updates**"). If any Service Update is contingent upon Customer's agreement to additional terms or is a material change to the Service, Verizon Wireless will inform Customer by either sending an email to the Customer or alerting Customer through the administrator console.

      vii. **Material Changes to Service**. Verizon will use commercially reasonable efforts to continue providing the Service for the duration of the Service Term without any material adverse change to the Customer, unless Verizon determines in its reasonable good faith judgment that (a) it cannot do so by law or by contract (including if there is a change in applicable law or contract) or (b) doing so could create a (i) security risk or (ii) substantial economic or technical burden.

DRAFT - SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

viii. **General**. Verizon Wireless may use subcontractors to perform the Service. Verizon Wireless' obligation to meet any mutually agreed-upon time frame is subject to Customer's timely and appropriate completion of its obligations related to such activities, including those obligations set forth in Section 1.2 below.

b. Customer Responsibilities:

i. **Use Guidelines**. Customer will access and use the Service, including all components thereof, solely for its internal business use in accordance with the Documentation.

ii. **Responsibility for Users**. Customer will limit access to the Portal to only those individuals who are authorized by Customer to use the Service and who have been supplied the user credentials by Customer ("**Users**"). Users may include employees, consultants, contractors and agents of Customer. Customer is liable for the acts and omissions of its Users and any unauthorized users accessing the Service by or through Customer and its information system(s) as if such acts or omissions were taken (or omitted to be taken) by Customer directly. Customer will immediately notify Verizon Wireless of any unauthorized access to the Service or any other breach of security.

iii. **Domestic Shipping Address**. Delivery of Equipment is limited to Customer's domestic shipping addresses in the United States. Customer is responsible for providing a US shipping address and taking delivery of orders at such address. Verizon Wireless will deliver orders to third party addresses unless otherwise agreed to by the Parties in writing.

c. **Title to Equipment**. Title and risk of loss or damage to each piece of Equipment will pass to Customer upon the Equipment Delivery Date for that Equipment.

d. **Software License**. All Software made available to Customer in connection with the Service is licensed to Customer in accordance with the terms of Appendix 1 hereto. For any third party licensed content (including open source Software) which are subject to additional terms and/or separate license agreements, Verizon will provide a copy or link to such license agreements to Customer along with such components.

3. **REQUIRED PROFESSIONAL SERVICES**. The following Professional Services are required as part of the setup and implementation of the Portal for Customer. Unless otherwise specified herein or in a SOW related to such Professional Service, Verizon Wireless will perform the following Professional Services remotely.

a. **Implementation Service**. Setup and configuration of a Portal account for Customer for a unique Intelligent Lighting project.
b. **Project Management**. Remote guidance and training for designated Customer Users on installation, activation, and troubleshooting of the Service and data collection from Equipment via the Platform.
c. **Provisioning Support**. Provisioning support that includes receipt, validation and uploading of Equipment installation data and related GIS information into the Platform.

4. **TERM AND TERMINATION**.

a. Service Term. The term of the Service shall commence on the Effective Date of this Agreement and, unless earlier terminated pursuant to the termination of this Agreement, shall remain in effect until the termination or expiration of the Licenses purchased hereunder (the "**Service Term**").

b. Termination of Agreement. A Party not in breach of this Agreement can terminate this Agreement for good cause, which shall mean: (a) another party materially breaching this Agreement and not curing same within 60 days of notice of the breach; (b) nonpayment of fees by ---- related to the Service, Equipment or any other services provided under this Agreement within 30 days of notice; or (c) any governmental body of competent jurisdiction instituting a law or regulation that conflicts with the Service or causes Verizon Wireless to incur additional material expense or undertake additional material burden or obligation in connection with providing the Service. Termination of the Agreement will automatically terminate the Service.

DRAFT-SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

c. **Effect of Termination**. Upon expiration of the Service Term or earlier termination of this Agreement: (a) Customer shall, and shall cause its Users to, immediately cease using the Service, Deliverables and any other information and materials provided by Verizon Wireless in connection therewith, and (b) any and all licenses and access rights granted to Customer and its Users hereunder shall terminate. Those provisions that by their nature are intended to survive termination or expiration of this Agreement shall so survive.

5. **CUSTOMER WARRANTIES**.

a. **Required Approvals**. Customer warrants that it has obtained and will maintain during the Service Term all permits, orders, approvals, authorizations or similar consents required for Customer to access and use the Service as provided in this Agreement and any applicable SOW. Customer warrants that it owns all right, title, and interest in and to, or has the license for and the right to grant Verizon Wireless access to, any programs, systems, data, materials, IP addresses, domains or other information furnished by Customer to Verizon Wireless. Customer is solely responsible for the accuracy of the IP addresses, domains, programs, systems, data, materials, and other information furnished by Customer to Verizon Wireless.

b. **Compliance with Laws**. Customer warrants that the performance of Customer obligations and Customer's and its Users' access to and use of the Service or other exercise of its rights under this Agreement will not violate any applicable local, state or national laws, rules or regulations (collectively, "Laws") or, the rights of any third party

c. **Restrictions**. Customer will not, and will not permit any third party to, resell, sublicense, rent, lease, time-share, copy, modify, create derivative works of, translate, reverse engineer, decompile, translate, or disassemble the Service or any components thereof or to otherwise attempt to extract any or all of the source code of the Service or components thereof (except to the extent such restriction is expressly prohibited by applicable law or open source licenses applicable to portions of the Software), access the Service in order to build a competitive product or service or to copy any ideas, features or functions of the Service or otherwise engage in or permit any use, reproduction, distribution, disposition, possession, disclosure or other activity involving the Service or the Verizon Wireless Underlying Materials that is not authorized under the Agreement or otherwise in writing by Verizon Wireless.

6. **CUSTOMER DATA**.

a. Customer represents and warrants that it has all rights and authority with respect to the Customer Data (as defined below) that Verizon Wireless collects and transmits through Customer's use of the Service necessary for Verizon Wireless to perform the Service and any other obligations set forth in this Agreement and that the use of the Customer Data will comply with all Laws. Customer grants to Verizon Wireless and its affiliates (with rights to sublicense to their suppliers) the non-exclusive, fully paid-up, sublicensable, transferable license, and right to collect, access, copy, store and use the Customer Data to provide the Service, to analyze, measure and optimize the performance of the Service, to develop new offerings, and for other business purposes of Verizon Wireless and its affiliates, including the development of data products for sale, licensing and distribution to third parties. Except as may be required under applicable Laws or court order or reasonably required to provide the Service, Verizon Wireless will not disclose or distribute Customer Data to a third party in a form that permits individual identification of Customer without Customer's prior consent. "Customer Data" means Customer's proprietary data and other non-public information provided by Customer as part of the Service. By using the Service, Customer consents to Verizon Wireless's collection and use of information in this way and to the terms of the Verizon Wireless Privacy Policy, which can be found at https://www.verizon.com/about/privacy/.

b. Customer acknowledges and agrees that Verizon Wireless may collect and process certain information relating to Customer's use of the Service, including without limitation (a) names, email addresses, telephone numbers and other contact details; (b) account user names; (c) IP addresses; (d) usage information; (e) lists of all relevant software, files, paths and applications installed on the equipment accessing the Service; (f) details of changes or attempted changes to executable files, pathnames and scripts; and (g) logs of activities associated with the Service and Equipment. Customer agrees that Verizon Wireless may use such information for its business purposes, including product support, product development, and enhancement, statistical analysis and reporting, and Verizon Wireless may disclose this information to its suppliers and third party licensors solely for the purpose of assisting in the foregoing uses. Customer agrees that

DRAFT - SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

the Service may be provided by, and its information accessed and/or stored by, resources located within and outside the United States and consents to such access and storage of its information.

c. Customer agrees that Verizon Wireless may access the Equipment and Portal so that Verizon Wireless may comply with a valid legal process, or as otherwise required or authorized by applicable Laws (whether video, metadata, or other information is at issue). To the extent practicable and permitted by applicable Laws or the legal process, Verizon Wireless will give notice to Customer.

7. **CUSTOMER INDEMNIFICATION**. Customer agrees to indemnify, defend and hold harmless Verizon Wireless and its and their respective employees, officers, directors, agents, and suppliers (each an "Indemnitee") from and against any third-party losses, liabilities, damages, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys' fees and allocable cost of in-house counsel) imposed on the Indemnitee for bodily injuries, including death, and for damages to real or tangible personal property to the extent caused by (i) its negligent or otherwise tortious acts or omissions, its agents, contractors or employees in connection with the Service, or (ii) its misuse of the Service.

8. **VERIZON WARRANTIES.**

   a. **Service Warranty**. Verizon Wireless warrants that it will provide the Service in a good and workmanlike manner. During the Service Term, Verizon Wireless will use commercially reasonable efforts to correct any defects in the Service that do not comply with the foregoing warranty, which is Customer's sole remedy for any breach of the foregoing warranty by Verizon Wireless.

   b. **Equipment Warranty**. Verizon Wireless warrants the Verizon Wireless-manufactured Equipment in accordance with the terms set forth in Appendix 2. For any Equipment for which Verizon Wireless is not the manufacturer, Verizon Wireless will transfer or pass through to Customer the benefit of any and all manufacturer warranties on the same terms as offered by such manufacturers which are capable of being transferred or passed through.

   c. **Extended Maintenance Services**. Verizon Wireless may offer extended warranty or maintenance Services for the Equipment ("**Equipment Maintenance Services**"), which may be provided by Verizon or its third party vendors. If Equipment Maintenance Services are available, the terms will be indicated in a separate SOW detailing such Equipment Maintenance Services.

   d. **Exclusions**. Verizon Wireless's warranties under this Section do not apply to any noncompliance resulting from any: (a) materials provided by Customer; (b) use not in accordance with the Agreement; (c) the combination of any Equipment or services provided by Verizon Wireless or portion thereof with any product, materials or services not provided by Verizon Wireless; (d) modifications, damage, misuse or other action of Customer or any third party; (e) the use of other than the latest update following the date that Verizon Wireless makes such update available; or (f) any failure of Customer to comply with the terms of the Agreement.

9. **SERVICE MARKS, TRADEMARKS AND NAME**. Except as otherwise expressly set forth herein, neither Verizon Wireless nor Customer may: (a) use any name, logo, service mark or trademark of the other party; or (b) refer to the other party in connection with any advertising, promotion, press release or publication unless it obtains the other party's prior written approval. If Verizon Wireless seeks to identify Customer in any marketing or other promotional materials (including any case study or whitepaper) that it wishes to make publicly available (e.g., on its website), Customer will have the right to review and approve all such marketing and promotional communications in which Verizon Wireless identifies Customer before such communications are disseminated to the general public

10. **INDEPENDENT CONTRACTORS**. The parties are independent contractors to one another, and nothing in this Agreement creates an agency, partnership, joint venture or employer-employee relationship between the parties or the parties' affiliates. The Agreement does not confer any benefits on any third party unless expressly stated otherwise.

11. **CONFIDENTIAL INFORMATION**: "**Confidential Information**" is anything concerning the disclosing party's business, customers, products, services, trade secrets and personnel, which the disclosing party labeled or designated as confidential but including all Customer Data. If either party discloses Confidential Information to the other party, the receiving party will keep it confidential

DRAFT - SAMPLE

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

for the Agreement Term and for an additional two years. Either party may use Confidential Information for any purpose related to the performance of this Agreement. Verizon Wireless may share Confidential Information with our affiliates and contractors who are required to know the information for purposes of performing this Agreement. These restrictions do not apply to information that (a) is or becomes publicly available through no act or omission of the receiving party; (b) was already in the lawful possession of the receiving party without an obligation of confidentiality; (c) is lawfully disclosed to the receiving party by a third party without restriction; (d) is required to be disclosed by subpoena or other legal process; or (e) is independently developed without reference to the Confidential Information. Notwithstanding the foregoing, Customer agrees that Verizon Wireless may disclose this Agreement and any exhibits, attachments or amendments hereto with ---- for purposes of facilitating payment of charges related to the services provided hereunder.

12. **DISCLAIMER OF WARRANTIES:** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, VERIZON WIRELESS (AND ITS AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, PARENTS, SUBSIDIARIES AND AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS, VENDORS AND SUPPLIERS, PROVIDE THE SERVICE "AS-IS" AND WITHOUT ANY OTHER WARRANTIES OF ANY KIND AND VERIZON WIRELESS DISCLAIMS ANY AND ALL WARRANTIES FOR THE SERVICE, INCLUDING THE PLATFORM, SOFTWARE AND EQUIPMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, NONINTERFERENCE, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. VERIZON WIRELESS DOES NOT WARRANT THAT THE SERVICE, INCLUDING ALL COMPONENTS OF THE SERVICE AND WIRELESS SERVICE PROVIDED AS PART OF THE SERVICE, WILL BE WITHOUT FAILURE, DELAY, INTERRUPTION, ERROR, OR LOSS OF CONTENT, DATA, OR INFORMATION. CUSTOMER ACKNOWLEDGES THAT VERIZON WIRELESS DOES NOT CONTROL THE FLOW OF DATA OVER THE INTERNET OR THIRD PARTY SERVICES, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES.

13. **DISCLAIMER OF CERTAIN DAMAGES/LIMITATION OF LIABILITY.** NO PARTY TO THIS AGREEMENT IS LIABLE TO THE OTHER PARTY, ITS EMPLOYEES, AGENTS OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES OR FOR LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, SAVINGS, OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICE OR ANY OTHER EQUIPMENT, RELATED PRODUCTS OR DOCUMENTATION, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OF ANY KIND. THE LIMITATION OF LIABILITY DOES NOT LIMIT (A) ANY PARTY'S LIABILITY: (I) IN TORT FOR DAMAGES PROXIMATELY CAUSED BY ITS WILLFUL OR INTENTIONAL MISCONDUCT, OR BY ITS GROSS NEGLIGENCE, OR (II) WHERE MANDATORY LOCAL LAW DOES NOT ALLOW THE LIMITATION, OR (B) ANY PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

14. **WIRELESS SERVICE AVAILABILITY**: Wireless Service uses radio technologies and is subject to transmission and service area limitations, interruptions and dropped calls caused by atmospheric, topographical or environmental conditions, cell site availability, equipment or its installation, governmental regulations, system limitations, maintenance or other conditions or activities affecting Wireless Service operation. Wireless Service is only available within each applicable plan coverage area, within the operating range of the wireless systems, and with Equipment that is approved to operate on the Verizon Wireless network.

15. **SERVICE MARKS, TRADEMARKS AND NAME:** Except as otherwise expressly set forth herein, neither Verizon Wireless nor Customer may: (a) use any name, logo, service mark or trademark of the other party; or (b) refer to the other party in connection with any advertising, promotion, press release or publication unless it obtains the other party's prior written approval.

16. **ASSIGNMENT:** Verizon Wireless may assign this Agreement or any of its rights hereunder to an affiliate. Customer may not assign this Agreement or any of its rights hereunder without the prior written consent of Verizon Wireless.

17. **INDEPENDENT CONTRACTORS:** The parties are independent contractors to one another, and nothing in this Agreement creates an agency, partnership, or joint venture relationship between them. Nothing in this Agreement creates an employer-employee relationship between Customer and either Verizon Wireless or any employee or agent of Verizon Wireless.

18. **FORCE MAJEURE**: Any failure by Verizon Wireless to timely perform its obligations under this Agreement shall be excused if caused by failure of a third-party wireless or telecommunications provider serving a particular area, power failure, national emergency, interference or preemption by a government agency, act of God, strike or other labor disturbance, fire, terrorism, riot, war, or any other cause beyond our reasonable control if such delay could not have been mitigated with due diligence.

DRAFT

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

19. **NOTICES**: Any Legal Notice required by this Agreement must be given in writing and delivered by registered or certified mail or express courier to the receiving party's address and will be deemed effective upon delivery. Verizon Wireless will send Legal Notice to the address on the cover page of this Agreement. If Customer sends Legal Notice to Verizon Wireless, it should be sent to the following address:

    Verizon Wireless
    One Verizon Way
    Basking Ridge, NJ 07920
    Attention: General Counsel, Verizon Business Group

20. **GOVERNING LAW; VENUE; JURISDICTION**: Both parties agree that the laws of the State of New York shall govern the validity, construction and performance of this Agreement and without reference to New York's conflict of laws or other rules that would require the application of the laws of another jurisdiction. Each party submits to personal jurisdiction exclusively in New York, New York, and waives all objections to a New York, New York venue.

21. **WAIVER; SEVERABILITY; SURVIVAL**: No provision of this Agreement shall be considered waived unless both parties agree in writing to such waiver. Either party's forbearance or delay in enforcing any right under this Agreement shall not be construed as a waiver of such right. If a court of competent jurisdiction holds any provision of this Agreement invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. Termination of this Agreement shall not affect either party's accrued rights or obligations under this Agreement as they exist at the time of termination, or any rights or obligations that either expressly or by implication continue after this Agreement has ended.

22. **THIRD PARTY PRODUCTS AND SERVICES:** As part of this Agreement, Verizon Wireless may direct Customer to third parties having products or services which may be used by Customer in conjunction with the Service. Notwithstanding any Verizon Wireless recommendation, referral or introduction, Customer will independently investigate and test third-party products and services and will have sole responsibility for determining suitability for use of third-party products and services, and for any contracts Customer enters into with third parties. Verizon Wireless has no liability with respect to claims related to or arising from use of third party products and services. This provision does not apply to the work of subcontractors or other agents that is done on Verizon Wireless's behalf or with respect to third party products and services incorporated into any Deliverables provided by Verizon Wireless.

23. **COUNTERPARTS; ADMISSIBILITY OF COPIES**: Each party can each execute a counterpart version of this Agreement. When delivered to the other party, each shall be deemed to be an original and all versions together shall constitute one instrument. An electronic or facsimile copy of the executed Agreement shall be deemed, and shall have the same legal effect as, an original document.

24. **ENTIRE AGREEMENT**: The terms and conditions of this Agreement constitute the entire agreement between the parties with respect to this subject matter. This Agreement takes precedence over any conflicting terms and conditions between the parties for the Service. This Agreement shall not be amended or modified, including by a purchase order, unless both parties agree in writing. This Agreement supersedes all prior agreements for the provision of the Service between the parties.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative.

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS	**[CUSTOMER NAME]**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Date: _____ Date: _____

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Appendix 1
Software License

IMPORTANT: PLEASE READ THIS LICENSE AGREEMENT CAREFULLY. DOWNLOADING, INSTALLING OR USING VERIZON WIRELESS OR VERIZON WIRELESS-SUPPLIED SOFTWARE CONSTITUTES ACCEPTANCE OF THIS LICENSE AGREEMENT.

The following terms govern Customer's access to and use of the Software.

Software License. Conditioned upon compliance with the terms and conditions of the Agreement, Verizon Wireless or its supplier grants to Customer a nonexclusive and nontransferable license to use for Customer's internal business purposes at the intended capacity level (if applicable) the Software (as defined below) and the Documentation for which the required license fees have been paid. "Documentation" means user manuals and other written information (whether contained in user or technical manuals, training materials, specifications or otherwise) pertaining to the Software, Equipment or Professional Services and made available by Verizon Wireless to Customer. Customer's license to use the Software installed on equipment shall be limited to, and Customer shall not use the Software in excess of, a single hardware chassis on which the Software was originally installed. Unless otherwise expressly provided in the Software Documentation, Customer shall use the Software solely as embedded in, for execution on, equipment owned by Customer and used for Customer's internal business purposes. No other licenses are granted by implication, estoppel or otherwise.

User-Defined Applications. To the extent that any Software contains modules or development tools that permit Customer to create user-defined applications, workflows or processes for use with the applicable Software ("User-Defined Applications"), Customer agrees to indemnify Verizon Wireless, its officers, directors, employees, agents, affiliates and suppliers against and hold each of them harmless from any and all costs, expenses, liabilities and claims arising from Customer's use or distribution, either directly or indirectly, of any User-Defined Applications.

General Limitations. This is a license, not a transfer of title, to the Software and Documentation, and Verizon Wireless and licensors retain ownership of all copies of the Software and Documentation. Customer acknowledges that the Software and Documentation contain trade secrets of Verizon Wireless or its suppliers or licensors, including but not limited to the specific internal design and structure of individual programs and associated interface information. Except as otherwise expressly provided under the License Agreement, Customer shall have no right, and Customer specifically agrees not to: (i) transfer, assign or sublicense its license rights to any other person or entity or use the Software on any equipment other than the equipment on which it was originally installed, and Customer acknowledges that any attempted transfer, assignment, sublicense or use shall be void; (ii) make error corrections to or otherwise modify or adapt the Software, create derivative works based upon the Software, or permit third parties to do the same; (iii) reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form or attempt to reconstruct or discover the source code, underlying ideas or algorithms of any components of the Software, except to the extent otherwise expressly permitted under applicable law notwithstanding this restriction; (iv) use or permit the Software to be used to perform services for third parties, whether on a service bureau or time-sharing basis or otherwise, without the express written authorization of Verizon Wireless; (v) remove or obscure any proprietary notices from the Software, Documentation or other materials furnished or made available hereunder; (vi) disclose, provide, or otherwise make available trade secrets contained within the Software and Documentation in any form to any third party without the prior written consent of Verizon Wireless; (vii) enable any Software features or capacity (e.g., additional storage hours, agents, ports or mailboxes) which is licensed as separate products without Verizon Wireless's prior written consent; and/or (viii) permit or encourage any third party to do any of the foregoing. Customer shall implement reasonable security measures to protect such trade secrets.

Software, Updates and Additional Copies. "Software" shall include (and the terms and conditions of the License Agreement shall apply to) computer programs, including software and firmware embedded in Equipment, as provided to Customer by Verizon Wireless, and any upgrades, updates, bug fixes or modified versions thereto (collectively, "Updates") or backup copies of any of the foregoing. When Customer Updates to a new release, Customer shall not use the new Software release and the corresponding copy of the previous Software release concurrently (except for a limited period of parallel testing and migration and for archive purposes). Under no circumstances shall the previous release be re-used or transferred to any other device(s), or otherwise hosted for potential later reuse. Notwithstanding any other provision of the Agreement: (1) Customer has no license or right to make or use any additional copies or Updates unless Customer, at the time of making or acquiring such copy or Update, already holds a valid license to the original Software and has paid the applicable fee for the Update or additional copies; (2) use of Updates is limited to the equipment on which the Software was originally installed and for which Customer is the original purchaser or otherwise holds a valid license to use the Software which is being Updated; and (3) the making and use of additional copies is limited to necessary backup purposes only.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Proprietary Notices. Customer agrees to maintain and reproduce all copyright and other proprietary notices on all copies, in any form, of the Software and Documentation in the same form and manner that such copyright and other proprietary notices are included on the Software and Documentation. Except as expressly authorized herein, Customer shall not make any copies or duplicates of any Software without the prior written permission of Verizon Wireless.

Third Party Beneficiaries. Customer acknowledges that licensed content from third parties may be included with the Software or the Service and that such third parties are beneficiaries to this License Agreement and are entitled to enforce their respective rights.

Term and Termination. The License Agreement and the license granted herein shall remain effective for the Service Term. Customer may terminate the License Agreement and the license at any time by ceasing use of Software and Documentation. Customer's rights under this License Agreement will terminate immediately without notice from Verizon Wireless if Customer fails to comply with any provision herein. Upon termination, Customer shall destroy all copies of non-embedded Software and Documentation in its possession or control. All confidentiality obligations of Customer and all limitations of liability and disclaimers and restrictions of warranty shall survive termination of this License Agreement. The sections titled "U.S. Government End User Purchasers" and "General Terms Applicable to this Agreement" shall also survive termination of this License Agreement.

Remote Access and Audit Rights. Customer acknowledges that certain Software may contain programming that when enabled or activated: (i) restricts, limits and/or disables access to certain features, functionality or capacity of such Software subject to Customer's paying for licenses to such features, functionality or capacity; or (ii) periodically deletes or archives data generated by use of the Software and stored on the applicable storage device if not backed up on an alternative storage medium after a certain period of time. Verizon Wireless will have the right to inspect and audit Customer's compliance with these license terms during normal business hours. Customer will cooperate with the audit and will grant assistance and access to applicable records, materials, equipment, and personnel. In addition, Customer will provide remote access to its systems to Verizon Wireless to enable Verizon Wireless to electronically audit Customer's compliance with the license terms. If an audit reveals that the Customer possesses or at any time possessed unlicensed copies of the Software or use of the Software beyond the licensed features or capacity restrictions, Customer will pay Verizon Wireless the applicable license fees immediately upon request.

Export. The Software, Documentation and technology or direct products thereof (hereafter referred to as Software and Technology), supplied hereunder are subject to export controls under the laws and regulations of the United States (U.S.). Customer shall comply with such laws and regulations governing export, re-export, transfer and use of Software and Technology supplied hereunder by Verizon Wireless and its suppliers and will obtain all required U.S. and local authorizations, permits or licenses. Verizon Wireless and Customer each agree to provide the other information, support documents, and assistance as reasonably required by the other in connection with securing authorizations or licenses.

U.S. Government End User. The Software and Documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer Software " and "commercial computer Software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which the Agreement may be incorporated, Government end user will acquire, the Software and Documentation with only those rights set forth in the Agreement. Use of either the Software or Documentation or both constitutes agreement by the Government that the Software and Documentation are "commercial computer Software" and "commercial computer Software documentation," and constitutes acceptance of the rights and restrictions herein.

Limited Warranty. Subject to the limitations and conditions set forth herein, Verizon Wireless warrants that commencing from the date of shipment to Customer, and continuing for a period ninety (90) days: (a) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (b) the Software substantially conforms to the Documentation. The shipment date of a product by Verizon Wireless shall be the date of download if electronically shipped or is set forth on the packaging material in which the product is physically shipped. Except for the foregoing, the Software is provided "AS IS". This limited warranty extends only to the Customer who is the original licensee. Customer's sole and exclusive remedy and the entire liability of Verizon Wireless and its suppliers under this limited warranty will be (i) replacement of defective media or (ii) at Verizon Wireless's option, repair, replacement, or refund of the purchase price of the Software, in both cases subject to the condition that any error or defect constituting a breach of this limited warranty is reported to Verizon Wireless or the party supplying the Software to Customer (if different than Verizon Wireless) within the warranty period. Verizon Wireless or the party supplying the Software to Customer may,

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

at its option, require return of the Software and/or Documentation as a condition to the remedy. In no event does Verizon Wireless warrant that the Software is error-free or that Customer will be able to operate the Software without problems or interruptions.

Restrictions. This warranty does not apply if the Software or the Equipment upon which the Software is authorized to be used (a) has been altered, except by Verizon Wireless or its authorized representative, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Verizon Wireless, (c) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; or (d) is licensed for beta, evaluation, testing or demonstration purposes. The Software warranty also does not apply to (y) any temporary Software modules; or (z) any Software for which Verizon Wireless does not receive a license fee.

***DISCLAIMER OF WARRANTY*. EXCEPT AS SPECIFIED IN THE WARRANTY SECTION ABOVE AND IN THE AGREEMENT, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INTERFERENCE, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW AND ARE EXPRESSLY DISCLAIMED BY VERIZON WIRELESS, ITS SUPPLIERS AND LICENSORS. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.** This disclaimer and exclusion shall apply even if the express warranty set forth above fails of its essential purpose.

General Terms Applicable to this License Agreement. No amendment, modification, or waiver of any of the provisions of the Software License will be valid unless set forth in a written instrument signed by the parties. Unless expressly prohibited by local law, the Software License is governed by the laws of New York without regard to any conflict of law principles to the contrary and Customer irrevocably submits to jurisdiction of the New York courts with respect to any proceeding pertaining to the Software License or the Software. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL EITHER PARTY OR ITS SUPPLIERS BE LIABLE TO THE OTHER PARTY FOR ANY LOST REVENUE, PROFIT, OR LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE SOFTWARE OR OTHERWISE AND EVEN IF A PARTY OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY. Verizon Wireless's aggregate liability for any claims or damages pertaining to the use or performance of the Software shall not exceed the fees paid for the Software giving rise to the claim. Customer agrees that the limitations of liability and disclaimers set forth herein shall apply regardless of whether Customer has accepted the Software or any other product or service delivered by Verizon Wireless or its suppliers.

Licensed Content from Third Parties. The licensed content from third parties below are utilized in the Service ("TPV Licensed Content") and are subject to additional terms and agreement (each, a "TPV License"). Customer may only utilize TPV Licensed Content with the Service subject to its compliance with this Agreement and the applicable TPV License. To the extent that any TPV Licenses are inconsistent with the Agreement (including, but not limited to, the software license terms above), the applicable TPV License will govern Customer's use of such TPV Licensed Content.

Open Source. Information and license terms for the open source software distributed by Verizon Wireless in connection with the Service are available at https://netsense.verizon.com/opensource/ or its successor website.

AWS. Verizon Wireless utilizes AWS to host, process and store the content on the Platform and Customer's Portal. Customer's use of AWS Services and storage of Customer's content is also subject to AWS' policies, including AWS' Privacy Policy (http://aws.amazon.com/privacy) and AWS' Acceptable Use Policy (http://aws.amazon.com/aup), as updated from time to time.

Chip Software Providers. The Equipment contains firmware, libraries and/or other technology (collectively, "Chip Software") licensed by each of ARM Limited and STMicroelectronics International N.V. (each, a "Chip Provider"). The Chip Software provided by such Chip Provider is embedded in the Equipment and executes solely on or in combination with a microcontroller or a microprocessor manufactured by or for such Chip Provider and it shall not be otherwise used or modified. All copyright notices included in the Chip Software shall be preserved. The Chip Provider and its licensors shall remain the exclusive owner(s) of its Chip

DRAFT COPY

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Software. No license is granted to use the trademarks, names or logos of a Chip Provider. Redistribution or use of the Chip Software or any part thereof other than as permitted under this license is void and will automatically terminate this license. THE CHIP SOFTWARE IS PROVIDED "AS IS" AND ANY EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OFMERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Appendix 2
Equipment Warranty for Light Sense Node

1. **Verizon Wireless Warranty**. Verizon Wireless warrants to the original purchaser only ("Customer") that during the Warranty Period (as defined below) the Light Sense nodes supplied to Customer pursuant to the Agreement ("Equipment") will conform to and operate in accordance with the specifications in the applicable Documentation (as hereinafter defined) in all material respects ("Warranty"). For purposes of this Warranty, the term "Documentation" means Verizon Wireless's information manuals in printed or electronic form containing operating instructions and performance specifications that are made generally makes available to users of the Equipment. Documentation does not include marketing materials. This Warranty applies only to Equipment being used within the United States by the original purchaser, is non-transferable and is subject to the exclusions noted below and Customer's compliance with the Warranty procedures described herein.

2. **Warranty Period**. The "**Warranty Period**" for Equipment begins on the Warranty Start Date and continues until the earlier of (a) one hundred twenty (120) months from the Warranty Start Date or (b) the cancellation or expiration of the Intelligent Lighting Service associated with that particular piece of Equipment. The "**Warranty Start Date**" means "In-Service Date" as defined in the Agreement.

3. **Warranty Procedures**. If any Equipment does not conform to the warranty described in Section 1 above, Customer will notify Verizon Wireless in writing within the applicable Warranty Period, describe in reasonable detail how the Equipment is not in conformance and include evidence that the Equipment is under warranty. Customer will receive a Return Material Authorization ("RMA") number. Customer will, at its own expense and risk, return the Equipment at Customer's expense within thirty (30) days of receiving instructions for return. Customer will package Equipment in a manner that is in accordance with good commercial practice. No Equipment or component part(s) will be accepted for inspection, verification or return unless accompanied by a RMA number that can be obtained only from an authorized Verizon Wireless customer service representative. Verizon Wireless will have no obligations under the Warranty if Customer fails to follow the return instructions.

4. **Warranty Remedies**. Upon Verizon Wireless's receipt of nonconforming Equipment covered by the Warranty from Customer, Verizon Wireless will elect, in its sole discretion, either to (i) repair or replace the Equipment and return the repaired or replaced Equipment to Customer, with outbound freight prepaid by Verizon Wireless or (ii) refund the purchase price of the Equipment less its depreciation (depreciated ratably on a 10-year basis). Replacement Equipment (or components) may be new, factory reconditioned, refurbished, remanufactured products or parts or functionally equivalent and will be furnished only on an exchange basis. Verizon Wireless reserves the right to repair or replace returned Equipment (or components thereof) with Equipment or components of equivalent or better performance. Returned Equipment that has been replaced by Verizon Wireless will become Verizon Wireless's property. Replacement Equipment is warranted as above for the remainder of the original applicable Equipment warranty period or sixty (60) days, whichever is longer. Verizon Wireless has no responsibility or liability for expenses incurred by Customer for the troubleshooting, removal and/or installation of Equipment requiring service or for the handling and installation of the repaired or replaced Equipment. Verizon Wireless will, in its sole discretion, determine whether the Equipment is not in conformance with its specifications and covered by the Warranty.

5. **Warranty Exclusions**. The Warranty does not extend to, and Verizon Wireless will not be liable for, any damages, malfunctions, or non-conformities caused by (i) use of the Equipment in violation of the terms of the Agreement or in a manner inconsistent with the Documentation; (ii) use of non-Verizon Wireless furnished equipment, software, or facilities with the Equipment (except to the extent provided in the Documentation); (iii) any failure to follow installation, operation or maintenance instructions or manufacturer's recommendations; (iv) negligence, accident, alteration or tampering or misuse, (v) corrosive or extreme environmental conditions beyond those defined in the product specifications provided in the Documentation; (vi) failure to permit Verizon Wireless or its suppliers timely access (remote or otherwise) to the Equipment; (vii) failure to implement all new Updates to Software embedded in the Equipment; (viii) Equipment that has had its original manufacturer's serial numbers altered, defaced or deleted; (ix) external causes such as accident, abuse, misuse, mishandling, negligence, fire or acts of God, theft, vandalism, riot, explosion, natural disaster, power surges, improper power supply, electrical current fluctuations or other external causes unrelated to an Equipment defect; and/or (x) Equipment that has been serviced or modified by a party other than Verizon Wireless or a Verizon Wireless-authorized contractor. For purposes of this Warranty, an "Update" means changes in the embedded software that Verizon Wireless makes generally available to its customers as a maintenance/correction release. The Warranty does not apply to any customized deliverables that Verizon Wireless creates specifically for Customer, items not manufactured by Verizon Wireless (including, without limitation, photo and motion sensors, cameras, controls, networking components and

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

other accessory products or components (e.g., cables)), consumable parts (e.g., batteries) or protective coatings designed to diminish over time unless failure has occurred due to a defect in materials or workmanship.

6. **Products from Third Parties**. Customer's decision to acquire or use equipment and other products from third parties is Customer's sole responsibility, even if Verizon Wireless helps Customer identify, evaluate or select them. VERIZON WIRELESS IS NOT RESPONSIBLE FOR, AND WILL NOT BE LIABLE FOR, THE QUALITY OR PERFORMANCE OF PRODUCTS FROM THIRD PARTIES.

7. **DISCLAIMERS AND LIMITATIONS**. EXCEPT AS SET FORTH IN SECTION 1, NEITHER VERIZON WIRELESS NOR ITS SUPPLIERS MAKE ANY OTHER EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY EQUIPMENT AND DISCLAIMS THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. VERIZON WIRELESS AND ITS SUPPLIERS DO NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE EQUIPMENT. THE REMEDIES ABOVE ARE CUSTOMER'S EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST VERIZON WIRELESS OR ITS SUPPLIERS WITH RESPECT TO THE EQUIPMENT'S PERFORMANCE. UNDER NO CIRCUMSTANCES WILL VERIZON WIRELESS OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS INTERRUPTIONS, LOSS OF REVENUE OR GOOD WILL, LOST OR DAMAGED DATA, LOSS OF ANY OTHER GOODS OR EQUIPMENT OR FACILITIES, COST OF CAPITAL OR STORAGE OR INSPECTION, COST OF SUBSTITUTION EQUIPMENT, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OR PURCHASERS FOR SUCH DAMAGES. VERIZON WIRELESS'S LIABILITY ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE ANY EQUIPMENT WILL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR SUCH EQUIPMENT REGARDLESS OF THE AMOUNT OF DAMAGES CUSTOMER MAY INCUR AND WHETHER CUSTOMER'S CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE 120-MONTH WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. The foregoing disclaimer of certain damages and limitation of liability will apply to the maximum extent permitted by applicable law. This disclaimer and exclusion will apply even if the express warranty set forth above fails of its essential purpose.

8. **Applicable Law and Venue**. Unless expressly prohibited by local law, this Warranty is governed by the laws of New York without regard to any conflict of law principles to the contrary. Customer irrevocably submits to jurisdiction of the New York courts with respect to any proceeding under this Warranty or relating to the Equipment.

9. **Severability**. If any provision of this Warranty is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this Warranty will remain in full force and effect.

10. **Entire Agreement**. This Warranty constitutes the entire agreement, and supersedes any prior agreements, between Verizon Wireless and Customer related to the subject matter hereof. No amendment, modification, or waiver of any of the provisions of this Warranty will be valid unless set forth in a written instrument signed by the parties.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Appendix 3
Support

Verizon will provide support for the Service as described in this exhibit.

1. **Definitions**.

   a. "E-mail support" means ability to make requests for technical support assistance by e-mail at any time (with reasonable efforts by Verizon to respond within one business day) concerning use of the Service.

   b. "Emergency Maintenance" means an unscheduled maintenance requiring a suspension of the Service to address a potentially critical issue that Verizon reasonably believes could have a material adverse effect on the performance and/or security of the Service (or its components). An example of an Emergency Maintenance would be a software update designed to prevent or correct a Priority 1 Error.

   c. "Error" means an error in the Service that causes the Service not to be in material conformity with the performance specifications set forth in the SOW, or that results in an inability to use, or material service-affecting restriction in the use of, the Service.

   d. "Error Correction" means the use of reasonable commercial efforts to correct Errors.

   e. "Fix" means to remedy an Error.

   f. "Outage" means the period of time in which the Service is inoperative.

   g. "Priority 1 Error" means an Error which renders Service inoperative or severely impacted.

   h. "Priority 2 Error" means an Error which materially restricts Customer's use of the Service.

   i. "Priority 3 Error" means an Error which causes only a minor impact on the use of the Service.

   j. "Scheduled Maintenance" means any time Verizon temporarily suspends operation of the Service to perform routine maintenance and Updates, which Verizon has scheduled in advance by providing written notification to Customer.

   k. "Standard Maintenance Window" means the hours between 8:00 AM to 5:00 PM Pacific Time, unless otherwise notified in writing by Verizon.

   l. "Telephone Support" means technical support telephone assistance on a 24x7x365 basis to report an incident and open an incident ticket.

   m. "Web Support" means information available on the World Wide Web, including frequently asked questions, Services documentation and bug reporting.

   n. "Workaround" means a change in the procedures followed or data supplied by Verizon to avoid an Error without substantially impairing use of the Service.

   o. "Updates" means new releases of changes to the Service.

2. **Support and Maintenance Services**. Support and Maintenance Services consist of (a) Error Correction and Telephone Support provided to up to four (4) technical support contacts for the Service as provided below, (b) E-mail Support, (c) Web Support and (d) Updates that Verizon, in its discretion, makes generally available to its support and maintenance Customer without additional charge. Customer must pay the Support and Maintenance fees noted in the SOW for these Services; otherwise, Support and Maintenance described herein will not be provided. To revive support and maintenance, Customer must pay all fees due for lapsed periods.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

3. **Error Correction and Error Priority Levels**. Verizon will respond to any Error reported by Customer in accordance with the priority level reasonably assigned by Customer, and will exercise commercially reasonable efforts to correct any Error reported by Customer in accordance with the priority level reasonably assigned to such Error. If Verizon disputes the priority level assigned by the Customer, the Parties agree to promptly and diligently discuss the dispute in good faith.

4. **Priority 1 Errors**. Verizon will provide an initial response to Customer within one (1) business day and promptly commence the following procedures: (i) confirm the Error; (ii) assign engineers to correct the Error on an expedited basis; (ii) notify its management that such Errors have been reported and of steps being taken to correct such Error(s); (iii) provide Customer with periodic reports on the status of the corrections; and (iv) initiate work to provide Customer with a Workaround or Fix.

5. **Priority 2 Errors**. Verizon will provide an initial response to Customer within two (2) business days and will promptly commence the following procedures: (i) confirm the Error; (ii) assign engineers to correct the Error on an expedited basis; (ii) notify its management that such Errors have been reported and of steps being taken to correct such Error(s); (iii) provide Customer with periodic reports on the status of the corrections; and (iv) exercise commercially reasonable efforts to provide Customer with a Workaround or Fix.

6. **Priority 3 Errors**. Verizon will provide an initial response to Customer within three (3) business days and will commence the following procedures: (i) confirm the Error; (ii) notify management that such Errors have been reported and of steps being taken to correct such Error(s); (iii) provide Customer with periodic reports on the status of the corrections; and (iv) exercise commercially reasonable efforts to include a Fix or Workaround for the Error in the next regular maintenance release of the software or product.

   If Verizon believes that a problem reported by Customer may not be due to an Error in the Service, Verizon will investigate the problem. If Verizon or its suppliers' investigation reveals the likelihood that the problem does not constitute an Error, Verizon or its suppliers will so notify Customer, and if Verizon offers such services, Verizon may provide an estimate of fees for the Professional Services required to remediate Customer's issue(s). At that time, Customer may (1) instruct Verizon to proceed to fix the Customer's issue(s) at its possible expense or (2) instruct Verizon that Customer does not wish the Customer's issue(s) fixed at its possible expense. If Customer requests that Verizon proceed with a fix at its possible expense, the Parties will execute a SOW to cover such Services. If it is ultimately determined that the problem was not due to an Error in the Service, Customer will pay Verizon on such terms and conditions (including payment of pre-approved expenses) as may be set forth in the SOW. Customer will not be liable for (i) problem determination or repair to the extent problems are due to Errors in the Service; (ii) work performed under this paragraph in excess of Customer's instructions; or (iii) work performed after Customer has notified Verizon that it no longer wishes Verizon to continue to work on the problem determination at Customer's possible expense (such notice will be deemed given when actually received by Verizon). If Customer instructs Verizon that it does not wish the problem to be pursued at Customer's possible expense or if such determination requires effort in excess of Customer's instructions, Verizon may, at its sole discretion, elect not to investigate the issue with no liability therefor.

7. **Scheduled Maintenance**. Scheduled Maintenance will generally start and end within the Standard Maintenance Window. Verizon will provide written notification to Customer of all Scheduled Maintenance at least five (5) business days in advance prior to each Scheduled Maintenance. In the event that a Scheduled Maintenance requires a different time period or is expected to extend beyond the Standard Maintenance Window ("Non-standard Scheduled Maintenance"), Verizon will provide such information in its written maintenance notification for such Non-standard Scheduled Maintenance. Customer may request, at least two (2) business days prior to the Non-standard Scheduled Maintenance start time, that Verizon reschedule such Non-standard Scheduled Maintenance. Upon its request of such request, Verizon will use commercially reasonable efforts to accommodate Customer's rescheduling request and to reschedule such Non-standard Scheduled Maintenance for a mutually agreed time frame.

8. **Emergency Maintenance**. Verizon may interrupt the Service without any advance notification and outside the Standard Maintenance Window to carry out Emergency Maintenance. Verizon will notify Customer of any Emergency Maintenance before commencement of the Emergency Maintenance if circumstances allow for such advance notification or as soon as feasible after the commencement of the Emergency Maintenance. Verizon may send periodic e-mail notifications to Customer during the duration of the Emergency Maintenance activities and will send final notification upon completion of the Emergency Maintenance.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

9. **Ongoing Monitoring**. Verizon will provide 24x7 remote monitoring to monitor alarm status and overall system health, including network and application functionality. If Verizon detects and reasonably concludes that a material adverse performance impact (such as an Outage) is likely occurring, Verizon will communicate to Customer that the Service is being materially adversely affected and the anticipated resolution time frame (if known). Monitoring requires remote access to the Equipment and will be suspended if such access is not facilitated by the Customer.

10. **Onsite Support**. Support and Maintenance Services are provided remotely. Onsite support may be available, on a project basis, as Professional Services engagement for an additional fee. If Verizon offers such Services, Verizon will provide a fee estimate. If Customer requests that Verizon proceed with such onsite Professional Services, the Parties will execute a SOW to cover the Services and fees.

11. **Exclusions**. Verizon shall have no obligation to support problems or issues caused by factors outside Verizon's scope of responsibilities for the Services and Equipment, including, but not limited to, (i) Customer's negligence, abuse or misapplication, or use of Services or Equipment other than as specified in the SOW and associated published service documentation; (ii) use of any hardware that is not supported by Verizon or its suppliers; (iii) Equipment that is physically moved or altered, connector cables that are damaged or unplugged, or other physical changes to the Equipment or environment as originally deployed, or (iv) third party products not provided by Verizon or its suppliers or contemplated in the documentation or specifications. Verizon will have no obligation to support any Services beyond the order term associated with such Services or the expiration of the SOW.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

EXHIBIT C
Prime Contract Flowdowns

The following are mandatory flowdowns from the prime contract between the New York Power Authority and ____

Payrolls and Payroll Records

Every contractor and subcontractor MUST keep original payrolls or transcripts subscribed and affirmed as true under penalty of perjury. As per Article 6 of the Labor law, contractors and subcontractors are required to establish, maintain, and preserve for not less than six (6) years, contemporaneous, true, and accurate payroll records. At a minimum, payrolls must show the following information for each person employed on a public work project: Name, Address, Last 4 Digits of Social Security Number, Classification(s) in which the worker was employed, Hourly wage rate(s) paid, Supplements paid

or provided, and Daily and weekly number of hours worked in each classification.

The filing of payrolls to the Department of Jurisdiction is a condition of payment. Every contractor and subcontractor shall submit to the Department of Jurisdiction (Contracting Agency), within thirty (30) days after issuance of its first payroll and every thirty (30) days thereafter, a transcript of the original payrolls, subscribed and affirmed as true under penalty of perjury. The Department of Jurisdiction (Contracting Agency) shall collect, review for facial validity, and maintain such payrolls.

In addition, the Commissioner of Labor may require contractors to furnish, with ten (10) days of a request, payroll records sworn to as their validity and accuracy for public work and private work. Payroll records include, but are not limited to time cards, work description sheets, proof that supplements were provided, cancelled payroll checks and payrolls. Failure to provide the requested information within the allotted ten (10) days will result in the withholding of up to 25% of the contract, not to exceed $100,000.00. If the contractor or subcontractor does not maintain a place of business in New York State and the amount of the contract exceeds $25,000.00, payroll records and certifications must be kept on the project worksite.

The prime contractor is responsible for any underpayments of prevailing wages or supplements by any subcontractor.

All contractors or their subcontractors shall provide to their subcontractors a copy of the Prevailing Rate Schedule specified in the public work contract as well as any subsequently issued schedules. A failure to provide these schedules by a contractor or subcontractor is a violation of Article 8, Section 220-a of the Labor Law.

All subcontractors engaged by a public work project contractor or its subcontractor, upon receipt of the original schedule and any subsequently issued schedules, shall provide to such contractor a verified statement attesting that the subcontractor has received the Prevailing Rate Schedule and will pay or provide the applicable rates of wages and supplements specified therein. (See NYS Labor Laws, Article 8. Section 220-a).

Material & Equipment Requirements

Subcontractors and suppliers must provide written confirmation from their suppliers and vendors that products being furnished for this project do not violate the U.S. prohibition against the use of products produced by forced labor in Xinjiang Province, China.

Requirements for OSHA 10 Compliance

Article 8 220-h requires that when the advertised specifications, for every contract for public work, is $250,000.00 or more the contract must contain a provision requiring that every worker employed in the performance of a public work contract shall be certified as having completed an OSHA 10 safety training course. The clear intent of this provision is to require that all employees of public work contractors, required to be paid prevailing rates, receive such training 3prior to the performing any work on the project.

The Bureau will enforce the statute as follows:

All contractors and subcontractors must attach a copy of proof of completion of the OSHA 10 course to the first certified payroll submitted to the contracting agency and on each succeeding payroll where any new or additional employee is first listed.

Confidential and Proprietary.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

Proof of completion may include but is not limited to:

- Copies of bona fide course completion card (Note: Completion cards do not have an expiration date.)
- Training roster, attendance record of other documentation from the certified trainer pending the issuance of the card.
- Other valid proof

**A certification by the employer attesting that all employees have completed such a course is not sufficient proof that the course has been completed.

Any questions regarding this statute may be directed to the New York State Department of Labor, Bureau of Public Work at 518-457-558.

Attachment: Verizon Lighting Agreement (RES-2022-1093 : Verizon Intelligent Lighting Agreement CRS #3692)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26694 **RESOLUTION 2022-1094** **ADOPTED**

CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664

The Engineering Department is requesting Town Board authorization of the attached agreement with Cues, Inc for the purchase of equipment and parts, equipment service and acquisition of rental/loaner equipment. Cues, Inc. is the sole source provider (letter attached) of parts and service for our sewer inspection equipment. We are also requesting a waiver of insurance as this vendor is out of the area and all equipment and service is utilized via third party shipper. This contract shall be valid from January 1, 2023 thru December 31, 2025.

Funding is available within the Engineering Department - Sewer Maintenance operating budget G9000-4300.

This request has successfully completed the contract review process.

Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

G9000-4300; TBD

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

AGREEMENT

Let this document stand as an Agreement between Cues, Inc., the sole source provider for the CCTV Inspection Equipment in the Engineering Department – Sewer Maintenance Division, and the Town of Amherst permitting the Town of Amherst to purchase equipment, parts, rentals/loaners and service equipment as necessary. The term of this contract will be from January 1, 2023 through December 31, 2025.

All interactions between Cues, Inc. and the Town of Amherst are done remotely via third party shipper so insurance requirements are hereby waived.

Agreed to and Accepted by:

CUES, INC.

By: _____
Signature

Jonathan Russell
Printed name

Vice President & General Manager
Title

Date: October 3, 2022

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Cues Agreement (RES-2022-1094 : CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664)

Date: 10/03/2022

Town of Amherst
1100 N, Forest Road
Williamsville, NY 14221

3600 Rio Vista Avenue
Orlando, Florida
(407) 849-0190
(800) 327-7791

Dear Sharon Dehn,

CUES is the sole source of genuine CUES Replacement Parts and Service. The following details will outline the many benefits of why to choose CUES as your sole provider.

Sole Source/OEM Justification:

- CUES is the sole manufacturer of the K2 Summit and Granite Net video/footage capture systems. CUES offers an in-house software support team for these systems. Other products on the market are 3rd party add-on programs that CUES in-house support team is unable to support.
- Our Cameras, Transporters, and Lamp II systems are solely manufactured by CUES. We are the sole manufacturer and supplier of these OEM *(Original Equipment Manufacturer)* products, and for the parts used in CUES pipeline inspection and rehabilitation equipment.
- We strongly recommend the use of genuine CUES Parts and Service due to potential compatibility problems. We have recorded instances where Non-OEM parts resulted in major damage to the electronic and other systems. The use of Non-OEM parts could void CUES warranty and CUES lifetime loaner policy.
- CUES maintains millions of dollars in inventory that eliminates the need to have an extensive parts inventory on- site. Our Manufacturing factory, Customer Support Center and Main Stockroom is located in Orlando FL. We also have additional customer support locations throughout the US and Canada to fulfill any Parts or Service needs.

100% Full Circle Compatibility Note:
Current CUES equipment is 100% compatible with CUES existing TV equipment without modifications. This allows older equipment to operate on newer TV systems and newer equipment to operate on older TV systems giving you full circle compatibility. Other manufacturers may have components (i.e. Cameras, etc.) that can be modified to operate on existing CUES systems, however this may require special one of a kind cables and/or modifications to the internal electronics of the camera, etc. Any modification to the system's electronics may void the warranty. Additionally, CUES is the exclusive provider of certified training for our products. Product training provided by non-certified sources can be detrimental to proper equipment operation, and could also void CUES warranty and/or CUES lifetime loaner policy.

We appreciate your interest in Cues products. If you have any questions, please do not hesitate to contact me at 1-800-327-7791 extension:

Best Regards,

Abby Burton

Part Specialist ph: 321-251-1312

Attachment: Cues Agreement (RES-2022-1094 : CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664)

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: Cues Agreement (RES-2022-1094 : CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664)

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:

CUES, Inc.
Print Name of Company

By: _____
Signature

Jonathan Russell
Printed name

Date: October 3, 2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30.19 SJS

Attachment: Cues Agreement (RES-2022-1094 : CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664)

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: CUES, Inc.

Signature: _____

Print Name: Jonathan Russell

Title: Vice President & General Manager

Date: October 3, 2022

Sworn To Before Me This

3rd Day of October, 2022

Migdalia Medina-Gonzalez

Notary Public - Migdalia Medina-Gonzalez

Notary Public State of Florida
Migdalia Medina-Gonzalez
My Commission HH 021548
Expires 10/29/2024

Revised 4.2017

Attachment: Cues Agreement (RES-2022-1094 : CCTV Sewer Inspection Equipment - Cues, Inc CRS #3664)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26695 **RESOLUTION 2022-1095** **ADOPTED**

Linde Payment Authorization

The Engineering Department-Water Pollution Control Facility Division is currently seeking Town Board approval to authorize the Supervisor to approve payment of Linde invoice 32041544 for $1,700.00. This invoice should have been included on the attached Town Board Resolution 2022-1021 but was not received until after that date.

The week of September 26, 2022, the WPCF had to shut down operation of the oxygen generating plant for a critical replacement of four (4) valves that a separate contractor performed under a previously approved emergency purchase. During this shut down, the stored liquid oxygen fell below the level needed for startup, resulting in the need for oxygen delivery.

The WPCF worked with Contract Compliance to send out a bid request for oxygen delivery in September of 2021, which resulted in no bids. On September 27, 2022, the WPCF requested quotes from four local companies and Linde was the only company that agreed to supply Liquid Oxygen to the WPCF.

Funding for this request is available from accounts KP2136-2150 and G9916-4960.

Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

KP2136-2150 & G9916-4960; $1,700.00

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

Linde

PAGE	ACCOUNT NUMBER	INVOICE NUMBER	INVOICE DATE
1 of 1	95021167	**32041544**	10/24/2022

TERMS

Net 30 days from invoice date

Net Due Date 11/23/2022

REMITTANCE INSTRUCTIONS:

PLEASE SHOW INVOICE NUMBER AND DATE ON REMITTANCE, AND MAIL TO:

Linde Inc
PO Box 417518
Boston MA 02241-7518

JP Morgan Chase -Acct#134-0-90566
ABA/Routing #021 000 021, Swift CHASUS33
New York NY

BILL TO:

Town of Amherst
455 Tonawanda Creek Road
Attn: Accounts Payable
Amherst NY 14228

RECEIVED OCT 25 2022

SHIP TO:

Town Of Amherst
455 Tonawanda Creek Road
Amherst NY 14228

QUESTIONS

Billing, such as PO, pricing or quantity :

Eric McCarthy
Tel: 716-879-2177
Fax: 716-879-7322
Email: Eric.McCarthy@linde.com

Collection & payment questions:

Jacob S. Woodward
Tel: 716-879-4778
Fax: 716-879-7322
Email: Jacob.Woodward@linde.com

COMMENTS

Service Work Order Number: 50364067 Fee for a warm tank fill assisted by Linde technician - - -

INVOICE DETAIL

PRODUCT DESCRIPTION, REL#, LINDE#, PO#	SHIP DATE	ORDER NUMBER	UNIT QUANTITY	U/S	UNIT PRICE	AMOUNT	TAX Y/N	TAX RATE/ AMT	TAX ST
Quoted Price		83513016	1.00	EA	1,700.0000	1,700.00	Y	.00	NY
Sub Total Linde # 2402536			**1.00**	**EA**		**1,700.00**			

95008945 60830 R55U42565_PXUSAAMK03_15293453
7

For product proof of delivery, contact 1-844-44Linde or login to https://bulkexpress.linde.com

AMOUNT	SALES TAX	TOTAL AMOUNT
$ 1,700.00	$ 0.00	$ 1,700.00

Attachment: Linde Invoice (RES-2022-1095 : Linde Payment Authorization)

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

Francina J. Spoth
Town Clerk

Meeting: 10/17/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26578 **RESOLUTION 2022-1021** **ADOPTED**

Payment Authorization - Linde

The Engineering Department-Water Pollution Control Facility Division is currently seeking Town Board approval to authorize the Supervisor to approve payment of Linde invoices 31686938, 31687139 and 3170453, totaling $18,423.00.

During the week of September 26, 2022 our WPCF had to shut down operation of our oxygen generating plant for a critical replacement of four (4) valves that a separate contractor performed under a previously approved emergency purchase. During this shut down, our stored liquid oxygen fell below the level needed for startup, resulting in the need for oxygen delivery.

The WPCF worked with Contract Compliance to send out a bid request for oxygen delivery in September of 2021, which resulted in no bids. On September 27, 2022, the WPCF requested quotes from four (4) local companies and Linde was the only company that agreed to supply Liquid Oxygen to the WPCF.

Funds for this request are available from accounts KP2136-2150 and G9916-4960.

Thank you for considering this request.

10/17/2022
Consent

FINANCIAL IMPACT:

KP2136-2150 and G9916-4960; $18,423.00

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

Attachment: Linde Invoice (RES-2022-1095 : Linde Payment Authorization)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26696 **RESOLUTION 2022-1096** **ADOPTED AS AMENDED**

Amendment to Resolution 2022-916 - Engineering Flooring Purchase of Vinyl Flooring & Carpet CRS #3580

On September 19, 2022, the Town Board awarded the above referenced expenditure in the amount of $67,872.44 as proposed by GP Flooring Solutions.

Additional flooring & carpet was added during a re-calculation of the square footage. At this time we would like to request an amendment to Resolution 2022-916 (CRS #3580) with the award amount for GP Flooring Solutions to be revised to $68,234.01.

May we please have approval to amend Resolution 2022-916 to the award amount of $68,234.01? Thank you for considering this request. <u>This request is pending successful completion of the contract routing system</u>.

<u>11/7/2022</u>
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Supervisor Kulpa to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The 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:

revise to $68,234.01

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

GP Flooring Solutions
Headquarters
32 Marway Circle
Gates, NY 14624

(800) 832-3550

Proposal

For:

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Job Site:

Town of Amherst / Dan Reilly
1100 N Forest Rd
Engineering Building - Mohawk
Williamsville, NY 14221
Contact: Daniel Reilly 716 510-2335

Proposal #	15453
Customer PO	
Contract #	PC69410
Date	9/7/2022
Sales Person	Tim Glassbrool
Designer	

Type		Quantity	Product Description	Color / Item Number	Price	T
Carpet	Mat	257 SqYd	Mohawk Pure Genius Carpet (24x24) Doctor II - BT381 - 24 cases	999 Writer	$22.64	$5,818
	Lab	257 SqYd	Installation - Carpet Tile - Prevailing wage		$10.88	$2,796
Notes		PC69410				
Carpet	Mat	21.32 SqYd	Mohawk Pure Genius Carpet (24x24) Doctor II - BT381 - 2 cases	999 Writer	$22.64	$482
Notes		PC69410 - Attic Stock				
Vinyl Resilient	Mat	3096 SqFt	Mohawk LVT- Living Local C2039 - 2.5MM - 20mil Wear Layer - 6”x48” - 86 cases	812 Tan Tone	$3.04	$9,411
	Lab	3096 SqFt	Installation of Luxury Vinyl Tile or Planks - Prevailing wage		$3.34	$10,340
Notes		PC69410				
Vinyl Resilient	Mat	108 SqFt	Mohawk LVT- Living Local C2039 - 2.5MM - 20mil Wear Layer - 6”x48” - 3 cases	812 Tan Tone	$3.04	$328
Notes		PC69410 - Attic Stock				
Labor						
	Lab	2155 SqFt	Night / Saturday Labor - Add up to 40%		$1.22	$2,629
Notes		PC69410				
Labor						
	Lab	595 SqYd	Removal of Broadloom (direct glue down) - Prevailing wage		$5.94	$3,534
Notes		PC69410				
Labor	Mat	1 Each	GP Flooring provided Dumpster			
	Lab	595 SqYd	Carpet Disposal - Prevailing wage		$1.46	$868
Notes		PC69410				
Wall Base	Mat	1440 LnFt	Mohawk Rubber Cove base - CRW05 - 4” cove base - Lengths	Black-100	$0.75	$1,080
	Lab	1440 LnFt	Install Base, Std. 4-Inch Vinyl/Rubber Blend, Black/Brown - Prevaling wage		$3.24	$4,665
Notes		PC69410				
Adhesive	Mat	24 Each	M45C - wall base adhesive	Tube	$4.96	$119
Notes		PC69410				
Adhesive	Mat	4 Each	Mohawk Enpress Pressure Sensitive Adhesive	4 Gal	$96.94	$387
Notes		PC69410				
Adhesive	Mat	4 Each	Mohawk M95 - M95C		$137.88	$551
Notes		PC69410				
Accessories	Mat	32 Each	Schonox SL Patch 10 lb (GP)	10 lb		
	Lab	4810 SqFt	Floor Prep - Skim Coating to 1/8 Inch (Material and Labor)		$1.64	$7,888
Notes		PC69410				

Attachment: Flooring Proposal- updated 10-5-22 (RES-2022-1096 : Amendment to Resolution 2022-916 - Engineering Dept. Flooring CRS #3580)

Continuation For: Town of Amherst, Proposal # 15453

Type		Quantity	Product Description	Color / Item Number	Price	Total
Accessories	Mat	2 Each	OptiSeal - M003B		$134.40	$268
Notes		PC69410				
Labor						
	Lab	479 SqYd	Conventional Furniture Moving (Medium)		$7.14	$3,420
Notes		PC69410				
Labor						
	Lab	256 SqYd	L I F T Systems / Carpet Tile Projects Only - Add		$20.64	$5,283
Notes		PC69410				
Transition	Mat	108 LnFt	Rubber Accessories - Transitions - CRA07	Black	$1.39	$150
	Lab	108 LnFt	Install Transition, Standard, Black/Brown/Gold/Silver		$3.28	$354
Notes		PC69410				
Unclassified	Mat	278.32 SqYd	Freight - Carpet Tile		$3.23	$898
Notes		PC69410				
Unclassified	Mat	3204 SqFt	Freight - LVT		$0.09	$288
Notes		PC69410				
Unclassified	Mat	1 Each	Delivery		$267.00	$267
	Lab	54 HR	Hourly Labor Rate for Services not Listed - Staging/Handling/excessive furniture move		$118.52	$6,400
Notes		PC69410				
Labor						
	Lab	15 Each	Travel			

Information

All pricing is per NYS Contract PC69410
Labor to be paid @ Erie County Prevailing wage
Project to tentatively start Oct 2022
Town of Amherst to move all personal or loose items - All electronics to be unplugged by Town of Amherst
Project is priced for 1 mobilization
1 skim coat is included - additional skim coats or heavy prep would be additional - Add $800 if additional bags & labor is needed to fill any holes in concrete
All staging of material to be on-site

Contract Total	$68,234
Sales Tax	
Grand Total	$68,234

Additional Conditions

NYS Flooring Contract - Mohawk: PC69410
Federal ID #16-6330058

Buyer _____ Date _____ Seller _____ Date _____

Attachment: Flooring Proposal- updated 10-5-22 (RES-2022-1096 : Amendment to Resolution 2022-916 - Engineering Dept. Flooring CRS #3580)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26697 **RESOLUTION 2022-1097** **ADOPTED**

Lou Gehrig Baseball Field Improvements - Change Order No. 1 Northeast Diversification, Inc. CRS #3688

The Engineering Department is requesting Town Board authorization for a $24,750.00 change order increase for the above referenced project. This change order request is for the rehabilitation and extension of the existing paved path between fields 9 and 10 at this facility. The path will facilitate maintenance and pedestrian access to the renovated baseball field 10.

Funding for this change order is available from KP2135-4972.

This request is pending successful completion of the contract review process. Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

KP2135-4972; $24,750.00

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

wendel

375 Essjay Road, Suite 200, Williamsville, New York 14221
P 716.688.0766 F 716.625.6825

Change Order

Change Order No.: 1
Date: October 12, 2022
Contract No.: n/a
Sheet 1 of 1
Owner File No.: 2021.035C
Wendel Project No.: 261349

Project: Town of Amherst Lou Gehrig Baseball Field Improvements
Owner's Name: Town of Amherst
Contractor's Name: Northeast Diversification, Inc.

DESCRIPTION OF CHANGE TO CONTRACT OR EXTRA WORK:

Paved 10' path by 630' long with 3" type 3 TS Binder. Include excavation and subbase for the last 61'.

REASON FOR MODIFICATION OR NEED FOR EXTRA WORK:

Owner requested paved path to better facilitate maintenance and pedestrian access to the refurbished field #10.

CHANGE IN CONTRACT PRICE:

Original Contract Price

$ 1,056,699.00

Net changes from previous Change Orders - -

$ 0.00

Net Increase of this Change Order

$ 24,750.00

Contract Price with all approved Change Orders

$ 1,081,449.00

CHANGE IN CONTRACT SCHEDULE:

Original Contract Schedule

Substantial Completion:

Ready for final payment:

days or dates

Net change from previous Change Orders - -

Net Increase of this Change Order

Contract Schedule with all approved Change Orders

Substantial Completion:

Ready for final payment:

days or dates

APPROVALS:

Contractor Name: Timothy P. Szczepanski, Northeast Diversification, Inc.
Contractor Signature: Pres Date: 10/13/2022

Engineer Name: David L. Kenyon, RLA, ASLA, LEED AP - Wendel
Engineer Signature: Date: 10/12/2022

Owner Name: Dan Reilly, Town of Amherst
Owner Signature: Date:

Attachment: Change Order - Lou Gehrig Northeast Div. (RES-2022-1097 : Lou Gehrig Baseball Field Improvements - Change Order No. 1 CRS

NORTHEAST DIVERSIFICATION, INC.

DBA Northeast Paving

2 Cadby Industrial Park, Lancaster, NY 14086
Tel: (716) 681-8879 • Fax: (716) 681-3407
Website: www.northeastpaving.com
Site Work, Utilities, Earthwork, Paving

October 26, 2022

Dan Reilly
Town of Amherst Engineering Department
1100 North Forest Road
Williamsville, New York 14221

Reference: Lou Gehrig Baseball Field – TOA Job# 2021.035C
Subject: Quotation to Pave Path

Dear Dan,

Attached is the detailed breakdown of our estimate in the amount of $24,756 to pave the path at Lou Gehrig Baseball Field. The price includes excavation, subbase and asphalt to extend the path to the 1st base dugout. The price also includes regrading and fine grading existing path subbase and installing 10' width x 3" depth of type 3TS binder.

Please issue a change order so we can schedule this work.

Thank you,

Sincerely,

Timothy P. Szczepanski
Vice President

Attachment: Change Order - Lou Gehrig Northeast Div. (RES-2022-1097 : Lou Gehrig Baseball Field Improvements - Change Order No. 1 CRS

Estimator Estimate Totals Report
Job: 2020032858 - 2109022 Lou Gerhrig Baseball Field Paving Revised
Estimator: TPS

Total	Labor	Equipment	Material	SubContr	TAX	PROFIT AND OH	Other3	TRUCKS	Other5	ManHours	ManDays
24,756	5,515	3,013	10,087	0	0	3,229	0	2,913	0	69.0	8.6

10/2 Attachment: Change Order - Lou Gehrig Northeast Div. (RES-2022-1097 : Lou Gehrig Baseball Field Improvements - Change Order No. 1 CRS

Estimator Estimate Detail Report
Job: 2020032858 - 2109022 Lou Gerhrig Baseball Field Paving Revised
Estimator: TPS

	Description	Qty	Units	UnitCost	XtdCost
-	**REGRADING & FINE GRADING PAVEMENT**	**6,304.00**	**SF**	0.64	4,017.32
	...LABORER	0.00	HR	70.68	0.00
	...OPERATOR	14.00	HR	85.38	1,195.32
	...ROLLER RIDE 60"	4.00	HR	28.75	124.20
	...CRUSHED STONE - 1 INCH	68.20	TN	18.00	1,227.60
	...JD 750J LGP DOZER	14.00	HR	69.30	970.20
	...TANDEM DUMP TRUCK	4.00	HR	125.00	500.00
-	**PAVING BINDER COURSE 3" Type 3TS**	**6,304.00**	**SF**	2.20	13,838.80
	...PAVER AND ROLLERS	1.00	DAY	1,400.00	1,400.00
	...ASPHALT BINDER	122.00	TN	68.00	8,296.00
	...TANDEM DUMP TRUCK	5.00	HR	125.00	625.00
	...TANDEM DUMP TRUCK	6.00	HR	125.00	750.00
	...LABOR FORMAN	5.00	HR	85.38	426.90
	...LABORER	10.00	HR	70.68	706.80
	...LABORER	5.00	HR	70.68	353.40
	...OPERATOR	5.00	HR	85.38	426.90
	...OPERATOR	5.00	HR	85.38	426.90
	...OPERATOR	5.00	HR	85.38	426.90
* -	**EXCAVATION SIDEWALKS**	**31.00**	**CY**	62.16	1,926.90
	...LABORER	6.00	HR	70.04	420.24
	...OPERATOR	6.00	HR	85.11	510.66
	...TANDEM DUMP TRUCK	6.00	HR	125.00	750.00
	...KUBOTA 080	6.00	HR	41.00	246.00
-	**SUBBASE 6-10"**	**25.00**	**CY**	69.75	1,743.80
	...LABORER	4.00	HR	70.04	280.16
	...OPERATOR	4.00	HR	85.11	340.44
	...CRUSHED STONE -2 INCH	46.00	TN	12.25	563.50
	...ROLLER RIDE 60"	4.00	HR	28.75	124.20
	...TRAILOR DUMP TRUCK STONE TONAGE	46.00	TN	6.25	287.50
	...JD 650 DOZER	4.00	HR	37.00	148.00
$	PROFIT	15.00	%	215.27	3,229.02

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26698 **RESOLUTION 2022-1098** **ADOPTED**

Legionella Testing & Certifiation of Cooling Tower Systems M.I.S. of America, Inc. CRS #3689

On October 25, 2022 proposals were received for the above referenced project. Subsequent to the solicitation for proposals, two (2) proposals were received. The proposal summary sheet is attached.

At this time, we request the Town Board to please approve the expenditure of funds in the amount of $12,180.00 for a 2-year term contract to M.I.S. of America Inc., for the Legionella Testing & Certification of Cooling Tower Systems Contract. The professional services included in this contract are for inspection, sampling and certification of the Town's cooling tower systems. Should there be a positive Legionella count from the quarterly sampling, this contract also provides for additional expenditures for additional Legionella tests at $235.00 per test, and cleaning & disinfection services at $100.00 per hour.

Funds are available for this project from the following bond accounts:

WPCF	$4,069.00	G9916-4110
Recreation Department	$8,120.00	A7253-4110

Pending successful completion of the contract approval procedure, may we have your approval to award M.I.S. of America Inc. the above referenced project? Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

G9916-4110; $4,069.00

A7253-4110; $8,120.00

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

TOWN OF AMHERST

ENGINEERING DEPARTMENT
ERIE COUNTY – NEW YORK
JEFFREY S. BURROUGHS, P.E. – TOWN ENGINEER

September 27, 2022
Revised: October 5, 2022 &
October 21, 2022

MIS of America Inc.
4391 Walden Avenue
Lancaster, NY 14086
Attn: Tom Walling

RE: **Request for Proposal for Professional Services**
Town of Amherst
Legionella Testing & Certification of Cooling Tower Systems
T.O.A. Project No. 2022.002C

Dear Mr. Walling:

The Town of Amherst (Town) is seeking Professional Services Proposals to provide inspection, sampling and certification for the Town's cooling towers. The Town owns and operates cooling tower systems located at two facilities in the Town. In accordance with Section 225(5)(a) of the Public Health Law, Part 4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, the Town is seeking to acquire a 2-year term contract to provide all necessary services required by this legislation. The term contract will commence upon the date of Town Board approval, and be valid for two (2) years.

The scope of the term contract is intended to include the following tasks:

1. Annual Certification services to be provided for the duration of the term contract, in accordance with the legislation and the dates imposed within for each cooling tower location. (Once a year on each cooling tower system.)

2. Sampling and Analytical Services. The Town requires cultured sampling for the presence of legionella bacteria (not dip slides) to be performed as required. Sampling personnel must be properly credentialed and analytical services provided must be NYS ELAP and ISO/IEC 17025:2005 accredited, and be experienced analyzing for legionella and its species. Proof of training and experience with inspections must be provided with the submitted proposal.

   The services performed on each of the cooling tower systems will include the following tasks, and will be invoiced quarterly (3-month period):

   - Routine bacteriological culture sampling and analysis (intervals not to exceed 30 days)
   - Routine Legionella culture sampling and analysis (intervals not to exceed 90 days)

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

3. Additional Legionella Sampling. Should there be a positive Legionella count from the quarterly sampling, then additional tests would be done after cleaning and disinfection of the cooling tower unit. (To be performed when needed.)

4. As an option, the proposing entities may submit, on a time and materials basis, a proposal to provide cleaning services as required. If the legionella bacteria is detected in the cooling tower system and cleaning and disinfection services are required, the proposer is asked to submit a proposal to provide those services to the Town. The cleaning and disinfection services, may be awarded as part of this contract at the sole discretion of the Town. (To be performed when needed.)

Locations of Cooling Towers

- Amherst WPCF, 455 Tonawanda Creek Road, Amherst, NY 14228
  - Marley NCP-8611 1-198-77 – ***One (1) unit***
  - Contact - Kevin Mayers – 716-691-9771

- Northtown Ice Center, 1615 Amherst Manor Drive, Williamsville, NY 14221
  - Baltimore Air Coil Company Model #VC1-N230 – ***Two (2) units***
  - Contact - Eric Guzdek – 716-631-7132

All other services not specifically listed in this RFP that are included in the NYS regulation are intended to be provided under this contract. The Town may award separate contracts to proposing parties to provide the services required by Tasks 1-3 and Tasks 4 separately; or separately by location. Proposals shall be submitted in the format attached.

Proposals shall be submitted in a lump sum cost for each item and for each cooling tower location. The proposed cost shall include all necessary time, travel time, equipment, supplies, reimbursables and tools to properly provide the services intended.

Invoices for services shall exactly match the format submitted in the proposal and shall be paid upon completion of the task on a net 30 day basis.

Proof of insurance in accordance with the attached provisions is not required to be submitted with the proposal, but will be required of the successful consultant prior to contract execution. All submitted proposals must also be tax exempt.

We are requesting that proposals be submitted via email to Jeffrey S. Burroughs – Town Engineer [jburroughs@amherst.ny.us] and Michael J. Poslinski – Senior Engineer Assistant [mposlinski@amherst.ny.us], by no later than **12:00 pm, Tuesday, October 25, 2022**.

The Town of Amherst is awarding a 2-year term contract from the date of Town Board approval. This contract may be extended for not more than two successive periods of equal length at the same proposed price upon the mutual agreement of the successful respondent and the Town of Amherst. The unit pricing submitted in the proposal will be fixed for the term of the contract.

The Town reserves the right to reject any and all proposals; negotiate any elements of the proposal; award a contract in whole or combination of tasks. The Town assumes no responsibility or liability for costs incurred by respondents to this Request for Proposals.

Thank you for your anticipated interest in this contract. Please notify this office in writing should your firm be unable to submit a proposal for this project.

If you have any questions or need any additional information, please do not hesitate to call the contacts listed above, or me directly.

Sincerely,

Michael J. Poslinski
Senior Engineer Assistant

enc. Section 225(5)(a) of the Public Health Law, Part 4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York
IRAN Divestment Act Certification
Addendum to Contract
Sample Certificate of Insurance

cc: Jeffrey S. Burroughs, P.E., Town Engineer
Jerome Suszynski, Assistant Plant Superintendent of Maintenance
John Richter, Pretreatment Coordinator

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella

PROPOSAL FORM
Provide Testing, Inspection and Certification of Cooling Tower Systems

FIRM NAME _____

ADDRESS OF PRINCIPLE OFFICE:
STREET _____
CITY _____ STATE _____
ZIP _____ PHONE _____

CONTACT NAME _____

Tasks / Description	LOCATION 1: Amherst WPCF			LOCATION 2: Amherst Northtown Ice Center			1-YEAR TOTAL PRICE FOR BOTH LOCATIONS	2-YEAR TOTAL PRICE FOR BOTH LOCATIONS
	UNIT PRICE	QTY	1-YEAR TOTAL PRICE	UNIT PRICE	QTY	1-YEAR TOTAL PRICE		
1. Annual Certification		1			2			
2. Sampling and Analytical Services (Invoiced Quarterly)		4			8			
3. Additional Sampling and Analytical Services due to a positive bacteria result.		2*			4*			
Total of Tasks 1-3								**Basis of Award Item #1
4. Cleaning/Disinfection Services. (Hourly Rate)								**Basis of Award Item #2

* For estimation purposes only and not meant to limit or guarantee any volume of services to be provided.
** Basis of Award is intended to be: 1) The lowest responsible proposal for the items total (Basis of Award Item #1); 2) Lowest responsible Hourly Rate for cleaning/disinfection services.

Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 225(5)(a) of the Public Health Law, Part 4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, to be effective upon filing with the Secretary, to read as follows:

4.1 Scope.

All owners of cooling towers, and all general hospitals and residential health care facilities as defined in Article 28 of the Public Health Law, shall comply with this Part.

4.2 Definitions.

As used in this Part, the following terms shall have the following meanings:

(a) Building. The term "building" means any structure used or intended for supporting or sheltering any use or occupancy. The term shall be construed as if followed by the phrase "structure, premises, lot or part thereof" unless otherwise indicated by the text.

(b) Commissioner. The term "commissioner" means the New York State Commissioner of Health.

(c) Cooling Tower. The term "cooling tower" means a cooling tower, evaporative condenser or fluid cooler that is part of a recirculated water system incorporated into a building's cooling, industrial process, refrigeration or energy production system.

(d) Owner. The term "owner" means any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of the premises.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

4.3 Registration.

All owners of cooling towers shall register such towers with the department within 30 days after the effective date of this Part. Thereafter, all owners of cooling towers shall register such towers with the department prior to initial operation, and whenever any owner of the cooling tower changes. Such registration shall be in a form and manner as required by the commissioner and shall include, at a minimum, the following information:

(a) street address of the building at which the cooling tower is located, with building identification number, if any;

(b) intended use of the cooling tower;

(c) name(s), address(es), telephone number(s), and email address(es) of all owner(s) of the building;

(d) name of the manufacturer of the cooling tower;

(e) model number of the cooling tower;

(f) specific unit serial number of the cooling tower;

(g) cooling capacity (tonnage) of the cooling tower;

(h) basin capacity of the cooling tower;

(i) whether systematic disinfection is maintained manually, through timed injection, or through continuous delivery;

(j) the contractor or employee engaged to inspect and certify the cooling tower; and

(k) commissioning date of the cooling tower.

4.4 Culture sample collection and testing; cleaning and disinfection.

(a) All owners of cooling towers shall collect samples and obtain culture testing:

(1) within 30 days of the effective date of this Part, unless such culture testing has been obtained within 30 days prior to the effective date of this Part, and shall take immediate actions in response to such testing, including interpreting Legionella culture results, if any, as specified in Appendix 4-A.

(2) in accordance with the maintenance program and plan, and shall take immediate actions in response to such testing as specified in the plan, including interpreting Legionella culture results, if any, as specified in Appendix 4-A; provided that if a maintenance program and plan has not yet been obtained in accordance with section 4.6 of this Part, bacteriological culture samples and analysis (dip slides or heterotrophic plate counts) to assess microbiological activity shall be obtained, at intervals not exceeding 90 days while the tower is in use, and any immediate action in response to such testing shall be taken, including interpreting Legionella culture results, if any, as specified in Appendix 4-A.

(b) Any person who performs cleaning and disinfection shall be a commercial pesticide applicator or pesticide technician who is qualified to apply biocide in a cooling tower and certified in accordance with the requirements of Article 33 of the Environmental Conservation Law and 6 NYCRR Part 325, or a pesticide apprentice under the supervision of a certified applicator.

(c) Only biocide products registered by the New York State Department of Environmental Conservation may be used in disinfection.

(d) All owners shall ensure that all cooling towers are cleaned and disinfected when shut down for more than five days.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

4.5 Inspection and certification.

(a) Inspection. All owners of cooling towers shall inspect such towers within 30 days of the effective date of this Part, unless such tower has been inspected within 30 days prior to the effective date of this Part. Thereafter, owners shall ensure that all cooling towers are inspected at intervals not exceeding every 90 days while in use. All inspections shall be performed by a: New York State licensed professional engineer; certified industrial hygienist; certified water technologist; or environmental consultant with training and experience performing inspections in accordance with current standard industry protocols including, but not limited to ASHRAE 188-2015, as incorporated by section 4.6 of this Part.

(1) Each inspection shall include an evaluation of:

(i) the cooling tower and associated equipment for the presence of organic material, biofilm, algae, and other visible contaminants;

(ii) the general condition of the cooling tower, basin, packing material, and drift eliminator;

(iii) water make-up connections and control;

(iv) proper functioning of the conductivity control; and

(v) proper functioning of all dosing equipment (pumps, strain gauges).

(2) Any deficiencies found during inspection will be reported to the owner for immediate corrective action. A person qualified to inspect pursuant to paragraph (a) of this section shall document all deficiencies, and all completed corrective actions.

(3) All inspection findings, deficiencies, and corrective actions shall be reported to the owner, recorded, and retained in accordance with this Part, and shall also be reported to the department in accordance with section 4.10 of this Part.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

(b) Certification. Each year, the owner of a cooling tower shall obtain a certification from a person identified in paragraph (a) of this section, that such cooling tower was inspected, tested, cleaned, and disinfected in compliance with this Part, that the condition of the cooling tower is appropriate for its intended use, and that a maintenance program and plan has been developed and implemented as required by this Part. Such certification shall be obtained by November 1, 2016, and by November 1 of each year thereafter. Such certification shall be reported to the department.

4.6 Maintenance program and plan.

(a) By March 1, 2016, and thereafter prior to initial operation, owners shall obtain and implement a maintenance program and plan developed in accordance with section 7.2 of Legionellosis: Risk Management for Building Water Systems (ANSI/ASHRAE 188-2015), 2015 edition with final approval date of June 26, 2015, at pages 7-8, incorporated herein by reference. The latest edition of ASHRAE 188-2015 may be purchased from the ASHRAE website (www.ashrae.org) or from ASHRAE Customer Service, 1791 Tullie Circle, NE, Atlanta, GA 30329-2305. E-mail: orders@ashrae.org. Fax: 678-539-2129. Telephone: 404-636-8400, or toll free 1-800-527-4723. Copies are available for inspection and copying at: Center for Environmental Health, Corning Tower Room 1619, Empire State Plaza, Albany, NY 12237.

(b) In addition, the program and plan shall include the following elements:

(1) a schedule for routine bacteriological sampling and analysis (dip slides or heterotrophic plate counts) to assess microbiological activity and a schedule for Legionella sampling and culture analysis; provided that where the owner is a general hospital or residential health care facility, as defined in Article 28 of the Public Health

Law, routine testing shall be performed at a frequency in accordance with the direction of the department.

(2) emergency sample collection and submission of samples for Legionella culture testing to be conducted in the case of events including, but not limited to:

(i) power failure of sufficient duration to allow for the growth of bacteria;

(ii) loss of biocide treatment sufficient to allow for the growth of bacteria;

(iii) failure of conductivity control to maintain proper cycles of concentration;

(iv) a determination by the commissioner that one or more cases of legionellosis is or may be associated with the cooling tower, based upon epidemiologic data or laboratory testing; and

(v) any other conditions specified by the commissioner.

(3) immediate action in response to culture testing, including interpreting Legionella culture results, if any, as specified in Appendix 4-A; provided that where the owner is a general hospital or residential health care facility, as defined in Article 28 of the Public Health Law, the provisions shall additionally require immediately contacting the department for further guidance, but without any delay in taking any action specified in Appendix 4-A.

(c) An owner shall maintain a copy of the plan required by this subdivision on the premises where a cooling tower is located. Such plan shall be made available to the department or local health department immediately upon request.

4.7 Recordkeeping.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

An owner shall keep and maintain records of all inspection findings, deficiencies, corrective actions, cleaning and disinfection, and tests performed pursuant to this Part, and certifications, for at least three years. An owner shall maintain a copy of the maintenance program and plan required by this Part on the premises where a cooling tower is located. Such records and plan shall be made available to the department or local health department immediately upon request.

4.8 Discontinued use.

The owner of a cooling tower shall notify the department within 30 days after removing or permanently discontinuing use of a cooling tower. Such notice shall include a statement that such cooling tower has been disinfected and drained in accordance with the same procedures as set forth in the shutdown plan, as specified in the maintenance program and plan required pursuant to this Part.

4.9 Enforcement.

(a) An officer, employee or agent of the department or local health department may enter onto any property to inspect the cooling tower for compliance with the requirements of this Part, in accordance with applicable law.

(b) Where an owner does not register, obtain certification, clean or disinfect, culture test or inspect a cooling tower within the time and manner set forth in this Part, the department or local health department may determine that such condition constitutes a nuisance and may take such action as authorized by law. The department or local health department may also take any other action authorized by law.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

(c) A violation of any provision of this Part is subject to all civil and criminal penalties as provided for by law. Each day that an owner remains in violation of any provision of this Part shall constitute a separate and distinct violation of such provision.

4.10 Electronic registration and reporting.

(a) (1) Within 30 days of the effective date of this Part, and thereafter within 10 days after any action required by this Part, owners shall electronically input the following information in a statewide electronic system designated by the commissioner:

(i) registration information;

(ii) date of last routine culture sample collection, sample results, and date of any required remedial action;

(iii) date of any legionella sample collection, sample results, and date of any required remedial action;

(iv) date of last cleaning and disinfection;

(v) dates of start and end of any shutdown for more than five days;

(vi) date of last certification and date when it was due;

(vii) date of last inspection and date when it was due;

(viii) date of discontinued use; and

(ix) such other information as shall be determined by the department.

(2) The commissioner may suspend this requirement in the event that the electronic system is not available.

(b) The data in the system referenced in paragraph (a) shall be made publicly available, and shall be made fully accessible and searchable to any local health department. Nothing in this Part shall

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

preclude a local health department from requiring registration and reporting with a local system or collecting fees associated with the administration of such system.

4.11 Health care facilities

(a) All general hospitals and residential health care facilities, as defined in Article 28 of the Public Health Law, shall, as the department may determine appropriate:

(1) adopt a Legionella sampling plan for its facilities' potable water distribution system;

(2) report the results of such sampling; and

(3) take necessary responsive actions.

(b) With respect to such general hospitals and residential health care facilities, the department shall investigate to what extent, if any, requirements more stringent than those set forth in this Part are warranted.

4.12 Severability.

If any provisions of this Part or the application thereof to any person or entity or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons, entities, and circumstances.

Appendix 4-A

Interpretation of Legionella Culture Results from Cooling Towers	
Legionella Test Results in CFU[1] /ml	Approach

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

No detection (< 10 CFU /ml)	Maintain treatment program and *Legionella* monitoring.
For levels at ≥ 10 CFU /ml but < 1000 CFU /ml perform the following:	○ Review treatment program. ○ Institute immediate *online disinfection*[2] to help with control ○ Retest the water in 3 – 7 days. ▪ Continue to retest at the same time interval until two consecutive readings show acceptable improvement, as determined by a person identified in 10 NYCRR 4.6. Continue with regular maintenance strategy. ▪ If < 100 CFU /ml repeat *online disinfection*[2] and retest. ▪ If ≥100 CFU /ml but < 1000 CFU /ml further investigate the water treatment program and immediately perform *online disinfection*.[2] Retest and repeat attempts at control strategy. ○ If ≥ 1000 CFU /ml undertake control strategy as noted below.
For levels ≥ 1000 CFU /ml perform the following:	○ Review the treatment program ○ Institute immediate *online decontamination*[3] to help with control ○ Retest the water in 3 – 7 days. ▪ Continue to retest at the same time interval until two consecutive readings show acceptable improvement, as determined by a person identified in 10 NYCRR 4.6. Continue with regular maintenance strategy. ▪ If < 100 CFU /ml repeat *online disinfection*[2] and retest;

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

	▪ If ≥ 100 CFU /ml but < 1000 CFU /ml further investigate the water treatment program and immediately perform *online disinfection*.[2] Re-test and repeat attempts at control strategy. ▪ If ≥ 1000 CFU /ml carry out *system decontamination*[4]

[1] Colony forming units.

[2] Online disinfection means – Dose the cooling tower water system with either a different biocide or a similar biocide at an increased concentration than currently used.

[3] Online decontamination means – Dose the recirculation water with a chlorine-based compound equivalent to at least 5 mg/l (ppm) free residual chlorine for at least one hour; pH 7.0 to 7.6.

[4] System decontamination means – Maintain 5 to 10 mg/l (ppm) free residual chlorine for a minimum of one hour; drain and flush with disinfected water; clean wetted surface; refill and dose to 1 – 5 mg/l (ppm) of free residual chlorine at pH 7.0 – 7.6 and circulate for 30 minutes. Refill, re-establish treatment and retest for verification of treatment.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

A Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement will be published in the Register within 30 days of the rule's effective date.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Emergency Justification

Improper maintenance of cooling towers can contribute to the growth and dissemination of *Legionella* bacteria, the causative agent of legionellosis. Legionellosis causes cough, shortness of breath, high fever, muscle aches, headaches and can result in pneumonia. Hospitalization is often required, and between 5-30% of cases are fatal. People at highest risk are those 50 years of age or older, current or former smokers, those with chronic lung diseases, those with weakened immune systems from diseases like cancer, diabetes, or kidney failure, and those who take drugs to suppress the immune system during chemotherapy or after an organ transplant. The number of cases of legionellosis reported in New York State between 2005-2014 increased 323% when compared to those reported in the previous ten year period.

Outbreaks of legionellosis have been associated with cooling towers. A cooling tower is an evaporative device that is part of a recirculated water system incorporated into a building's cooling, industrial process, refrigeration, or energy production system. Because water is part of the process of removing heat from a building, these devices require biocides—chemicals that kill or inhibit bacteria (including *Legionella*)—as means of controlling bacterial overgrowth. Overgrowth may result in the normal mists ejected from the tower having droplets containing *Legionella*.

For example, in 2005, a cooling tower located at ground level adjacent to a hospital in New Rochelle, Westchester County resulted in a cluster of 19 cases of legionellosis and multiple fatalities. Most of the individuals were dialysis patients or companions escorting the patients to their dialysis session. One fatality was in the local neighborhood. The cooling tower was found to have insufficient chemical treatment. The entire tower was ultimately replaced by the

manufacturer in order to maintain cooling for the hospital and to protect public health. In June and July of 2008, 12 cases of legionellosis including one fatality were attributed to a small evaporative condenser on Onondaga Hill in Syracuse, Onondaga County. An investigation found that the unit was not operating properly and this resulted in the growth of microorganisms in the unit. Emergency biocide treatment was initiated and proper treatment was maintained. No new cases were then detected thereafter.

Recent work has shown that sporadic cases of community legionellosis are often associated with extended periods of wet weather with overcast skies. A study conducted by the New York State Department of Health that included data from 13 states and one United States municipality noted a dramatic increase in sporadic, community acquired legionellosis cases in May through August 2013. Large municipal sites such as Buffalo, Erie County reported 2- to 3-fold increases in cases without identifying common exposures normally associated with legionellosis. All sites in the study except one had a significant correlation, with some time lag, between legionellosis case onset and one or more weather parameters. It was concluded that large municipalities produce significant mist (droplet) output from hundreds of cooling towers during the summer months. Periods of sustained precipitation, high humidity, cloud cover, and high dew point may lead to an "urban cooling tower" effect. The "urban cooling tower" effect is when a metropolitan area with hundreds of cooling towers acts as one large cooling tower producing a large output of drift, which is entrapped by humid air and overcast skies.

More recently, 119 cases of legionellosis that included 12 fatalities (8/12/15) occurred in Bronx, NY (July-August, 2015). This event was preceded by an outbreak in Co-Op City in the Bronx, from December 2014 to January 2015, which involved 8 persons and no fatalities. Both of these outbreaks have been attributed to cooling towers, and emergency disinfection of

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

compromised towers helped curtail these outbreaks. These events highlight the need for proper maintenance of cooling towers.

The heating, ventilation, and air-conditioning (HVAC) industry has issued guidelines on how to seasonally start a cooling tower; treat it with biocides and other chemicals needed to protect the components from scale and corrosion; and set cycles of operations that determine when fresh water is needed; and how to shut down the tower at the end of the cooling season. The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) has recently released a new Standard entitled *Legionellosis: Risk Management for Building Water Systems* (ANSI/ASHRAE Standard 188-2015). Section 7.2 of that document outlines components of the operations and management plan for cooling towers. The industry also relies on other guidance for specific treatment chemicals, emergency disinfection or decontamination procedures and other requirement.

However, none of the guidance is obligatory. Consequently, poor practice in operation and management can result in bacterial overgrowth, increases in legionellae, and mist emissions that contain a significant dose of pathogenic legionellae. This regulation requires that all owners of cooling towers ensure proper maintenance of the cooling towers, to protect the public and address this public health threat.

Further, these regulations require all general hospitals and residential health care facilities (i.e., nursing homes) to develop a sampling plan, report the results, and take necessary actions to protect the safety of their patients or residents. The details of each facility's sampling plan and remedial measures will depend on the risk factors for acquiring Legionnaires' disease in the

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

population served by the hospital or nursing home.

Most people in nursing homes should be considered at risk, as residents are typically over 50 years of age. In general hospitals, persons at risk include those over 50 years of age, as well as those receiving chemotherapy, those undergoing transplants, and other persons housed on healthcare units that require special precautions. Additional persons who might be at increased risk for acquiring Legionnaires' disease include persons on high-dose steroid therapy and persons with chronic lung disease. Certain facilities with higher risk populations, such as those with hematopoietic stem-cell transplant (HSCT) and solid organ transplant units, require more protective measures.

An environmental assessment involves reviewing facility characteristics, hot and cold water supplies, cooling and air handling systems and any chemical treatment systems. The purpose of the assessment is to discover any vulnerabilities that would allow for amplification of Legionella spp. and to determine appropriate response actions in advance of any environmental sampling for Legionella. Initial and ongoing assessment should be conducted by a multidisciplinary team that represents the expertise, knowledge and functions related to the facility's operation and service. A team should include, at a minimum, representatives from the following groups: Infection Control; Physical Facilities Management; Engineering; Clinicians; Laboratory; and Hospital Management.

Thus, to protect the public from the immediate threat posed by *Legionella*, the Commissioner of Health and the Public Health and Health Planning Council have determined it necessary to file these regulations on an emergency basis. Public Health Law § 225, in

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

conjunction with State Administrative Procedure Act § 202(6) empowers the Council and the Commissioner to adopt emergency regulations when necessary for the preservation of the public health, safety or general welfare and that compliance with routine administrative procedures would be contrary to the public interest.

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

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.

Signature: _____

Print Name: _____

Title: _____

Company Name: _____

Date: _____

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis. Consultant shall ensure all its subconsultant s,

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

if any, have obtained all the above insurances and shall also assure that any policy procured by any subconsultant or sub-subconsultant shall name the Town as an additional insured on a primary and non-contributory basis. A failure by Consultant to assure that any policy procured by any subconsultant or sub-subconsultant name the Town as an additional insured on a primary and non-contributory basis, shall be considered a material breach of the underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and to pay liquidated damages to the Town of no less than $2,000,00.00 or the Town's actual expenses, whichever is higher, including, but not limited to all attorney fees and expenses related to the prosecution of a breach of the insurance procurement requirements suit regardless of whether the Town is successful in said suit.

(e) A failure by Consultant to procure the General Liability, Professional Liability and/or Property Damage policies referenced above, or the failure to have the Town of Amherst as an additional insured on a primary, non-contributory basis on said policies, shall be considered a material breach of the underlying contact and subject the Contactor to forfeiture of its performance bond, if any, and to pay liquidated damages to the Town of no less than $2,000,00.00 or the Town's actual expenses, whichever is higher, including, but not limited to all attorney fees and expenses related to the prosecution of a breach of the insurance procurement requirements suit and/or of the indemnification provisions regardless of whether the Town is successful in said suit.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

opportunity.

(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations or ordinances for any county other than Erie County, New York or to the laws, statutes, rules, regulations or ordinances for any municipality other than the Town of Amherst, then the laws, statutes, rules, regulations or ordinances for New York State, Erie county and/or the Town of Amherst shall apply as applicable. Any and all legal action necessary to enforce the Agreement will be venued in Supreme Court, Erie County, New York or in the United States District Court for the Western District of New York, Buffalo Division.

10. It is hereby acknowledged that performance of this Contract will be undertaken in accordance with the specifications and pricing on which the bid was submitted.

Authority for execution on behalf of Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the Town, at a meeting thereof held on _____. Brian J. Kulpa, the Supervisor, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an Agreement on behalf of the Town as a result of that Resolution. This instrument shall be executed in triplicate. At least one (1) copy shall be permanently filed, after execution thereof, in the office of the Town Clerk of Town.

Agreed to and Accepted by:

_____
Print Name of Company

By: _____
Signature

_____
Printed name

Date:_____

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certifiation of Cooling

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (M

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 Broker Name Address Address Phone Number	**CONTACT NAME:** Primary Contact at Broker **PHONE (A/C, No, Ext):** **FAX (A/C, No):** **E-MAIL ADDRESS:**
INSURED Insured Name Address Address Phone Number	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Insurer Name **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY X CLAIMS-MADE X OCCUR X Liquor Liability Incl. X Blanket Contractual AI GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	#########	##/##/####	##/##/####	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
	AUTOMOBILE LIABILITY X ANY AUTO X OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	X	X	#########	##/##/####	##/##/####	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION $ 10,000	X	X	#########	##/##/####	##/##/####	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000
	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		**SUBMIT proof of Workers Compensation and disability as per examples attached**			PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $
	Cyber Liability Professional Liability						Per claim/Aggregate Per claim/Aggregate	$1,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Amherst is included as an additional insured. Coverage applies on a Primary and Non-Contributory Basis for all ongoing and completed operations.

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

Signed by Broker

SAMPLE

Attachment: RFP - Legionella Testing Certification (MIS of America) 10-31-22 (RES-2022-1098 : Legionella Testing & Certification of Cooling

© 1988-2016 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Legionella Testing and Certification of Cooling Tower Systems

Annual Certification and Quarterly Sampling

Request for Proposal Summary / October 25, 2022

T.O.A. Job No. 2022.002C

Task	Description	M.I.S. of America		Metro Group		Garrett-Callahan		Buffalo Industrial Chemical	
		1 Year Contract	2 Year Contract	1 Year Contract	2 Year Contract	1 Year Contact	2 Year Contract	1 Year Contact	2 Year Contact
1	**Annual Certification**								
	Location 1 (WPCF)	$100.00	$200.00	$200.00	$400.00	NO		NO	
	Location 2 (Northtown Ice Center)	$200.00	$400.00	$400.00	$800.00	PROPOSAL		PROPOSAL	
	Subtotal Task #1	$300.00	$600.00	$600.00	$1,200.00	SUBMITTED		SUBMITTED	
2	**Quarterly Sampling & Analytical Services**								
	Location 1 (WPCF)	$1,460.00	$2,920.00	$1,200.00	$2,400.00				
	Location 2 (Northtown Ice Center)	$2,920.00	$5,840.00	$2,400.00	$4,800.00				
	Subtotal Task #2	$4,380.00	$8,760.00	$3,600.00	$7,200.00				
3	**Additional Legionella Tests**								
	Cost per additional test	$235.00		$375.00					
	Location 1 (WPCF)*	$470.00	$940.00	$750.00	$1,500.00				
	Location 2 (Northtown Ice Center)*	$940.00	$1,880.00	$1,500.00	$3,000.00				
	*Subtotal Task #3**	$1,410.00	$2,820.00	$2,250.00	$4,500.00				
•	**Total of Tasks #1-3**	$6,090.00	**$12,180.00**	$6,450.00	**$12,900.00**				
4	**Cleaning/Disinfection Services**								
	Hourly Rate	$100.00 per hour		$140.00 per hour					

Note: WPCF location has one (1) cooling tower systems, and Northtown Ice Center location has two (2) cooling tower systems.

* For estimation purposes only

Attachment: RFP Summary 2022.002C - Certification Sampling (10-25-22) (RES-2022-1098 : Legionella

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 26699 **RESOLUTION 2022-1099** **ADOPTED**

Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690

The Engineering Department-Water Pollution Control Facility is requesting that the Town Board authorize the Supervisor to sign the attached 3-year agreement with Wonderware North at a cost of $16,189.00 for 2022-2023, $16,837.00 for 2023-2024 and $17,511.00 for 2024-2025. The WPCF utilizes Wonderware software to manage the Supervisory Control and Data Acquisition (SCADA) of plant operations. A technical support contract with the software developer is used to support the software use and provide technical assistance and software upgrades. This agreement will be effective from date of Town Board approval to September 13, 2025.

As this vendor provides this service remotely and does not enter Town property or access the Town's network at any time, we also request a waiver of the insurance requirements for this agreement.

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

Funds will be available in G9916-4960.

Thank you for considering this request.

11/7/2022
Consent

FINANCIAL IMPACT:

G9916-4960; $50,537.00

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

AGREEMENT

Let this document stand as an Agreement between Wonderware North and the Town of Amherst permitting the Town of Amherst to purchase the three year Wonderware Customer FIRST Agreement according to the attached proposal dated 6/20/22. The term of this contract will be from date of Town Board approval by the Town of Amherst through September 13, 2025.

Agreed to and Accepted by:

WONDERWARE NORTH

By: _____
Signature

Mark S Mazzola
Printed name

Account Executive
Title

Date: 09-14-22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa
Supervisor

Date: _____

Attachment: Wonderware Agreement (RES-2022-1099 : Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690)

Q·MATION

Customer FIRST Support Renewal

June 20, 2022

Company Name	**Town of Amherst WPCF**
Contact	**Crystal Russell**
Support Agreement ID	**36933**
Support Level	**Standard**
Effective Expiration Date	**August 13, 2022**
Reference	**TownofAmherstWPCF_36933_Russell_09132022WCF_rev1**

Crystal:

Thank you for your investment in AVEVA products and participation in the **AVEVA Customer FIRST Support Program**. The Customer FIRST Support Program ensures that you continue to get the most value from your investment by providing access to software license upgrades along with convenient access to highly skilled resources to remedy any issues you experience as you install, fine-tune, and upgrade your AVEVA software. Through any phase of your application lifecycle, Customer First membership gives you the support, services, and resources you need to be successful.

AVEVA Customer FIRST includes the following benefits:

- Free software version upgrades, fixes, patches and service packs keep your AVEVA software current and secure, leveraging new features and ensuring that existing applications keep running
- Customer FIRST mobile app gives you a quick overview of your support and services agreement
- Access to award-winning live technical support, with expert assistance throughout the software lifecycle
- Software Utilities – Leverage a growing stable of software utilities, including: the Software Asset Manager, to quickly and easily track and manage your AVEVA software licenses and apply security and performance software updates at multiple locations; and the Customer FIRST Benefits Mobile App, to get a quick overview of your support and services agreement
- Optional Services and System Management – Enjoy access to a wide array of optional services and discounts, based on the needs of your business and your budget. *The exact features vary with the AVEVA software you own.*

PLUS with Premium and Elite memberships, enjoy the following additional benefits:

- Access to 24/7/365 technical support
- Up to 24 hours of expert guidance on best practices, from initial rollout through ongoing phases of your AVEVA installation through dedicated technical support consulting services
- Free Software License Replacements for damaged or lost licenses

Customer First Support Agreements will carry no "grace period" beyond a support agreement expiry date. If an agreement lapses, the customer has the following 30 days to renew with a mandatory 10% penalty fee. Beyond 30 days, renewal still requires a 10% penalty AND the agreement loses its license volume-based discount.

425 Caredean Drive, Horsham, PA 19044
Tel 215.675.5800
www.wonderwarenorth.com

Attachment: Wonderware Agreement (RES-2022-1099 : Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690)

Customer FIRST Support Renewal

Effective Expiration Date: August 13, 2022
Agreement Expiration Date: September 13, 2022

Standard Level Support

The Effective Expiration Date is in advance to the Agreement Expiration Date to allow you time to process and execute purchase activity to avoid late fees.

The renewal quotation below is based on the attached list of licenses registered to your site. Please review license list below for accuracy and alert us of changes, upon which we will revise the proposal and official License List accordingly. Licenses not on the agreement will not be eligible for support/upgrades.

You have the flexibility to choose between Standard, Premium and Elite levels of support. Below is the price to maintain your current level of support – please let us know if you would like pricing on any alternate levels.

Part Number	Description	Price
WWCFS-2000	Wonderware Customer FIRST Agreement – Standard Level – September 14, 2022 through September 13, 2023	$16,189
WWCFS-2000	Wonderware Customer FIRST Agreement – Standard Level – September 14, 2023 through September 13, 2024	$16,837
WWCFS-2000	Wonderware Customer FIRST Agreement – Standard Level – September 14, 2024 through September 13, 2025	$17,511

A budgetary number for planning purposes for the upcoming support year(s) can be provided at request. The final support agreement pricing for the next year is typically based on an inflationary (0-3.5%) increase in license value as well as licenses purchased during the support agreement term.

Simply call or e-mail me if you have any questions.

Best Regards,

Suzie Boos
Wonderware North
sboos@wonderwarenorth.com

Reference WCF Support Agreement ID 36933 and address your order to Wonderware North (Q-mation)

Ordering Information

Q-mation DBA Wonderware North
425 Caredean Drive
Horsham, PA 19044

Terms & Conditions

1. Quotation is valid for 60 days from date of issue.
2. Quotation does not include any taxes. Tax exemption number must be on file or applicable taxes will be added.
3. Tax ID: 23-2549974
4. Payment terms are Net 30 Days

Customer First Support Agreements will carry no "grace period" beyond a support agreement expiry date. If an agreement lapses, the customer has the following 30 days to renew with a mandatory 10% penalty fee. Beyond 30 days, renewal still requires a 10% penalty AND the agreement loses its license volume-based discount.

Attachment: Wonderware Agreement (RES-2022-1099 : Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690)

Q·MATION

Customer FIRST Support Renewal

Town of Amherst WPCF (Amherst, NY) - License List

Part Number	Part Description	Software License Number
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	394030-11
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	517176-12
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	527245-9
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	527246-9
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	527247-9
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	654716-9
12-12404	Upg, InTouch 2014R2 Runtime 60000 Tag with I/O	654717-9
12-12301	Upg, Wonderware Historian Client Per Device, 1 of 5 Pk	714983-7
12-12301	Upg, Wonderware Historian Client Per Device, 1 of 5 Pk	714984-7
12-12301	Upg, Wonderware Historian Client Per Device, 1 of 5 Pk	714985-7
12-12301	Upg, Wonderware Historian Client Per Device, 1 of 5 Pk	714986-7
12-12301	Upg, Wonderware Historian Client Per Device, 1 of 5 Pk	714987-7
12-12391	Upg, Dev Studio 2014R2 Unlim Unlim / 60000 / 500	**521828-13**
12-12771	WW Skelta BPM Developer Edition 1 user	1764441-0(part of 521828)
12-12505	Upg, WW Historian 2014R2 Standard, 5000 Tag	**662115-7**
12-12326	Upg, Information Server Portal	967697-2(part of 662115)

Attachment: Wonderware Agreement (RES-2022-1099 : Wonderware/Aveva Customer First - 3 Year Agreement CRS #3690)

425 Caredean Drive, Horsham, PA 19044
Tel: 215.675.5800
www.wonderwarenorth.com

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Highway
Initiated by: **Stephen Bryan**
Co-Sponsored by:

DOC ID: 26644 **RESOLUTION 2022-1100** **ADOPTED**

Authorize Payment to ALRO STEEL INC

The Highway Department is requesting that payment be made to ALRO Steel, aka Klein Steel. Klein Steel, 105 Vanguard Parkway, Rochester, NY 14606 was acquired by ALRO Steel.

The Highway Department purchased various lengths of shop steel for Purchase Order number 22220431 for invoice #CJD 2958BF in the amount of $9,292.20.

The Town of Amherst contract with Klein Steel will not be honored by ALRO Steel. No prior communications was received stating that the contract was no longer valid and not at the time of order placement.

The Highway Department is seeking approval for and directive to the Comptroller for the payment of the invoice to ALRO STEEL, Dept 771478, PO Box 77000, Detroit, MI 48277-1478 for $9,292.20 dated 10-4-2022.

Funding is available under D5130-4430. Thank you for your time and consideration for this request!

11/7/2022
Consent

FINANCIAL IMPACT:

D5130-4430

$9292.20

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

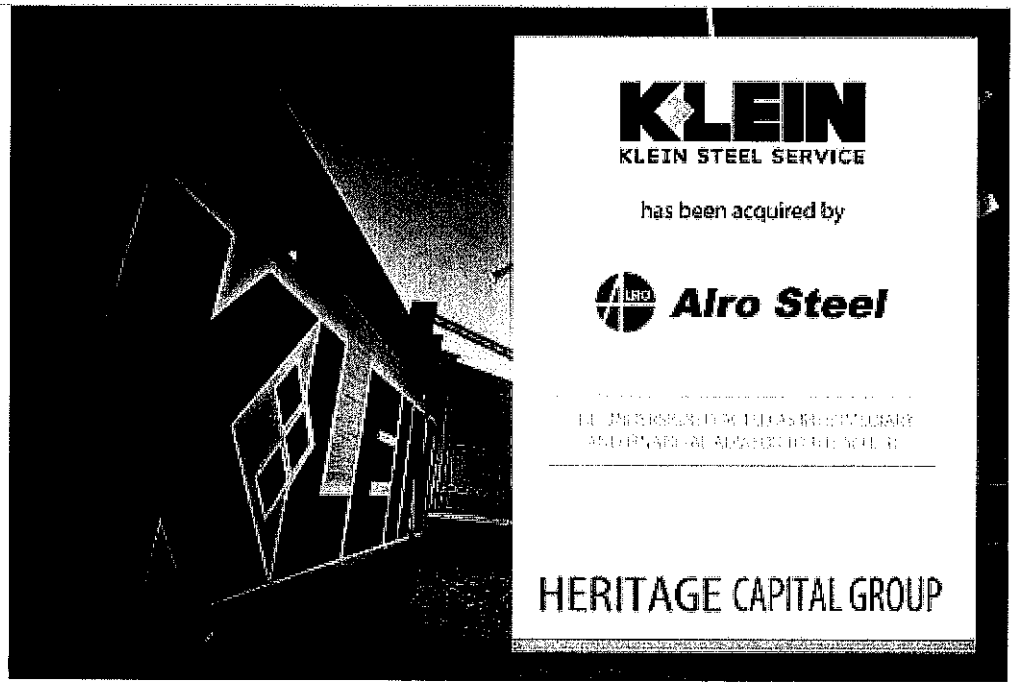
Heritage Capital Group Advises Klein Steel in Sale

HERITAGE
CAPITAL GROUP
SELL | BUY | CAPITAL | CONSULT

NEWS PROVIDED BY
Heritage Capital Group →
May 27, 2022, 08:41 ET

JACKSONVILLE, Fla., May 27, 2022 /PRNewswire/ -- **Heritage Capital Group**, an investment banking and financial advisory firm serving middle-market and emerging growth companies the US and worldwide, is pleased to announce that its client **Klein Steel Service, Inc**. ("Klein Steel" or the "Company"), has been acquired by **Alro Steel**.

Continue Reading



Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

Klein Steel has been acquired by Alro Steel.

Klein Steel, a premier metals supplier and processing center, provides world class inventory and supply management solutions with over 3,500 SKUs of carbon, stainless steel, aluminum, and specialty metals. The Company offers a full range of value-added processing services that include component manufacturing and kitting for commercial applications as well as customer specific materials. Founded in Rochester, NY in 1971, Klein Steel has grown to be an industry leader in the Northeast, operating six facilities in western and central New York.

Alro Steel was founded in 1948 as a steel distributor in Jackson, MI. Since then, Alro has expanded its operations to over 70 locations in 13 states and has extended its offerings to include plastics, industrial supplies, and value-added processing.

Heritage served as the exclusive financial advisor and intermediary to Klein Steel. The deal team was led by Bert Tenenbaum and included Doug Kravet, John Pregulman, and Chad Clar The terms of the transaction were not disclosed.

Mike Young, president of Klein Steel commented, "Heritage's attention to detail and confidentiality made our management team feel comfortable with the requirements needed during each phase of this deal. Their industry expertise made the process much more fluid than we believed possible. There were no surprises, which eliminated a lot of stress on our part

Heritage Capital Group provides objective advice to private companies in the areas of mergers acquisitions and divestitures, business valuations, debt and equity capital raises, corporate restructurings, and financial and strategic advisory services focused on enhancing the value of business enterprises. Heritage Capital Group is a FINRA registered broker-dealer, and a member of Oaklins, the world's most experienced mid-market M&A advisor, with 850 professionals globally and dedicated industry teams in 45 countries worldwide.

Media Contact:
Katie Quackenbush
904-354-9600
337335@email4pr.com

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

TOWN OF AMHERST

PURCHASE ORDER

P.O. No. 22220431

This number must appear on all packages and invoices

Date: 10/12/22

☐ 5583 Main St., Williamsville, NY 14221-5499

☒ Highway Department
1042 North Forest Road, Williamsville NY 14221

Federal ID#: 16-6002157

VENDOR'S NO.: 19894 38-1300597

DO NOT WRITE IN THIS BOX

FUND APPROPRIATION				FUND APPROPRIATION			
Fund	Dept./ District	Object	Amount	Fund	Dept./ District	Object	Am
D 5130		4430	9,292.20				

Claimant's Name and Address: KLEIN STEEL, AKA ALRO Steel
105 VANGUARD PKWY
ROCHESTER, NY 14606

Total: $9,292.20

☐ Check box if partial payment (P.O. will remain open)

☐ Separate Check Required

Quantity	Description of Materials or Services	Unit Price	Amount
1	VARIOUS - LENGTHS OF SHOP STEEL	9,292.20	9,292.20

TBA, 11/9/20 - RES, 2020-902 - CRS #2240

Due Date: 11/04/22 Vendor Invoice#: CJD2958BF **Total** **$9,292.20**

Date of Town Board Resolution (if needed):

INVOICES MUST BE RENDERED ON ATTACHED FORM (VOUCHER) FURNISHED BY THE TOWN OF AMHERST AND MUST BE PROPERLY SIGNED. THE TOWN WILL NOT BE RESPONSIBLE FOR MERCHANDISE DELIVERED WITHOUT A RECEIPT SIGNATURE.

Received by: Dianne
Date Received: 10.4.22

SALES TAX EXEMPT

All purchase contracts involving an aggregate expenditures of more than $20,000 and all contracts for public works for more than $35,000 must be competitively bid.

PURCHASE AUTHORIZATION

Patrick Lucey
Department Head or Director of Purchasing

Audited By:	Contracts:	Bids Received: Y / N
Date:	Signed Contract: Y / N Town Board Approval Date:	Town Board Approval: Y / N Date:

DEPARTMENT APPROVAL (SPACE BELOW FOR MUNICIPAL USE)

The above services or materials were rendered or furnished to the municipality on the dates stated and the changes are correct.

10-14-2022 Patrick Lucey
Date Authorized Signature

COMPTROLLER'S DEPARTMENT

Date

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

Alro Steel
Alro Metals
Alro Plastics
Alro Industrial Supply
Alro Metals Outlet

INVOICE

Invoice Number: **CJD2958BF**
Invoice Date: **10/04/2022**

PLEASE REMIT CHECKS TO
Dept 771478
P.O. Box 77000
Detroit, MI 48277-1478

BILLING ADDRESS

00676
Town of Amherst Hwy Dept.
1042 N Forest Rd.
Buffalo, NY 14221

SHIPPING ADDRESS

Town of Amherst Hwy Dept.
1042 N Forest Rd. CR-294
KEN PARTS ROOM
Buffalo, NY 14221

Customer Number	Customer P.O. Number	Customer Release Number	Ordered By
00263226	22.220431		KEN

Packing Slip	F.O.B./Via	Alro Order Number	Sales Contact
BF 1609195	DESTINATION BF TRUCK	98845215	Jesse Drum (716) 877-6242 JDRUM@ALRO.COM

Line	Quantity	Description	Length/Size	Units Shipped	Unit Price	Amount
#1	10 LNG	1/8 X 1 HR STRIP CQ	20 FT	10 LNG	$11.7000 LNG	$117.00
		TT10668919 HEAT# S13335107				
#2	10 LNG	1/8 X 2 HR STRIP CQ	20 FT	10 LNG	$21.0000 LNG	$210.00
		TT10683954 HEAT# 832W35630				
#3	5 LNG	1/8 X 3 HR STRIP CQ	20 FT	5 LNG	$36.0000 LNG	$180.00
		TT10910407 HEAT# 831W05390				
#4	5 LNG	1/8 X 4 HR STRIP CQ	20 FT	5 LNG	$46.2000 LNG	$231.00
		TT10668614 HEAT# S13335111				
#5	5 LNG	1/8 X 5 HR STRIP	20 FT	5 LNG	$59.0000 LNG	$295.00
		TT10910652 HEAT# 813W67162				
#6	5 LNG	1/8 X 6 HR STRIP CQ	20 FT	5 LNG	$66.8000 LNG	$334.00
		TT10768362 HEAT# A72116				
#7	5 PC	1/4 X 2 A-36 HR STEEL	20 FT	5 PC	$33.0000 PC	$165.00
		TT10962559 HEAT# 3600029784				

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

Alro Steel
Alro Metals
Alro Plastics
Alro Industrial Supply
Alro Metals Outlet

INVOICE

Invoice Number: **CJD2958BF**
Invoice Date: **10/04/2022**

PLEASE REMIT CHECKS TO
Dept 771478
P.O. Box 77000
Detroit, MI 48277-1478

Line	Quantity	Description	Length/Size	Units Shipped	Unit Price	Amoun
#8	8 LNG	1/4 X 6 A-36 HR STEEL	20 FT	8 LNG	$94.5000 LNG	$756.0(
		RT10569971 HEAT# 1079907				
#9	5 LNG	1/2 X 3 A-36 HR STEEL	20 FT	5 LNG	$86.0000 LNG	$430.0(
		TT10683153 HEAT# JO5245				
#10	5 LNG	1/2 X 6 A-36 HR STEEL	20 FT	5 LNG	$171.0000 LNG	$855.00
		TT10668774 HEAT# 3600028218				
#11	5 LNG	1/2 SQ A-36 HR STEEL	20 FT	5 LNG	$16.4000 LNG	$82.00
		RT10931171 HEAT# 52103525/02				
#12	5 LNG	5/8 SQ A-36 HR STEEL	20 FT	5 LNG	$29.0000 LNG	$145.00
		TT10057065 HEAT# 2087404				
#13	5 LNG	3/4 SQ A-36 HR STEEL	20 FT	5 LNG	$34.0000 LNG	$170.00
		TT10623268 HEAT# 2091651				
#14	5 LNG	1 X 1 X 1/8 A-36 ANGLE	20 FT	5 LNG	$15.5000 LNG	$77.50
		RT10931173 HEAT# 52105112/03				
#15	10 LNG	1-1/2 X 1-1/2 X 1/8 A-36 ANGLE	20 FT	10 LNG	$22.0000 LNG	$220.00
		TT09707996 HEAT# 2094934				
#16	5 LNG	2 X 2 X 1/8 A-36 ANGLE	20 FT	5 LNG	$30.0000 LNG	$150.00
		RT10572182 HEAT# 3100022616				
#17	5 LNG	1-1/2 X 1-1/2 X 1/4 A-36 ANGLE	20 FT	5 LNG	$41.0000 LNG	$205.00
		TT10684107 HEAT# 52106070/02				
#18	10 LNG	2 X 2 X 1/4 A-36 ANGLE	20 FT	10 LNG	$54.4000 LNG	$544.00
		TT10606656 HEAT# 8000018148				

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

Alro Steel
Alro Metals
Alro Plastics
Alro Industrial Supply
Alro Metals Outlet

INVOICE

Invoice Number: **CJD2958BF**
Invoice Date: **10/04/2022**

PLEASE REMIT CHECKS TO
Dept 771478
P.O. Box 77000
Detroit, MI 48277-1478

Line	Quantity	Description	Length/Size	Units Shipped	Unit Price	Amount
#19	5 LNG	2 X 2 X 3/8 A-36 ANGLE	20 FT	5 LNG	$79.4000 LNG	$397.0(
		RT10569726 HEAT# 3100023678				
#20	5 LNG	2-1/2 X 2-1/2 X 3/8 A-36 ANGLE	20 FT	5 LNG	$99.0000 LNG	$495.0(
		TT10605817 HEAT# JO2249				
#21	10 LNG	1/4 RD A-36 HR	20 FT	10 LNG	$6.0000 LNG	$60.0(
		TT10640203 HEAT# 100111141				
#22	15 LNG	3/8 RD A-36 HR STEEL	20 FT	15 LNG	$9.1500 LNG	$137.25
		TT10683987 HEAT# 1000216029				
#23	10 LNG	1/2 RD A-36 HR STEEL	20 FT	10 LNG	$12.4000 LNG	$124.00
		TT10908859 HEAT# 52104988/02				
#24	10 LNG	5/8 RD A-36 HR STEEL	20 FT	10 LNG	$19.0000 LNG	$190.00
		TT10814482 HEAT# 8000016331				
#25	10 LNG	3/4 RD A-36 HR STEEL	20 FT	10 LNG	$27.0000 LNG	$270.00
		TT10910888 HEAT# 8000019324				
#26	5 LNG	1 RD A-36 HR STEEL	20 FT	5 LNG	$47.4000 LNG	$237.00
		TT10668775 HEAT# 3600029151				
#27	5 LNG	1-1/2 SQ X 11 GA WALL TUBING	24 FT	5 LNG	$55.0000 LNG	$275.00
		RT10931815 HEAT# B65526 ASTM A-513				
#28	3 SHT	1/4 A-36 HR PLT . 48 X 96	48 X 96 IN	3 SHT	$242.0000 SHT	$726.00
		TT99049988 HEAT# 42215140				

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

Alro Steel
Alro Metals
Alro Plastics
Alro Industrial Supply
Alro Metals Outlet

INVOICE

Invoice Number: **CJD2958BF**
Invoice Date: **10/04/2022**

PLEASE REMIT CHECKS TO
Dept 771478
P.O. Box 77000
Detroit, MI 48277-1478

Line	Quantity	Description	Length/Size	Units Shipped	Unit Price	Amount
		.240 MIN.TEMPER FLAT-MILL EDGE				
#29	5 LNG	1 RD CF C1018	20 FT	5 LNG	$107.0000 LNG	$535.00
		RT10931923 HEAT# 20812440				
#30	1 SHT	1/4 HR FLOOR PLATE 48 X 96	48 X 96 IN	1 SHT	$285.0000 SHT	$285.00
		TT99036280 HEAT# 2109132750 MEDIUM PATTERN #4 - ASTM A786 LOW CARBON-CS TYPE B				
#31	2 LNG	1 RD 304/304L STAINLESS	12 FT	2 LNG	$189.0000 LNG	$378.00
		RT10573113 HEAT# R57J 11'-13'RANDOM				

FREIGHT AMOUNT INCLUDES TEMPORARY FUEL SURCHARGE *

PAYMENT TERMS: 0.5% / 10, NET 30
CURRENCY: USD

THIS INVOICE IS SUBJECT TO THE TERMS AND CONDITIONS OF SALES WHICH ARE SET FORTH ABOVE AND ON THE REVERSE SIDE HEREOF OR ATTACHED HERETO.

PLEASE REMIT ELECTRONICALLY TO:
Alro Steel Corporation c/o JPMorgan Chase
Account: 838034783
Swift code: chasus33
Wire ABA: 021000021
ACH ABA: 072000326

ORIGINAL INVOICE

GROSS AMOUNT:	$9,275.75
FREIGHT:	$16.45
SALES TAX:	$.00
INVOICE TOTAL:	**$9,292.20**

Discount: $46.46 if Paid By 10/14/2022

Attachment: DOC102622-10262022104449 (RES-2022-1100 : Authorize Payment to ALRO Steel)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26639 **RESOLUTION 2022-1101** **ADOPTED**

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

Recreation Attendant - PT (4 Positions), Effective November 8, 2022, Temporary, $15.00 ph, Step 1 for Camille Barnes, Dylan Empric, Coleman Feldmann and Isabella Redding.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26640 **RESOLUTION 2022-1102** **ADOPTED**

Recreation Attendant - PT (3 Positions)/Youth & Recreation

Recreation Attendant - PT (3 Positions), Effective November 8, 2022, Temporary, $15.50 ph, Step 1 for Kacie Klein, Tara Persons and Ian Sidey.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26641 **RESOLUTION 2022-1103** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective November 8, 2022, Temporary, $16.50 ph, Step 1 for Samantha Garson.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26642 **RESOLUTION 2022-1104** **ADOPTED**

Recreation Attendant - PT/Youth & Recreation

Recreation Attendant - PT/Youth & Recreation, Effective November 8, 2022, Temporary, $16.90 ph, Step 4 for Julia Jacobs.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26648 **RESOLUTION 2022-1105** **ADOPTED**

Cook/Senior Center

Please appoint a Cook to the Amherst Center for Senior Services. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective November 8, 2022 at an annual salary of $35,583, Grade 5, Step A for Lisa Bianco.

This appointment is for an employee who is currently serving as a Clerk Typist in another Department.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26659 **RESOLUTION 2022-1106** **ADOPTED**

Electronics Technician-Wastewater Facilities/Engineering

Please appoint an Electronics Technician-Wastewater Facilities to the Engineering Department Wastewater Treatment Plant. Provisional, pending satisfactory completion of a Civil Service Examination. Effective November 8, 2022 at an annual salary of $64,733, Grade 14, Step F for Richard Hoose.

This is a promotion for an employee currently serving as Assistant Electronics Technician-Wastewater Facilities.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26686 **RESOLUTION 2022-1107** **ADOPTED**

Wastewater Treatment Plant Operator Trainee (2 Positions)/Engineering

Please appoint a Wastewater Treatment Plant Operator Trainee (2 Positions) to the Engineering Department/Plant #16. Provisional, pending satisfactory completion of a Civil Service Examination. Effective November 8, 2022 at an hourly rate of $23.15, Grade IV, Step 1 for Richard Steele and Michael Cruz.

Contingent upon completing all Pre-Employment requirements.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 26687 **RESOLUTION 2022-1108** **ADOPTED**

Wastewater Facilities Mechanic/Engineering

Please appoint a Wastewater Facilities Mechanic to the Engineering Department Wastewater Treatment Plant. Permanent, pending satisfactory completion of a probationary term as set forth in the Civil Service Rule XIII. Effective November 8, 2022 at an hourly rate of $23.15, Grade IV, Step 1 for Brian Pietrzyk.

Contingent upon completing all Pre-Employment requirements.

Replacing an employee who retired.

11/7/2022
Consent

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: 11/07/22 07:00 PM
Department: Planning
Initiated by: **Daniel J. Ulatowski**
Co-Sponsored by:

DOC ID: 26667 **RESOLUTION 2022-1109** **ROLL CALL VOTE (ADOPTED)**

SEQR Determination Draft Local Waterfront Revitalization Program (LWRP)

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

RESOLVED that this Town Board has solicited other involved agencies for SEQR lead agency designation and the Town is deemed the SEQR Lead Agency, and be it further

RESOLVED, that this Town Board as SEQR Lead Agency has undertaken the preparation of a Local Waterfront Revitalization Program (LWRP) in cooperation with the New York State Department of State in accordance with the provisions of New York State Executive Law, Article 42, and be it further

RESOLVED, that this Town Board on October 3, 2022 previously accepted the draft Local Waterfront Revitalization Program plan as substantially complete, allowing the NYS Department of State to commence its 60-day review, and be it further

RESOLVED, that the Town has identified the areas of environmental concern, thoroughly analyzed them for significant adverse impact, including any concerns and/or recommendations from other agencies, and be it further

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

11/7/2022
A motion to approve was made by Supervisor Kulpa, seconded by Deputy Supervisor Berger and unanimously approved via Roll Call vote 5-0.

FINANCIAL IMPACT:

None

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

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, AI
Planning Director

Daniel J. Ulatowski, AI
Assistant Planning Dire

Attachment: LWRP_DRAFT_neg dec_11_07_2022 (RES-2022-1109 : SEQR Determination - Draft LWRP)

Draft
SEQR
Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Town of Amherst Draft Local Waterfront Revitalization Program Plan

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date:

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

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

Title of Action: Local Waterfront Revitalization Program planning document

SEQR Status: Type 1

Description of Action:

Acceptance of a Local Waterfront Revitalization Program (LWRP) plan which address local and regional inland waterway issues within the Town of Amherst to improve water quality and natural areas, guide development to areas with adequate infrastructure and services away from sensitive resources, promote public waterfront access, and provide for redevelopment of underutilized waterfronts. The draft LWRP plan is comprised of the seven sections that are consistent with the requirements of the 2019 Guidance Manual for Preparing Local Programs developed by the New York State Department of State (NYSDOS) and includes the proposed waterfront revitalization boundary, inventory and analysis of the boundary, policies, recommended waterfront projects and compliance with local, state and federal laws. Proposed actions within the waterfront revitalization boundary will need to adhere to a "Consistency Review".

Location: Town of Amherst, Erie County

Petitioner: Town of Amherst

REASONS SUPPORTING THIS DETERMINATION

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

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems.

2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan. This project is consistent with the following Sections of the Comprehensive Plan; Section 3.0 Land Use and Development, Section 4.0 Natural and Cultural Resources, Section 6.0 and Section 7.0 Infrastructure. The project is consistent with the following policies of the Town of Amherst Comprehensive Plan; 3-13, 3-15, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 4-13, 4-14, 6-7, and 7-1.

4. The project is within an area identified by the State as having potential archaeological or historical significance. The action will not impair the character or quality of important cultural resources.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The policies and goals of the Town of Amherst Local Waterfront Revitalization Program plan will preserve and enhance the character of the Town.

6. The project will not cause a major change in the use of either the quantity or type of energy.

7. The project will not create any hazard to human health.

8. The project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The future land use figure in Section 4 of the Town of Amherst Local Waterfront Revitalization Program plan will be consistent with the Town of Amherst Comprehensive Plan.

Attachment: LWRP_DRAFT_neg dec_11_07_2022 (RES-2022-1109 : SEQR Determination - Draft LWRP)

9. The project will not significantly increase the number of people using the site over its previous level of use.

10. The project will not create a material demand for other actions resulting in a negative impact or consequence.

_____ _____

signature & title of preparer date

_____ _____

Brian J. Kulpa, Supervisor date

DU/
X:\Special_Projects\LWRP\SEQR\LWRP_DRAFT_neg dec.doc.docx
cc: Commissioner of Building
NYS Department of State
EDR, Inc.

Attachment: LWRP_DRAFT_neg dec_11_07_2022 (RES-2022-1109 : SEQR Determination - Draft LWRP)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 26670 **RESOLUTION 2022-1110** **ADOPTED**

Reassignment of Term Agreement from the Versel Group, Inc. (CRS #2332) to ConsultEcon, Inc. (CRS #3687)

WHEREAS, on January 1, 2021, the Town of Amherst executed an Economic Consultant Term Agreement with The Versel Group, Inc. for a three-year term covering the period of January 1, 2021, through December 31, 2023.

WHEREAS, on August 1, 2022, Mr. David E. Versel, President, The Versel Group, accepted a position with ConsultEcon, Inc. and agreed to suspend operations and no longer accept consulting contracts of the The Versel Group.

WHEREAS, Mr. Versel agrees to assign and transfer to ConsultEcon, Inc. all rights, privileges, interests, obligations and duty of performance in and to the Term Agreement between the Town of Amherst and The Versel Group. ConsultEcon, Inc. accepts the assignment of Term Agreement and agrees to assume and perform all duties and obligations required to be performed under the Term Agreement.

NOW THEREFORE BE IT RESOLVED, upon completion in the Contract Routing process, that the Town Board approves reassigning the Term Contract from The Versel Group, Inc. to ConsultEcon, Inc. effective October 1, 2022.

11/7/2022
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 of Amherst Planning Department *Erie County, New York*

Brian J. Kulpa
Supervisor
Daniel C. Howard, AICP
Planning Director
Ellen M. Kost, AICP
Assistant Planning Director

Town Board Agenda of November 7, 2022

MEMORANDUM October 31, 2022

TO: Honorable Town Board

FROM: Daniel C. Howard, AICP, Planning Director DCH

SUBJECT: Assignment of Term Agreement from The Versel Group, Inc. (CRS#2332) to ConsultEcon, Inc. (CRS#3687)

The Versel Group, Inc. would like to reassign its active contract with the Town of Amherst to ConsultEcon, Inc. On January 1, 2021, the Town of Amherst executed an Economic Consultant Term Agreement with The Versel Group. This Term Agreement was awarded for a three-year term covering January 1, 2021, through December 31, 2023.

On August 1, 2022, Mr. Versel accepted an offer to join ConsultEcon, Inc. and is no longer consulting under The Versel Group. All project work is complete and there are no outstanding tasks to complete.

I respectfully request the Town Board's endorsement of the reassignment of the term agreement from The Versel Group, Inc. to ConsultEcon, Inc. and am happy to address any questions you might have.

DH/ac
X:\Administration\Planning Services Term Contract\Term Task Orders\ConsultEcon, Inc\TB Memo_reassignment of term agreement 11072022.doc

Attachment: Versel term agreement reassigned TB memo 110722 (RES-2022-1110 : Reassignment of Versel Term Agreement)

THE VERSEL GROUP, INC.

October 3, 2022

Mr. Thomas J. Martin, President
ConsultEcon, Inc.
545 Concord Avenue, Suite 101
Cambridge, MA 02138

Re: Assignment of Term Agreement from The Versel Group, Inc. to ConsultEcon, Inc.
and

Dear Mr. Martin:

This letter outlines the terms by which The Versel Group, Inc., will assign its active contract with the Town of Amherst, New York, to ConsultEcon, Inc.

Declarations:

1) ConsultEcon, Inc. ("CEI"), is a Massachusetts corporation, established January 1, 2000. Mr. Thomas J. Martin is the President of CEI and is authorized to represent the firm.

2) The Versel Group ("TVG") is a Georgia corporation, established July 1, 2020. Mr. David E. Versel is the President of TVG and is authorized to represent the firm.

3) On January 1, 2021, The Town of Amherst, New York ("Town of Amherst") executed an Economic Consultant Term Agreement ("Term Agreement") with TVG. This Term Agreement was awarded for a three-year term covering the period of January 1, 2021, through December 31, 2023 (Town CRS Contract #2332).

4) On August 1, 2022, Mr. Versel accepted the offer to join CEI as a full-time employee. As part of his employment agreement, Mr. Versel agreed to suspend operations of TVG and to no longer take on new consulting contracts under TVG.

5) As of October 1, 2022, TVG has concluded all project work and has no outstanding task orders to complete. The sole active contract remaining for the company is the Term Agreement with the Town of Amherst.

6) TVG agrees to assign the Economic Consultant Term Agreement with the Town of Amherst to CEI, along with all rights and responsibilities contain within.

7) This agreement is contingent upon receiving written approval from the Town of Amherst to assign the contract, to ensure consistency with Condition 6 (No Assignment) of the Term Agreement.

350 Oak Terrace
Alpharetta, GA 30009
www.VerselGroup.com

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

1) Effective October 1, 2022, TVG hereby assigns and transfers to the CEI, all right, privilege, interest, obligation and duty of performance in and to the Term Agreement between the Town of Amherst and TVG. CEI hereby accepts the assignment of the foregoing Term Agreement and agrees to assume and perform all duties and obligations required to be performed under the Term Agreement.

2) CEI acknowledges that it has received an exact copy of the Term Agreement and states that it has read and is fully familiar with all terms and conditions contained therein.

3) The Town of Amherst hereby consents to the foregoing assignment and to the assumption of and performance of all duties and obligations by CEI under the Term Agreement as if it was an original party thereto.

IN WITNESS WHEREOF, the parties have executed this Assignment of Term Agreement.

Brian J. Kulpa, Supervisor
Town of Amherst

Date

On behalf of The Versel Group, Inc., I hereby approve each of the above declarations and assign the Term Agreement to ConsultEcon, Inc.

David E. Versel, President
The Versel Group, Inc.

October 17, 2022
Date

On behalf of ConsultEcon, Inc., I consent to the each of the above declarations and accept the assignment of the Term Agreement from The Versel Group, Inc.

Thomas J. Martin, President
ConsultEcon, Inc.

October 17, 2022
Date

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Consultant, in accordance with its status as an independent Consultant, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules, regulations or ordinances for any state other than New York State, to the laws, statutes, rules, regulations

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

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:

CONSULTECON INC
Print Name of Company

By: Thomas Martin
Signature

THOMAS J. MARTIN
Printed name

Date: 10-28-22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

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: CONSULTECON INC

Signature: Thomas Martin

Print Name: THOMAS J. MARTIN

Title: PRESIDENT

Date: 10-27-22

Sworn To Before Me This

27th Day of October, 2022

Bala Shahi

Notary Public

BALA SHAHI
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 9, 2027

Revised 4.2017

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

ACORD

CONSU-7

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/24/20

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLI BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHOR REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endo If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statemei this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER NorthStar Ins. Services, Inc. 300 First Ave, Suite 100 Needham, MA 02494 781-431-2500	CONTACT NAME: PHONE (A/C, No, Ext): 781-431-2500 FAX (A/C, No): 781-431-613 E-MAIL ADDRESS:
INSURED ConsultEcon, Inc. 545 Concord Avenue, Suite 101 Cambridge, MA 02138	INSURER(S) AFFORDING COVERAGE — NA INSURER A : CNA Insurance Companies INSURER B : Safety Insurance 39454 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PE INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TE EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Employee Benefits GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC OTHER:	X		B4018167240	04/14/2022	04/14/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Emp Ben.	$ 1,0 $ $ $ 1,0 $ 2,0 $ 2,0 $ 1,0
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY X SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			6206321	04/14/2022	04/14/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,0 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			B4018168808	04/14/2022	04/14/2023	EACH OCCURRENCE AGGREGATE	$ 2,0 $ 2,0
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC424196426	10/28/2022	10/28/2023	X 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 included as an Additional Insured under General Liability as required by written contract. General Liability is provided on a primary and non-contributory basis as required by written contract.

CERTIFICATE HOLDER

AMHERS5

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERE ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Sharon Beaumont

© 1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/24/2022

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 t certificate holder in lieu of such endorsement(s).

PRODUCER

CorRisk Solutions
180 N Stetson Ave Suite 4500
Chicago, IL 60601

CONTACT NAME: Karen Bronson
PHONE (A/C, No, Ext): 312-637-8755 FAX (A/C, No, Ext):
E-MAIL ADDRESS: kbronson@corrisksolutions.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: New Hampshire Insurance Company	23841
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED

ConsultEcon, Inc.
545 Concord Avenue
Suite 101
Cambridge, MA 02138

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	ADD'L INSRD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY			DOES NOT APPLY			EACH OCCURANCE	
	☐ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurance)	
	☐ ☐ CLAIMS MADE ☐ OCCUR						MED EXP (Any one person)	
							PERSONAL & AND INJURY	
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	
	☐ POLICY ☐ PROJECT ☐ LOC						PRODUCTS - COMP/OP AGG	
	AUTOMOBILE LIABILITY			DOES NOT APPLY			COMBINED SINGLE LIMIT (Ea accident)	
	☐ ANY AUTO						BODILY INJURY (Per person)	
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	☐ HIRED AUTOS ☐ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	
	☐ UMBRELLA LIAB ☐ OCCUR			DOES NOT APPLY			EACH OCCURANCE	
	☐ EXCESS LIAB ☐ CLAIMS MADE						AGGREGATE	
	☐ DED ☐ RETENTION $							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			DOES NOT APPLY			☐ WC STATU-TORY LIMITS ☐ OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) Y/N ☐	N/A					E.L. EACH ACCIDENT	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	
							E.L. DISEASE - POLICY LIMIT	
A	Professional Liability			064991412-06	03/01/22	03/01/23	Per Occurrence: $2,000,000	
							Annual Aggregate: $2,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACCORD 101, Additional Remarks Schedule, if more space is required

Audubon Business Park

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street

Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION D THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

© 1988-2010 ACORD CORPOR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/02/2022

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 Emerling, Floss, Murphy & Associates, LLC. 9092 Main Street Clarence NY 14031	**CONTACT NAME:** SBU CL Service Team **PHONE (A/C, No, Ext):** (716) 631-0190 **FAX (A/C, No):** (716) 631-019 **E-MAIL ADDRESS:**
INSURED WWS PLANNING 4915 PINELEDGE DR N CLARENCE NY 14031-1532	**INSURER(S) AFFORDING COVERAGE** N **INSURER A :** Erie Insurance Co. 26 **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** CL226210432 **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		Q97-1043284	07/14/2022	07/14/2023	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 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			Q97-1043284	07/14/2022	07/14/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is named as an additional insured on a primary & non-contributory basis.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFO THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joseph M. Floss

© 1988-2015 ACORD CORPORATION. All rights reserved.

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
ConsultEcon, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☑ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
545 Concord Avenue, Suite 101

Requester's name and address (optional)

6 City, state, and ZIP code
Cambridge, MA 02138

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
			–			–				

or

Employer identification number
0	4	–	3	5	4	2	9	2	8

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ▶ Thomas J Martin Date ▶ 4/4/22

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Attachment: Versel Group Inc. to ConsultEcon Inc (RES-2022-1110 : Reassignment of Versel Term Agreement)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 26675 **RESOLUTION 2022-1111** **ADOPTED AS AMENDED**

Audubon Development Plan Update - Project Charter

Purpose: Town Board approval of the Project Charter to Update the Audubon Development Plan

WHEREAS, the original Audubon Development Plan served as a guiding document to facilitate development supporting growth around the University at Buffalo North Campus; and

WHEREAS, the Town prepared the Audubon Development Plan and Audubon New Community Zoning District in 1972 to plan and regulate development in the area north of the UB North Campus; and

WHEREAS, the Town recognizes that the Plan may no longer adequately address changes in land use and market demand in the New Community District (NCD); and

WHEREAS, an updated Audubon Development Plan can leverage opportunities for redevelopment of aging corridors in the NCD; and

WHEREAS, the proposed update to the Audubon Development Plan will serve to update Town Comprehensive Plan policies, create new goals and objectives, update the NCD zoning, and utilize implementation strategies to facilitate revitalization along office/commercial corridors; and

WHEREAS, the Town has prepared a Project Charter entitled "Audubon Development Plan Update" which includes the purpose, issues, goals & objectives, stakeholders, consulting tasks and a general schedule that outlines the steps forward and the necessary components to initiate the planning process; now

THEREFORE BE IT RESOLVED, that the Town Board endorses the "Audubon Development Plan Update" Project Charter, which is attached and made part of this Resolution; and

BE IT FURTHER RESOLVED, that the Board supports the Town moving forward to carry out the planning process stated in the Project Charter, and

BE IT FURTHER RESOLVED, that the Project Charter be amended to list the Town Board as a Town Stakeholder under item 9 - Resources and Stakeholders.

11/7/2022
A motion to approve was made by Supervisor Kulpa and seconded by Deputy Supervisor Berger. A motion was then made by Councilmember Bucki to amend, seconded by Deputy Supervisor Berger and unanimously approved 5-0. The 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:

Cost to be determined. To be paid through Comprehensive Plan Bond.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Shawn Lavin, 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 Director

MEMORANDUM

October 28, 2022

TO: Honorable Town Board

FROM: Daniel C. Howard, AICP, Planning Director DCH

SUBJECT: Request to Utilize Consultants to Update Audubon Development Plan

A Draft Project Charter is attached for the proposed project to update the 1972 Audubon Development Plan, the Bicentennial Comprehensive Plan and corresponding zoning amendments for the Audubon New Community District (NCD). Planning staff has begun preparing an inventory and analysis of the existing conditions in the NCD between North French Road and the north boundary of the University at Buffalo (UB) roughly between Campbell Boulevard and Sweet Home Road, comprising approximately 1,726 acres. A study area map is also attached for your reference.

The inventory effort will facilitate the update to the Audubon Development Plan. The updated Audubon Development Plan will include consideration of the entire Audubon Community and a revitalization plan for portions of the NCD consisting of key segments along John James Audubon Parkway, North Forest Road, Dodge Road, and Millersport Highway (approximately 553 acres). Items from the plan are intended to be incorporated into the Town's Bicentennial Comprehensive Plan as a focal planning area.

It is anticipated that consulting support will be required in the specialized disciplines of Public Engagement, Market Analysis & Research, Urban Design, Transportation Planning, Economic Development and Zoning Code preparation. The Planning Department will engage a consulting team(s) under its existing term contacts and complete the proposed project as described in the Draft Project Charter with funding through the Comprehensive Planning Bonds.

I respectfully request the Town Board's endorsement of the charter and am happy to address any questions you might have.

DH/GP/bf
X:\Special_Projects\Audubon New Community\NCD Land Use planning\charter and scope\TB Memo_Audubon_Devl._Plan_Update - 11072022.doc

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

Audubon Development Plan Update
Land Use and Corridor Planning
Draft Project Charter

Draft October 24, 2022

1. Project Sponsors

Town of Amherst Town Board and Amherst Industrial Development Agency

2. Project Managers / Key Staff

Town of Amherst Planning Department:

- Gary Palumbo, AICP, Associate Planner (Manager)
- Jeffrey Szatkowski, Landscape Architect (Graphics & GIS)
- Kimberly Amplement, Planner (Graphics & GIS)
- Regan Flemming (Planning Assistant)

Amherst Industrial Development (AIDA) Staff:

- David Mingoia, Executive Director/CEO

3. Purpose

The Town of Amherst (the Town or Amherst) will undertake an update to the existing Audubon Development Plan, completed in 1972, and corresponding zoning amendments for the Audubon New Community District (NCD). It is anticipated that this project will be conducted in 2023 and jointly with the Amherst Industrial Development Agency (AIDA). The study area is shown in Figure 1: Study Area Context Map.

The purpose of this project is to prepare an update to the Audubon Development Plan. The initial step is to conduct an inventory and analysis of the existing conditions throughout the NCD between North French Road and the north boundary of the University at Buffalo (UB), approximately 1,726 acres. This inventory effort will facilitate the update to the Audubon Development Plan, which will be incorporated into Town of Amherst Bicentennial Comprehensive Plan (Comprehensive Plan) as a focal planning area. The updated Audubon Development Plan will include a revitalization plan for a portion of the NCD consisting of key segments of John James Audubon Parkway, North Forest Road, Dodge Road, and Millersport Highway (approximately 553 acres) as depicted in Figure 2: Study Area Map. The inventory and corridor planning effort will support a zoning study and possible zoning amendments.

4. Context

It has been fifty years since the Audubon Development Plan (the Plan) and NCD zoning amendment were adopted in 1972. The Audubon New Community was established through a contract between the Town and the New York State Urban Development Corporation, now Empire State Development (ESD) to accommodate growth and development supporting location of the UB North Campus in the Town. (the contract). The intent of the NCD was to create a unique community setting serving as a "campus extension" and providing "a more desirable environment" than would be possible through strict application of traditional town zoning regulations. The contract, which also included the Williamsville Central School District and Sweet Home Central School District set requirements, restrictions and limitations with respect to development in the NCD. The contract was to expire in 20 years and in 1993

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

a new contract was executed between the Town and UDC (now ESD). Since 1972, the NCD zoning districts and land use regulations have remained the same, despite updates to other town-wide zoning regulations.

The Town's Comprehensive Plan calls for University-related mixed-use centers on large undeveloped properties within the NCD. The proposed land use pattern, depicted on Figure 6, the Conceptual Land Use Plan, is intended to update the original Audubon New Community Plan in response to current conditions and the objectives of the Comprehensive Plan adopted in 2007 and last amended in 2020. The Comprehensive Plan recommends that the Town initiate discussions with ESD regarding the future status of the NCD zoning and the termination of the current contract.

5. Work-to-date

In 2021, Planning Department staff composed a critical review of the NCD, that describes the creation of the NCD, the Audubon Development Plan, and the NCD zoning. The review identifies various shortcomings of the NCD and explains the difficulties in administering the NCD zoning today. The review also discussed alternatives and recommendations to possibly remove the NCD as a regulatory framework and update the Town zoning code accordingly.

In Spring of 2022, an intern from the University at Buffalo conducted a limited survey of existing office space along the Audubon Parkway corridor. The work was conducted as a joint project between the AIDA and the Town Planning Department. The product includes a data inventory for each of 43 office properties in the study area, a summary table of current tenants by NAICS codes/descriptions, vacancies, and building data (where available). The proposed inventory and analysis under this project will build upon the office inventory to provide a clear picture of existing conditions and occupancy trends in the NCD today.

6. Issues

Before undertaking land use planning for the next 15-20 years, it is important to understand how development in the NCD differs from the original projected land use and design goals. The Town and other stakeholders also needs to understand changes in market demand for various land uses to guide an update to the Plan and corresponding NCD zoning. At this initial stage of the project, several problems and concerns have been identified:

- The NCD included UB within its boundary, as the new community was anticipated to be a "campus extension". Over time, the areas west, south, and east of UB have developed and also serve the campus community. Today, the NCD is not the only area associated with UB. Other land uses surrounding the campus to the west, south and east have also developed to serve the UB community.

- A consequence of the COVID-19 pandemic could be a long-term change on where the office workforce conducts its business. The potential long-term impact of working remotely may result in uncertainty on future utilization of existing office and light industrial space within the NCD. The increasing trend of e-commerce and online shopping is also affecting needed space for the retail and office markets.

- Current demand for multi-family residential units (including student housing) is creating demand to rezone vacant or underutilized office and light industrial zoned properties. It is unclear

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

whether these are short-term or long-term trends, or how land use planning and zoning should react.

- In 1972, the mechanism that allowed landowners to "opt out" of the new NCD zoning, did not consider that the Town would continue to update its zoning over the years. Town Planners question whether the "new" NCD zoning districts and regulations are consistent with current goals and objectives of the community.

- Landowners were given the opportunity to opt-out of the "new" zoning. Since 1972, many of those existing districts still remain in place. Given the mix of old and new zoning, it can be difficult to determine which processes and standards apply in situations where old district regulations do not coordinate with current town-wide regulations.

- The NCD zoning regulations provide few dimensional requirements for setbacks, height, parking requirements, landscaping requirements, or other development standards. While the absence of strict dimensional requirements affords flexibility to development in the NCD, it is often confusing for applicants as they are unsure of which zoning standards apply.

- The residential developments within the Audubon New Community were constructed in the 1970s. Some material choices and construction techniques have led to pre-mature aging. In addition, there are proportionately higher number of government-assisted and rental units than in other comparable areas in the Town.

- In recent years, there has been less State (ESD) involvement in the development in the NCD which calls into question their future interest and role.

7. Goals and Opportunities

1. **Goal:** To conduct an inventory and assessment of the study area that supports revitalization planning efforts along selected corridors.

   This provides an opportunity to conduct an inventory of existing conditions geographically throughout the NCD and substantively for land use, economic conditions and market analysis, transportation, and infrastructure constraints.

2. **Goal:** To form a revitalization plan(s) for key non-residential corridors, initially identified as portions of North Forest Road, Audubon Parkway, Millersport Highway, and Dodge Road within the NCD.

   This provides an opportunity to identify underutilized land located along the selected corridors and encourages increased density where it can be accommodated.

   The timing for corridor revitalization planning is opportune as the Niagara Frontier Transportation Authority (NFTA) is planning for a rapid transit extension north from the UB South Campus through the North Campus and terminate at the intersection of Audubon Parkway and the I-990. Redevelopment along the Audubon Parkway Corridor can be

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

coordinated with anticipated roadway improvements associated with planned rapid transit extension.

3. **Goal:** To update the Audubon Development Plan with a new future land use plan.

   This provides an opportunity to update the Comprehensive Plan with both text amendments and to revise Figure 6-Conceptual Land Use Plan and Figure 6A-Commercial and Mixed-Use Designations.

4. **Goal:** To expand on the office space inventory conducted in Spring of 2022, to accurately quantify and assess the office, retail and light industrial land use in the NCD.

   This provides an opportunity to ascertain future demand for office and light industrial space, in order to plan accordingly.

5. **Goal:** To assess housing stock condition and evaluate the occupancy and real estate trends of residential developments within the Audubon New Community.

   This is an opportunity to assess residential development or redevelopment in the NCD and opportunities for revitalization to meet housing demands. Relative to other neighborhoods in Amherst, does the residential mix in the NCD offer relatively better affordability for new homeowners?

6. **Goal:** To conduct a comprehensive assessment of the NCD zoning to determine if and how it might change.

   This provides an opportunity to review and revise the NCD zoning, possibly to replace it with districts and regulations consistent with other similar areas in the Town. The Town has new mixed-use zoning districts that could help serve the NCD area and meet some of its original goals of flexibility and serving the UB North Campus.

7. **Goal**: To determine Empire State Development's interest in continuing its involvement in development activity in the NCD.

   This provides an opportunity for all parties to consider termination of the Contract.

8. Mission Statement

From September 2022 through September 2023, the Town of Amherst will review and update the 1972 Audubon Development Plan for the New Community District to form a future land use plan for the NCD and prepare area-specific revitalization plans along key corridors. The new plans will consider on-going development and infrastructure projects, reflect the changes in land use and current market demands, and will incorporate contemporary urban design strategies and planning principals. A key implementation component are zoning amendments to update the 1972 NCD regulations.

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

9. Resources and Stakeholders

The following identify various Town departments and boards, local and regional agencies, and other stakeholders that could actively participate in this project:

1. **Town**
   - Town Supervisor's Office
   - Planning Board
   - Amherst Industrial Development Agency
   - Highway Department
   - Planning Department
   - Office of Economic Development
   - Youth and Recreation Department
   - Engineering Department
   - Traffic Safety Board

2. **Stakeholders**
   - Empire State Development / Audubon Development Corporation
   - Audubon Association
   - Williamsville Central School District
   - Sweet Home Central School District
   - University at Buffalo
   - Niagara Frontier Transportation Authority
   - Greater Buffalo Niagara Regional Transportation Council
   - New York State Department of Transportation
   - Erie County Department of Environment and Planning
   - Erie County Department of Public Works
   - Key Property Owners including the Development Community
   - Local businesses and institutions
   - Development Community
   - Other Town Departments/committees
     - Community Development
     - Amherst Conservation Advisory Council
     - Buildings and Facilities
     - Police Department

3. **Steering Committee**

   It is anticipated that a project Steering Committee will be formed to support a consulting team with project guidance, technical input, and review project deliverables. The Steering Committee will make recommendations to the Town Board. The Steering Committee will include representation from:
   - Town Board
   - Planning Board
   - Planning Department staff
   - Office of Economic Development
   - Town Attorney
   - Amherst Industrial Development Agency

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

- Representative from Empire State Development
- Representative from the Audubon Home Owners Association

4. **Public Engagement Process**
   Given the history and legacy of the Audubon residents' interest and involvement in their community, a public outreach program will be employed early in the project. Public involvement will strengthen community support for the project's outcome and implementation.

10. Consultant Support

It is anticipated that the project will require consulting support in the following tasks and specializations:

1. **Land Use Planning, Zoning Review and Public Engagement**: Tasks to include:
   - Review of select NCD documents (Audubon Development Plan, NYS UDC contracts, Comprehensive Plan, relevant studies to be provided by Town).
   - Preform inventory of conditions, such as: demographics, housing, transportation, community facilities, infrastructure, vacant and underutilized lands, and natural resources.
   - Diagnosis of existing zoning to include NCD districting and districts and consistency with other town-wide regulations such as General Standards in Part 7 (parking, signage, landscaping, lighting) and administration in Part 8 (site plan review, rezoning, and special use procedures.
   - General analysis and findings.
   - Prepare NCD-wide future plan use plan and recommendations on how to incorporate into Comprehensive Plan.
   - Prepare and implement public engagement plan. The consulting team will prepare a public outreach plan that will outline activities that may include, but are not limited to public information meetings, public charrette(s), interviews, technical/focus group meetings, presentations to engage the community, and on-line interactive tools.

2. **Market Analysis & Research**: Tasks to include:
   - Assess current socioeconomic conditions.
   - Identify redevelopment initiatives in other similar suburban municipalities.
   - Conduct market analysis to support recommended urban design redevelopment concepts.

3. **Urban Design**: Tasks to include:
   - Preparation of planning recommendations for the redevelopment of four select corridors.
   - Corridor plans will utilize urban design strategies and incorporate the results of the inventory products and market analyses.
   - Consideration will be given to the potential for the area to become a future rapid transit corridor.

4. **Implementation**: Tasks to include:
   - **Zoning**: To identify and expedite strategies to update the NCD and prepare a draft of zoning amendments (based on the zoning study) to implement:
     - Audubon Development Plan - NCD future land use plan
     - Corridor revitalization plans

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

- Consideration of mixed-use zoning
- Consideration of transit oriented zoning concepts along John James Audubon Parkway
- New zoning in the NCD to incorporate the study area into the existing Town zoning Consideration of effects of creating non-conforming uses with pre-1972 zoning

5. **Economic Development**: Tasks to include:
   - Audubon Development and Corridor Revitalization Plans will be informed by results of socioeconomic analyses.
   - Plans to create and support economic development opportunities and strategies within the study area.

11. Project Schedule

Public engagement and review/revision periods are included, but are not specified in the following preliminary project schedule. The anticipated schedule will be detailed with dates for milestones, meetings, durations and deliverable by the consulting team based on their proposed scope of work.

Action/Item	Jan 2023	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct
Review of Consultants' Proposed Scopes of Work	--------									
Task Order Agreements	----------									
Inventory & Analysis	----------									
Zoning Study		----------								
Market Analysis		----------								
NCD Land Use Planning										
Corridor Planning				----------						
Zoning Amendments							----------			

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

New Community District

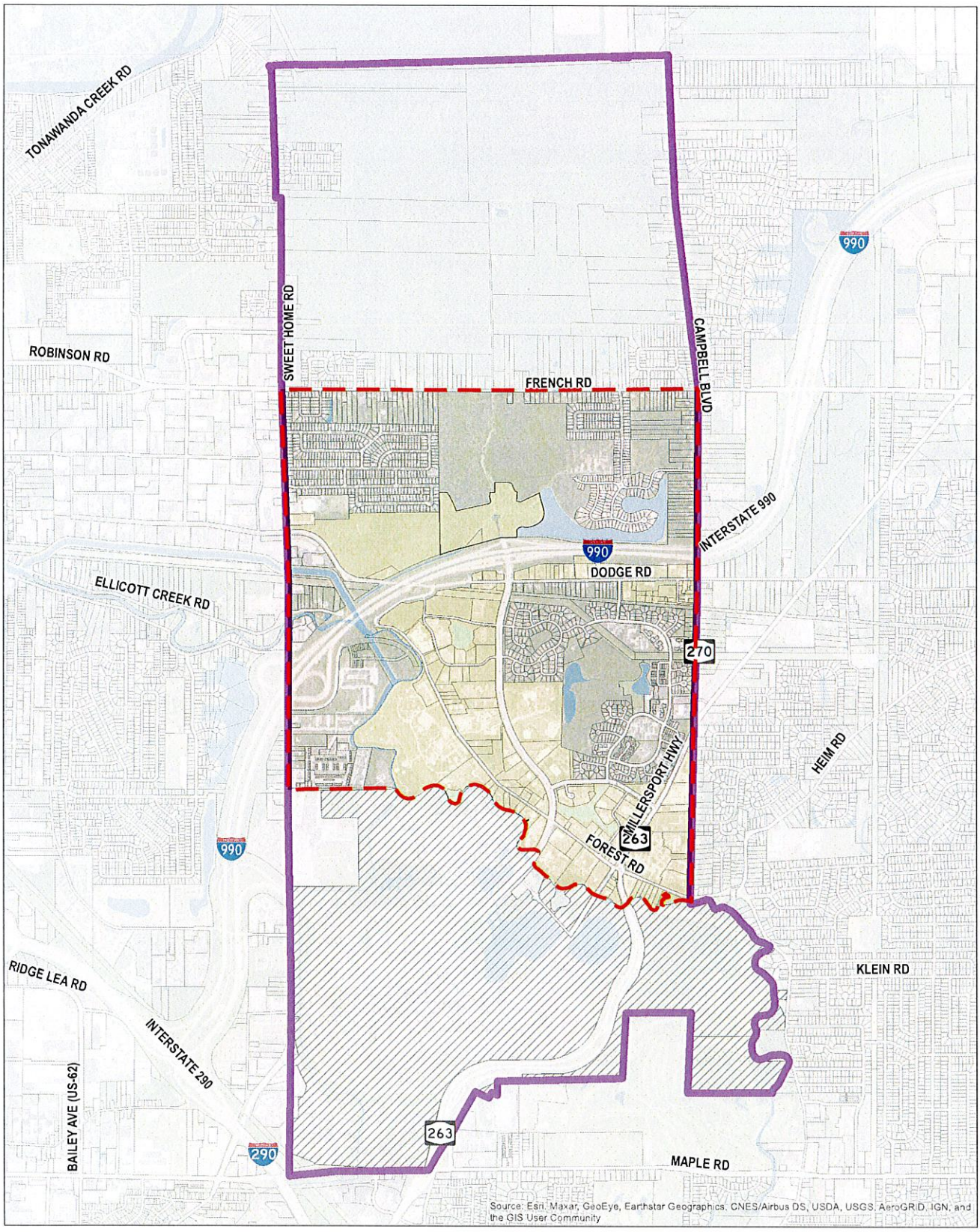


Figure 1: Study Area Context Map

Parcel Data based on Erie County Real Property Tax Map Data. Accessed October 2021.

DRAFT

N

September 2022

Legend

- Planning/Zoning Update Area
- New Community District
- University at Buffalo
- Economic Revitalization Study Area
- Hydrography

Disclaimer:
Information from the Town of Amherst, NY (Town) Geographic Systems (GIS) is provided for general reference purposes only and is not to be construed as a survey or legal document. The information shown on this map is compiled from various sources and subject to constant revisions. These sources can be provided by the Town, as requested. The Town makes every reasonable effort to ensure that the information provided herein is current and accurate. However, the Town provides no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of this GIS data for any particular use or purpose. The Town assumes no liability whatsoever associated with the use or misuse of such data.

Attachment: Project Charter and Study Area Map (RES-2022-1111 : Audubon Development Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 26676 **RESOLUTION 2022-1112** **ADOPTED**

Approval to Submit a Grant Proposal to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit Program

WHEREAS, the Town of Amherst hereby requests financial assistance from the New York State Homes and Community Renewals Plus One Accessory Dwelling Unit (ADU) Program in order to create the Amherst ADU Pilot Program; and

WHEREAS, the Town's Program proposal aims to generate additional housing opportunities through direct assistance to homeowners for the design, approval and construction of new and rehabbed Accessory Dwelling Units in eligible zoning districts, including those units intended for aging parents and disabled adult children; and

WHEREAS, the Town of Amherst will act as Lead Agency and certifies that Belmont Housing Resources for WNY, Inc. (Belmont) will be our Not-for-Profit Partner to provide construction management services; and

WHEREAS, the grant program does not require a match; now therefore be it

RESOLVED, that the Town of Amherst Town Board hereby authorizes the submittal of the grant proposal for the Amherst Accessory Dwelling Unit Pilot Program to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit Program.

11/7/2022
Consent

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no monetary consideration as a grant match is not required; and the submittal of the grant proposal will have no impact on the Town Budget or tax rate.

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

Amherst

Town of Amherst Planning Department — Erie County, New York

Brian J. Kulp
Supervisor
Daniel C. Howard, P
Planning Direc
Ellen M. Kost, A
Assistant Planning l :or

November 1, 2022

Agenda of November 7, 2022

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

Subject: Approval to Submit a Grant Proposal to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit Program.

Honorable Members:

The Planning Department is requesting permission to submit a grant proposal to the NYS Homes and Community Renewals Plus One Accessory Dwelling Unit (ADU) Program. Together with Belmont Housing Resources for WNY (Belmont), the Town is seeking $2 Million in grant funds to establish the *Amherst ADU Pilot Program*. The Pilot Program will work with area homeowners (at or below 100% Area Median Income) wishing to create Accessory Dwelling Units, within eligible zoning districts.

The Program will generate additional housing opportunities through direct assistance to homeowners for the design, approval and construction of new and rehabilitated ADUs. The Program will also allow Amherst Planning Staff to better understand the hurdles of our zoning code, gauge resident preferences on ADUs, present real-life examples of ADUs that fit into neighborhood context, and make recommendations on code improvements.

The Program will generate approximately 8 new ADUs and bring approximately 8 existing ADUs into compliance with codes. Projects necessitating ADUs for homeowners to care for aging parents or disabled adult children will also be eligible.

Belmont will provide construction bidding, management and oversight for the ADU Projects. Amherst Community Development also intends to match HUD HOME Investment Partnership Program funds where necessary. There are no match requirements for this grant.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

X:\Community Development\New Structure\OTHER PROGRAMS and GRANTS\NYS HCR - Plus One ADU Program\TB Ltr for Grant Submittal - 10.7.22.docx

Attachment: signed tb letter-11012022160828 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community Renewal)

Town of Amherst &

Belmont Housing Resources for WNY

Proposal for

New York State Homes and Community Renewal

PLUS ONE

ACCESSORY DWELLING UNIT PROGRAM

For the creation and improvement of Accessory Dwelling Units

November 7, 2022

DRAFT

Supervisor Brian J. Kulpa
Town of Amherst
5583 Main Street
Williamsville, NY 14221
(716) 631-7050

Brad Packard, VP Housing Development
Belmont Housing Resources for WNY, Inc.
2393 Main Street
Buffalo, NY 14214
(716) 884-7791

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

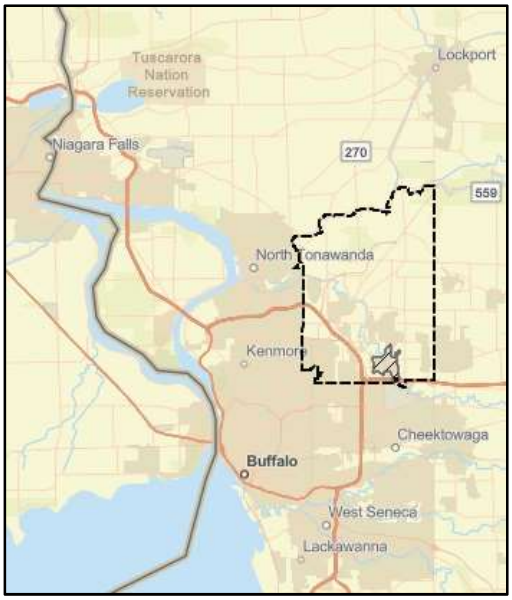
Program Introduction & Intent

The Town of Amherst together with our Not-for-Profit partner, Belmont Housing Resources for WNY, is requesting grant funds to establish the ***Amherst Accessory Dwelling Unit (ADU) Pilot Program***. The intent of the program will be to generate additional affordable housing opportunities in Town through direct assistance to low and moderate income homeowners in navigating the design, approval and construction process for ADUs. Equally important to this main intent is to better understand the hurdles created by our zoning code, gauge resident preferences on ADUs, present real-life examples of ADUs that fit into neighborhood context, and make recommendations on how best to regulate ADUs in code.

Amherst understands that ADUs offer an opportunity to generate not only additional housing types, but also affordable housing options (both for homeowners and tenants), as well as provide families options to remain in their neighborhoods in order to accommodate aging parents or disabled dependents.

Amherst envisions the ADU Pilot Program will generate approximately 8 new ADUs and bring approximately 8 existing ADUs in Town into compliance with codes, possibly more depending on individual project costs. Amherst Community Development also intends to match HUD HOME Investment Partnerships Program funds towards specific projects where additional resources may be necessary for project feasibility and a HUD National Objective can be met (i.e. low-mod income beneficiary, limited benefit clientele).

Community Context



Located just northeast of the City of Buffalo and south of Niagara Falls, the Town of Amherst is both a local and regional destination in the Western New York (WNY). Amherst is the 4th largest upstate municipality in New York State with a population of over 129,000 residents and a daytime population that swells to over 180,000 from people who commute to Amherst for work. It is the most populous town in Upstate New York with one of the strongest economies in Erie County. Amherst is a very desirable place to live with its housing quality, highly ranked school districts, and bustling economy and job offerings.

Amherst has emerged as a center of activity for the Western New York region and the premier suburb of the City of Buffalo, based on the significant mix of commercial and office development and several institutions of higher education within Town. Amherst is home to the State University of New York at Buffalo North Campus (UB), the largest public university in New York State (32,000 students enrolled); SUNY Erie Community College (ECC) North Campus; and Daemen University, a private institution that serves roughly 3,000 students.

Program Background

Historically, residents of WNY suburban communities like Amherst tended to have a traditional view of housing styles and neighborhood composition. Residents expected a separation between single-family

and multi-family residential uses. Accessory Dwelling Units were almost unheard of and not encouraged within single-family neighborhoods. However, Town Planners have noticed that mindset start to change over the last two decades. In the 2010's the Back-to-the-City movement gained momentum and sparked renewed interest in mixed-use walkable urban neighborhoods and village centers, especially with Millennials.

More recently housing market trends, such as competition from investor-owners and Airbnb's, have made affordable rents and home ownership more challenging leading Millennials, Generation X and Baby Boomers alike to rethink housing preferences. Accessory Dwelling Units are now seen with renewed interest in suburban communities like Amherst. The Amherst Planning Department has even experienced an uptick of inquiries about ADUs (even from demographic groups that would heretofore object to ADUs) often regarding hosting aging parents or disabled adult children on the property. Even Town councilmembers have recently remarked that housing affordability was the number one concern older residents cited, with parents often commenting "my kids can't afford to buy/rent in Town".

Amherst Planning Staff feels that now is a time to advance ADUs as residents and potential homebuyers are now seeking alternatives and flexibility to meet their personal housing goals. While Amherst's zoning code allows for ADUs in certain districts, navigating the approval process, hiring an architect and contractors and ensuring one is making a wise investment is daunting for many, or completely out of reach for lower-income homeowners. For this reason the Town of Amherst is seeking to establish the Amherst ADU Pilot Program.

Existing Zoning

Amherst's zoning code currently allows for ADUs under two approaches, as "Attached Dwellings" in multi-family districts or as "Auxiliary Housing Units" in single-family districts, and both have some limitations:

Attached Dwellings are currently permitted "as of right" for properties zoned Residential 4 (R-4); Multifamily Residential (MFR) 4A; MFR-5 or MFR-6. Attached Dwellings must be attached to the principal structure and require the parcel to have additional frontage based on the number of units on the lot, as well as adequate off-street parking. For example, an existing single-family home zoned R-4 requesting to add an attached Dwelling Unit would need 90' frontage and a total lot area of 5,850 sq. ft./dwelling unit. In comparison a typical single-family suburban lot is 50' wide and 10,890 sq. ft. Amherst currently has ___ parcels zoned as R-4, MFR-4A, MFR-5, and MFR-6 and many of these districts have parcels that would meet the frontage and lot size requirements to add an Attached Dwelling Unit.

Auxiliary Housing Units are an allowable accessory use to a principal residential structure in the Rural Residential (RR); Suburban Agriculture (SA); Residential-1 (R-1); Residential (R-2); and Residential-3 (R-3) Zoning Districts. Auxiliary Housing Units are not permitted as of right and must receive a Special Use Permit from the Zoning Board of Appeals (ZBA) to be approved. Auxiliary Dwelling Units also must be attached to the principal structure; limited in height and size (500 sq. ft max); with occupancy limited to 2 persons (either over 60+ years of age or handicapped) and of familial relationship to the principal structure occupants. Special Use Permits are limited to a 2 year term and must be renewed to continue occupancy of the unit. Essentially Auxiliary Housing Units are drafted into code as a typical in-law suite, which is reflective of what's most commonly in place in suburban zoning codes around WNY. The RR,

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

SA, R-1, R-2, and R-3 Zoning Districts currently make up the large majority of Amherst zoning districts and the uncertainty of the ZBA process can intimidate potential applicants.

Program Goals

The primary goal of Amherst's ADU Program is to generate additional housing options in Town, by either creating units in areas where mixed housing types would complement the existing neighborhood; or creating housing options for families seeking to care for their elderly or disabled loved-ones within the traditional neighborhoods where they currently reside. The addition of small on-property housing units is expected to contribute to affordable housing options as well by adding additional units to the current rental market; or creating rental income to make mortgages more affordable to low-income homeowners; or providing free accommodations to family members that would otherwise have to provide for costly supportive housing/care elsewhere.

Amherst's code does allow for ADUs in certain settings and zoning districts, however some of the provisions of the code can be considered burdensome or intimidating for applicants to meet and may deter homeowners from creating an ADU. To rectify this, another goal for this grant is to take homeowner applicants through the design and permitting process in order to better understand the obstacles and then draft beneficial amendments to our zoning code to improve how ADUs are regulated in Town.

The Town expects this ADU Program will also lead to meaningful conversations on ADUs with residents, provide a pulse check on public sentiment, and better understand where and how they should be permitted, and to make necessary zoning amendments. Having built examples of ADUs that were carefully designed and developed and seamlessly fit into existing residential neighborhoods will assist with those conversations. It is anticipated the units developed through the grant will provide helpful examples to support this discussion.

Target Areas & Outreach

Amherst Planning Staff will develop and market program outreach materials, including posters, informational packets, and press releases announcing the program and upcoming informational sessions. Income eligible homeowners located in applicable zoning districts will be invited to the Informational Sessions via direct mailers. Staff will also provide program information to the Amherst Senior Center, Amherst Committee on Disabilities, WNY Independent Living, and other housing-based advocacy groups.

At this time, Amherst has received a handful of leads on potential homeowners seeking creation of new units over the last two years, plus a handful of properties identified by the Building Department from the Town's Rental Registry law for existing units in need of rehabilitation. Staff expects the direct mailer and Information Sessions will successfully recruit the remaining number of projects the Town seeks to accomplish.

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Anticipated Program Process

Outreach Phase

- Direct mailers to homeowners in allowable zoning districts inviting them to Informational Sessions on Program goals, terms, process & incentives.
- Town Planners will conduct pre-application consults and Q&A, as needed.

Application Phase

- Invite interested homeowners to submit applications.
- Town Planners/Architectural Design Professionals review applications for initial feasibility, appropriateness and eligiblity (compliance with zoning, FIRMs, etc.).
- Town Planners/Architectural Design Professionals conduct site visits as necessary.
- Select finalists from applications that will move forward to design phase.
- Homeowners sign Program agreements.

Design Phase

- Architectural Design Professionals manage the design process with homeowners - from schematics through construction documents, including sign-offs at key stages.
- Town Planners manage zoning and site plan approvals with homeowners and Professionals as plans are refined.
- Architectural Design Professionals prepare construction documents and bid package upon final sign-off of site plan/zoning approvals.

Construct-ion Phase

- Belmont Construction monitors oversee construction bidding process & prepare construction contracts between the homeowner & the contractor, including MBE/WBE and HUD requirements, as neccesary.
- Belmont Construction monitors provide on-site oversight on construction progress, including progress inspections, change order requests, and invoicing approvals.
- Following all final inspections, Town issues updated Certificate of Occpancy for property.

Monitoring & Report

- Town Planners prepare a final report on the success of the program, lessons learned, including findings on code issues and recommendations for code amendments.
- Town Planners present final report to the Town Board and Planning Board at regularly scheduled meetings.
- Town Staff will conduct on-going monitoring of ADUs for the period of enforcement.

Amherst Planning & Community Development Staff Responsibilities

The Town of Amherst has a full service Planning Department, including 10 professional planners with over 150 years combined experience. Amherst Community Development manages HUD Entitlement grants - Community Development Block Grant (CDBG) and HUD HOME Investment Partnerships Program

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

(HOME) funds, as well as other housing initiatives for the Town. Amherst Community Development is also a division of the Planning Department, with a staff of 2 Planners, 2 Administrative Assistants and 1 Building Inspector. If awarded, Amherst's Community Development Director, Laurie Stillwell, will oversee grant administration and implementation of the Amherst ADU Pilot Program as in-kind services. Laurie has 17 years' experience as an urban/community planner; and experience managing large federal and state grants; overseeing CDBG/HOME programming including construction projects; public engagement; assessing and writing zoning code; navigating municipal procedures and working with non-profit community partners. Assistant Planning Director Dan Ulatowski and Principal Planner Scott Marshall will also provide in-kind services to the ADU Pilot Program, including guidance at Informational Sessions, code evaluations for project feasibility, assistance applying for variances (if needed), and guidance on design/neighborhood context. Amherst's many Building Inspectors will provide construction check-ins and permitting progress inspections, as typically required in construction projects.

Applicant households will be screened by Amherst Community Development staff for qualifying factors that are commonly reviewed for HUD-funded projects as well, such as household income, equity, risk, environmental review, and eligible beneficiaries. Following completion of each ADU project, Amherst Community Development staff will also provide the on-going monitoring as required by the grant and any HUD funding involved. Amherst's Community Development staff has conducted these administrative tasks and guided/counseled homeowners through home rehabilitation construction projects for over 40 years as part of Amherst's Homeowner Rehab Program. Many homeowners come back to the program due to the ease of working with the Town and contractor oversight provided by the Program Building Inspector. On-going costs for monitoring are built into the Town's Administration line of the grant budget.

Belmont Housing Resources for WNY - Non-Profit Partner & Responsibilities

For the Amherst ADU Pilot Program, the Town will act as Lead Applicant with Belmont Housing Resources for WNY, Inc. (Belmont) as its Non-Profit Partner. Belmont is a 501(c)(3) Not-for-Profit Corporation registered with the State of New York. For the 45 years the organization has been in existence, Belmont has only undertaken activities related to the provision of safe, decent, affordable housing for low/moderate income persons. Belmont currently provides services to over 15,000 low-income households annually; generates over $ 31.5 Million in rental assistance payments to property owners annually; leverages an average of $13.1Million in affordable housing development funds per year; administer 10.2 Million of community development programs; and manages over $200 Million of assets.

Over the years, Belmont has served the Town as non-profit developer on numerous HUD funded affordable single-family home development projects undertaken by Amherst Community Development (CDBG & HOME funds); administered the Erie County PHA Consortium's Section 8 Housing Choice Voucher Program, of which Amherst is the lead municipality; administered Amherst's COVID Emergency Rental Assistance and Mortgage Assistance Programs; and provided housing counseling, foreclosure prevention counseling and first-time homebuyer classes to Amherst and Williamsville residents.

Belmont's experience and includes:

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

- Agreements with the Town of Amherst for development of 26 single-family homes for sale to first-time homebuyers in the Town of Amherst since 1992.
- Developed over 350 single-family homes in various municipalities in Erie County since 1992.
- Through contracts with municipalities rehabilitated more than 3,800 units totaling $57.1 Million from various funding sources since contracting for these services began. All Housing Rehab staff are certified NYS Code Officers and some have various lead-paint certifications through the EPA.
- Developed 21 affordable multi-family properties totaling 901 units with $136 Million in development costs since 1982.
- Belmont is a HUD Certified Housing Counseling Agency and the 20 person staff annually provide counseling services to 2,000 people for First-Time Homebuyer Education, HUD Certified Rental Counseling, Financial Education, Foreclosure Prevention, Post-Purchase and HECM Counseling. Belmont has an Agreement with the Town of Amherst to provide counseling to Town residents.

For the Amherst ADU Pilot Program the Town intends to work with Belmont's development arm to specifically monitor all aspects of the construction stage – bidding, Owner/Contractor contract preparation & signing, monitoring, payment processing and oversight. Belmont has a wonderful track record of working closely with low-income homeowners or first-time homebuyers in navigating a wide variety of housing goals, which can often be difficult and stressful without their assistance.

Additional Contributions & Considerations

Amherst is a HUD Entitlement Community and receives Community Development Block Grant and HOME Investment Partnerships Program Funds annually that can be applied towards the ADU Pilot Program in cases where the households are below 80% AMI and the unit can serve HUD National Objective populations (i.e. low-to-moderate income, low-mod clientele beneficiaries). Amherst currently has $301,100 in CDBG funds and $226,330 in HOME funds that can be available for this purpose.

Aside from HUD funding, Amherst Community Development and Planning Staff (funded via Town General funds) will contribute staff time to the program delivery and administration costs of this program, as well as the reporting on program milestones, program evaluation and findings, and recommendations for code improvements. The Town anticipates providing up to $10,000 of in-kind value in staff hours. The Town's Staff Attorney's will also contribute in-kind services to the development of any legal documents necessary for the execution of the program.

Also, the Town of Amherst has not considered opting into Real Property Tax Law 421-f to exempt improvements to single or two-family homes. However, upon award of this Grant the Town is willing to bring such a program for consideration to the Town Board. Unfortunately, there was not time to have a discussion and enact the Law prior to the deadline of this application.

Lastly, the Town and Belmont feel the program's success will require construction contracts to be between the Homeowner and the contractor, as contractors generally won't accept a direct contract with anyone but the property owner and other contracting arrangements will create insurance complications.

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Amherst ADU Pilot Program Budget

Goal = 16 Projects (8 New & 8 Rehab)

Soft Costs	$	200,000
Administration		
Town Admin. (Mailing, Printing, Media, Monitoring, Audit)	$	20,000
Construction Management (Belmont)	$	180,000
Construction	$	1,600,000
	$	2,000,000

Town in-kind Match: $10,000 Anticipated value (planning, legal, staff time – for admin & program management)

Accessory Dwelling Unit Project Budgets

Project Activities	New Build Attached	Rehab Existing/Code Compliance	Notes
Total Grant Allowance/Unit	**$ 125,000**	**$ 125,000**	
Soft Costs			
Architectural Design & Engineering	$ 8,500	$ 7,000	
Testing (lead, asbestos, soil borings)	$ 2,850	$ 1,150	
Regulatory Fees/ Building Permit Fees	$ 1,325	$ 500	
ZBA Fee, if applicable	$ 115	$ 115	
Survey, if applicable	$ 800	$ 800	
	$ 13,590	$ 9,565	
Administration			
Construction Management Fee (10%)	$ 12,500	$ 10,000	Firm - max allowed
Construction			
Construction Costs	$ 95,000	$ 60,000	New: 500 sq. ft @ $190 sq.
Contingency (8%)	$ 7,600	$ 4,800	ft. Rehab: Capped @ $60K
	$ 102,600	$ 64,800	**TBD by bids received
TOTAL*	**$ 128,690**	**$ 84,365**	

*Homeowner Contribution (between 80-100% AMI) - Cover all costs exceeding $125,000 or HTFC loan option

*Homeowner Contribution (below 80% AMI) - HUD Contribution (CDBG or HOME depending on the Home Value)

Contact Information

Additional information and questions on the proposal can be submitted to:

Laurie Stillwell, Amherst Community Development Director
Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

(716) 631-7050
(716) 259-3507 (mobile)
Lstillwell@amherst.ny.us

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Town of Amherst &

Belmont Housing Resources for WNY

Proposal for

New York State Homes and Community Renewal

PLUS ONE

ACCESSORY DWELLING UNIT PROGRAM

For the creation and improvement of Accessory Dwelling Units

November 7, 2022

DRAFT

Supervisor Brian J. Kulpa
Town of Amherst
5583 Main Street
Williamsville, NY 14221
(716) 631-7050

Brad Packard, VP Housing Development
Belmont Housing Resources for WNY, Inc.
2393 Main Street
Buffalo, NY 14214
(716) 884-7791

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

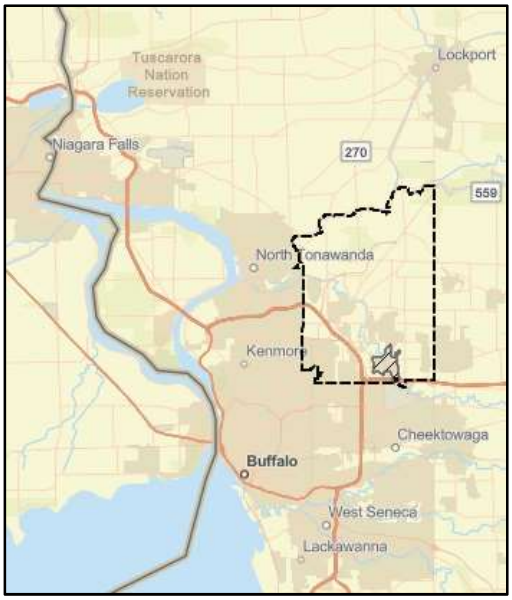
Program Introduction & Intent

The Town of Amherst together with our Not-for-Profit partner, Belmont Housing Resources for WNY, is requesting grant funds to establish the ***Amherst Accessory Dwelling Unit (ADU) Pilot Program***. The intent of the program will be to generate additional affordable housing opportunities in Town through direct assistance to low and moderate income homeowners in navigating the design, approval and construction process for ADUs. Equally important to this main intent is to better understand the hurdles created by our zoning code, gauge resident preferences on ADUs, present real-life examples of ADUs that fit into neighborhood context, and make recommendations on how best to regulate ADUs in code.

Amherst understands that ADUs offer an opportunity to generate not only additional housing types, but also affordable housing options (both for homeowners and tenants), as well as provide families options to remain in their neighborhoods in order to accommodate aging parents or disabled dependents.

Amherst envisions the ADU Pilot Program will generate approximately 8 new ADUs and bring approximately 8 existing ADUs in Town into compliance with codes, possibly more depending on individual project costs. Amherst Community Development also intends to match HUD HOME Investment Partnerships Program funds towards specific projects where additional resources may be necessary for project feasibility and a HUD National Objective can be met (i.e. low-mod income beneficiary, limited benefit clientele).

Community Context



Located just northeast of the City of Buffalo and south of Niagara Falls, the Town of Amherst is both a local and regional destination in the Western New York (WNY). Amherst is the 4th largest upstate municipality in New York State with a population of over 129,000 residents and a daytime population that swells to over 180,000 from people who commute to Amherst for work. It is the most populous town in Upstate New York with one of the strongest economies in Erie County. Amherst is a very desirable place to live with its housing quality, highly ranked school districts, and bustling economy and job offerings.

Amherst has emerged as a center of activity for the Western New York region and the premier suburb of the City of Buffalo, based on the significant mix of commercial and office development and several institutions of higher education within Town. Amherst is home to the State University of New York at Buffalo North Campus (UB), the largest public university in New York State (32,000 students enrolled); SUNY Erie Community College (ECC) North Campus; and Daemen University, a private institution that serves roughly 3,000 students.

Program Background

Historically, residents of WNY suburban communities like Amherst tended to have a traditional view of housing styles and neighborhood composition. Residents expected a separation between single-family

and multi-family residential uses. Accessory Dwelling Units were almost unheard of and not encouraged within single-family neighborhoods. However, Town Planners have noticed that mindset start to change over the last two decades. In the 2010's the Back-to-the-City movement gained momentum and sparked renewed interest in mixed-use walkable urban neighborhoods and village centers, especially with Millennials.

More recently housing market trends, such as competition from investor-owners and Airbnb's, have made affordable rents and home ownership more challenging leading Millennials, Generation X and Baby Boomers alike to rethink housing preferences. Accessory Dwelling Units are now seen with renewed interest in suburban communities like Amherst. The Amherst Planning Department has even experienced an uptick of inquiries about ADUs (even from demographic groups that would heretofore object to ADUs) often regarding hosting aging parents or disabled adult children on the property. Even Town councilmembers have recently remarked that housing affordability was the number one concern older residents cited, with parents often commenting "my kids can't afford to buy/rent in Town".

Amherst Planning Staff feels that now is a time to advance ADUs as residents and potential homebuyers are now seeking alternatives and flexibility to meet their personal housing goals. While Amherst's zoning code allows for ADUs in certain districts, navigating the approval process, hiring an architect and contractors and ensuring one is making a wise investment is daunting for many, or completely out of reach for lower-income homeowners. For this reason the Town of Amherst is seeking to establish the Amherst ADU Pilot Program.

Existing Zoning

Amherst's zoning code currently allows for ADUs under two approaches, as "Attached Dwellings" in multi-family districts or as "Auxiliary Housing Units" in single-family districts, and both have some limitations:

Attached Dwellings are currently permitted "as of right" for properties zoned Residential 4 (R-4); Multifamily Residential (MFR) 4A; MFR-5 or MFR-6. Attached Dwellings must be attached to the principal structure and require the parcel to have additional frontage based on the number of units on the lot, as well as adequate off-street parking. For example, an existing single-family home zoned R-4 requesting to add an attached Dwelling Unit would need 90' frontage and a total lot area of 5,850 sq. ft./dwelling unit. In comparison a typical single-family suburban lot is 50' wide and 10,890 sq. ft. Amherst currently has ___ parcels zoned as R-4, MFR-4A, MFR-5, and MFR-6 and many of these districts have parcels that would meet the frontage and lot size requirements to add an Attached Dwelling Unit.

Auxiliary Housing Units are an allowable accessory use to a principal residential structure in the Rural Residential (RR); Suburban Agriculture (SA); Residential-1 (R-1); Residential (R-2); and Residential-3 (R-3) Zoning Districts. Auxiliary Housing Units are not permitted as of right and must receive a Special Use Permit from the Zoning Board of Appeals (ZBA) to be approved. Auxiliary Dwelling Units also must be attached to the principal structure; limited in height and size (500 sq. ft max); with occupancy limited to 2 persons (either over 60+ years of age or handicapped) and of familial relationship to the principal structure occupants. Special Use Permits are limited to a 2 year term and must be renewed to continue occupancy of the unit. Essentially Auxiliary Housing Units are drafted into code as a typical in-law suite, which is reflective of what's most commonly in place in suburban zoning codes around WNY. The RR,

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

SA, R-1, R-2, and R-3 Zoning Districts currently make up the large majority of Amherst zoning districts and the uncertainty of the ZBA process can intimidate potential applicants.

Program Goals

The primary goal of Amherst's ADU Program is to generate additional housing options in Town, by either creating units in areas where mixed housing types would complement the existing neighborhood; or creating housing options for families seeking to care for their elderly or disabled loved-ones within the traditional neighborhoods where they currently reside. The addition of small on-property housing units is expected to contribute to affordable housing options as well by adding additional units to the current rental market; or creating rental income to make mortgages more affordable to low-income homeowners; or providing free accommodations to family members that would otherwise have to provide for costly supportive housing/care elsewhere.

Amherst's code does allow for ADUs in certain settings and zoning districts, however some of the provisions of the code can be considered burdensome or intimidating for applicants to meet and may deter homeowners from creating an ADU. To rectify this, another goal for this grant is to take homeowner applicants through the design and permitting process in order to better understand the obstacles and then draft beneficial amendments to our zoning code to improve how ADUs are regulated in Town.

The Town expects this ADU Program will also lead to meaningful conversations on ADUs with residents, provide a pulse check on public sentiment, and better understand where and how they should be permitted, and to make necessary zoning amendments. Having built examples of ADUs that were carefully designed and developed and seamlessly fit into existing residential neighborhoods will assist with those conversations. It is anticipated the units developed through the grant will provide helpful examples to support this discussion.

Target Areas & Outreach

Amherst Planning Staff will develop and market program outreach materials, including posters, informational packets, and press releases announcing the program and upcoming informational sessions. Income eligible homeowners located in applicable zoning districts will be invited to the Informational Sessions via direct mailers. Staff will also provide program information to the Amherst Senior Center, Amherst Committee on Disabilities, WNY Independent Living, and other housing-based advocacy groups.

At this time, Amherst has received a handful of leads on potential homeowners seeking creation of new units over the last two years, plus a handful of properties identified by the Building Department from the Town's Rental Registry law for existing units in need of rehabilitation. Staff expects the direct mailer and Information Sessions will successfully recruit the remaining number of projects the Town seeks to accomplish.

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Anticipated Program Process

Outreach Phase

- Direct mailers to homeowners in allowable zoning districts inviting them to Informational Sessions on Program goals, terms, process & incentives.
- Town Planners will conduct pre-application consults and Q&A, as needed.

Application Phase

- Invite interested homeowners to submit applications.
- Town Planners/Architectural Design Professionals review applications for initial feasibility, appropriateness and eligiblity (compliance with zoning, FIRMs, etc.).
- Town Planners/Architectural Design Professionals conduct site visits as necessary.
- Select finalists from applications that will move forward to design phase.
- Homeowners sign Program agreements.

Design Phase

- Architectural Design Professionals manage the design process with homeowners - from schematics through construction documents, including sign-offs at key stages.
- Town Planners manage zoning and site plan approvals with homeowners and Professionals as plans are refined.
- Architectural Design Professionals prepare construction documents and bid package upon final sign-off of site plan/zoning approvals.

Construct-ion Phase

- Belmont Construction monitors oversee construction bidding process & prepare construction contracts between the homeowner & the contractor, including MBE/WBE and HUD requirements, as neccesary.
- Belmont Construction monitors provide on-site oversight on construction progress, including progress inspections, change order requests, and invoicing approvals.
- Following all final inspections, Town issues updated Certificate of Occpancy for property.

Monitoring & Report

- Town Planners prepare a final report on the success of the program, lessons learned, including findings on code issues and recommendations for code amendments.
- Town Planners present final report to the Town Board and Planning Board at regularly scheduled meetings.
- Town Staff will conduct on-going monitoring of ADUs for the period of enforcement.

Amherst Planning & Community Development Staff Responsibilities

The Town of Amherst has a full service Planning Department, including 10 professional planners with over 150 years combined experience. Amherst Community Development manages HUD Entitlement grants - Community Development Block Grant (CDBG) and HUD HOME Investment Partnerships Program

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

(HOME) funds, as well as other housing initiatives for the Town. Amherst Community Development is also a division of the Planning Department, with a staff of 2 Planners, 2 Administrative Assistants and 1 Building Inspector. If awarded, Amherst's Community Development Director, Laurie Stillwell, will oversee grant administration and implementation of the Amherst ADU Pilot Program as in-kind services. Laurie has 17 years' experience as an urban/community planner; and experience managing large federal and state grants; overseeing CDBG/HOME programming including construction projects; public engagement; assessing and writing zoning code; navigating municipal procedures and working with non-profit community partners. Assistant Planning Director Dan Ulatowski and Principal Planner Scott Marshall will also provide in-kind services to the ADU Pilot Program, including guidance at Informational Sessions, code evaluations for project feasibility, assistance applying for variances (if needed), and guidance on design/neighborhood context. Amherst's many Building Inspectors will provide construction check-ins and permitting progress inspections, as typically required in construction projects.

Applicant households will be screened by Amherst Community Development staff for qualifying factors that are commonly reviewed for HUD-funded projects as well, such as household income, equity, risk, environmental review, and eligible beneficiaries. Following completion of each ADU project, Amherst Community Development staff will also provide the on-going monitoring as required by the grant and any HUD funding involved. Amherst's Community Development staff has conducted these administrative tasks and guided/counseled homeowners through home rehabilitation construction projects for over 40 years as part of Amherst's Homeowner Rehab Program. Many homeowners come back to the program due to the ease of working with the Town and contractor oversight provided by the Program Building Inspector. On-going costs for monitoring are built into the Town's Administration line of the grant budget.

Belmont Housing Resources for WNY - Non-Profit Partner & Responsibilities

For the Amherst ADU Pilot Program, the Town will act as Lead Applicant with Belmont Housing Resources for WNY, Inc. (Belmont) as its Non-Profit Partner. Belmont is a 501(c)(3) Not-for-Profit Corporation registered with the State of New York. For the 45 years the organization has been in existence, Belmont has only undertaken activities related to the provision of safe, decent, affordable housing for low/moderate income persons. Belmont currently provides services to over 15,000 low-income households annually; generates over $ 31.5 Million in rental assistance payments to property owners annually; leverages an average of $13.1Million in affordable housing development funds per year; administer 10.2 Million of community development programs; and manages over $200 Million of assets.

Over the years, Belmont has served the Town as non-profit developer on numerous HUD funded affordable single-family home development projects undertaken by Amherst Community Development (CDBG & HOME funds); administered the Erie County PHA Consortium's Section 8 Housing Choice Voucher Program, of which Amherst is the lead municipality; administered Amherst's COVID Emergency Rental Assistance and Mortgage Assistance Programs; and provided housing counseling, foreclosure prevention counseling and first-time homebuyer classes to Amherst and Williamsville residents.

Belmont's experience and includes:

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

- Agreements with the Town of Amherst for development of 26 single-family homes for sale to first-time homebuyers in the Town of Amherst since 1992.
- Developed over 350 single-family homes in various municipalities in Erie County since 1992.
- Through contracts with municipalities rehabilitated more than 3,800 units totaling $57.1 Million from various funding sources since contracting for these services began. All Housing Rehab staff are certified NYS Code Officers and some have various lead-paint certifications through the EPA.
- Developed 21 affordable multi-family properties totaling 901 units with $136 Million in development costs since 1982.
- Belmont is a HUD Certified Housing Counseling Agency and the 20 person staff annually provide counseling services to 2,000 people for First-Time Homebuyer Education, HUD Certified Rental Counseling, Financial Education, Foreclosure Prevention, Post-Purchase and HECM Counseling. Belmont has an Agreement with the Town of Amherst to provide counseling to Town residents.

For the Amherst ADU Pilot Program the Town intends to work with Belmont's development arm to specifically monitor all aspects of the construction stage – bidding, Owner/Contractor contract preparation & signing, monitoring, payment processing and oversight. Belmont has a wonderful track record of working closely with low-income homeowners or first-time homebuyers in navigating a wide variety of housing goals, which can often be difficult and stressful without their assistance.

Additional Contributions & Considerations

Amherst is a HUD Entitlement Community and receives Community Development Block Grant and HOME Investment Partnerships Program Funds annually that can be applied towards the ADU Pilot Program in cases where the households are below 80% AMI and the unit can serve HUD National Objective populations (i.e. low-to-moderate income, low-mod clientele beneficiaries). Amherst currently has $301,100 in CDBG funds and $226,330 in HOME funds that can be available for this purpose.

Aside from HUD funding, Amherst Community Development and Planning Staff (funded via Town General funds) will contribute staff time to the program delivery and administration costs of this program, as well as the reporting on program milestones, program evaluation and findings, and recommendations for code improvements. The Town anticipates providing up to $10,000 of in-kind value in staff hours. The Town's Staff Attorney's will also contribute in-kind services to the development of any legal documents necessary for the execution of the program.

Also, the Town of Amherst has not considered opting into Real Property Tax Law 421-f to exempt improvements to single or two-family homes. However, upon award of this Grant the Town is willing to bring such a program for consideration to the Town Board. Unfortunately, there was not time to have a discussion and enact the Law prior to the deadline of this application.

Lastly, the Town and Belmont feel the program's success will require construction contracts to be between the Homeowner and the contractor, as contractors generally won't accept a direct contract with anyone but the property owner and other contracting arrangements will create insurance complications.

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

Amherst ADU Pilot Program Budget

Goal = 16 Projects (8 New & 8 Rehab)

Soft Costs	$	200,000
Administration		
Town Admin. (Mailing, Printing, Media, Monitoring, Audit)	$	20,000
Construction Management (Belmont)	$	180,000
Construction	$	1,600,000
	$	2,000,000

Town in-kind Match: $10,000 Anticipated value (planning, legal, staff time – for admin & program management)

Accessory Dwelling Unit Project Budgets

Project Activities	New Build Attached	Rehab Existing/Code Compliance	Notes
Total Grant Allowance/Unit	**$ 125,000**	**$ 125,000**	
Soft Costs			
Architectural Design & Engineering	$ 8,500	$ 7,000	
Testing (lead, asbestos, soil borings)	$ 2,850	$ 1,150	
Regulatory Fees/ Building Permit Fees	$ 1,325	$ 500	
ZBA Fee, if applicable	$ 115	$ 115	
Survey, if applicable	$ 800	$ 800	
	$ 13,590	$ 9,565	
Administration			
Construction Management Fee (10%)	$ 12,500	$ 10,000	Firm - max allowed
Construction			
Construction Costs	$ 95,000	$ 60,000	New: 500 sq. ft @ $190 sq.
Contingency (8%)	$ 7,600	$ 4,800	ft. Rehab: Capped @ $60K
	$ 102,600	$ 64,800	**TBD by bids received
TOTAL*	**$ 128,690**	**$ 84,365**	

*Homeowner Contribution (between 80-100% AMI) - Cover all costs exceeding $125,000 or HTFC loan option

*Homeowner Contribution (below 80% AMI) - HUD Contribution (CDBG or HOME depending on the Home Value)

Contact Information

Additional information and questions on the proposal can be submitted to:

Laurie Stillwell, Amherst Community Development Director
Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

(716) 631-7050
(716) 259-3507 (mobile)
Lstillwell@amherst.ny.us

Attachment: ADU Grant Proposal Final Draft 11.4.22 (RES-2022-1112 : Approval to Submit a Grant Proposal to NYS Homes & Community

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 26683 **RESOLUTION 2022-1113** **ADOPTED**

To Authorize a Substantial Amendment to the FY 2020 Annual Action Plan for Community Development

WHEREAS, the Town has adopted the FY 2020 Annual Action Plan on behalf of the Towns of Amherst, Cheektowaga and Tonawanda (ACT) HOME Consortium which programs the expenditure of funds for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Funding; and

WHEREAS, the Town is seeking to amend the FY 2020 Action Plan to reallocate $430,278.49 in Supplemental CDBG-COVID funds awarded by the CARES Act according to the following program/budget lines; and

Decrease/Remove:	
Mortgage Assistance Program	$ 150,273.00
Family Justice Center	$ 1,088.00
Small Business Outreach & Technical Assistance	$ 16,800.00
COVID Testing	$ 95,000.00
CDBG Admin.	$ 70,000.00
WNYIL	$ 7,237.80
Center for Elder Law and Justice	$ 40,000.00
Youth & Recreation Summer Camp	$ 29,879.69
Senior Services Programming for COVID-19	$ 20,000.00
Create/Increase:	
Senior Center Improvements	$ 147,000.00
Northwest Community Center	$ 210,153.49
Meals on Wheels	$ 73,125.00

WHEREAS, this amendment provides funds for a project manager to oversee the establishment of the Northwest Amherst Community Center and Playground; HVAC and ADA upgrades to the Amherst Senior Center; and an additional cook to serve increased meal volume for Meals on Wheels; and

WHEREAS, the new activities meet the use criteria of the Supplemental CDBG-COVID funds awarded by the CARES Act to "prevent, prepare for, and respond to COVID" by providing critical community space to serve the Creekwoods Neighborhood with social and

other supportive programming; providing Accessible health and safety improvements in public facilities to reduce the spread of COVID; and providing increased meal-assistance to vulnerable senior and disabled populations; now therefore

BE IT RESOLVED, the Town of Amherst Town Board hereby authorizes the above Substantial Amendment to the FY 2020 Annual Action Plan.

11/7/2022

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

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate.

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

Amherst

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

Brian J. Kulp
Supervisor
Daniel C. Howard, P
Planning Direc
Daniel J. Ulatowski P
Assistant Planning I or

October 31, 2022

Agenda of November 7, 2022

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

Subject: To authorize Substantial Amendments to the 2020 Annual Plan for the reassignment of CDBG-CV funds.

Honorable Board Members:

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) allocated $1.5 million of Community Development Block Grant funds to the Town of Amherst to address the COVID-19 Crisis (CDBG-CV).

The Planning Department is proposing Substantial Amendments to the FY 2020 Annual Action Plan for Amherst's Community Development Block Grant (CDBG) Program. The amendments proposed reassign CDBG-COVID funding from existing underutilized budget categories to new categories in order to expend the remaining funding.

A proposed resolution for adopting the Substantial Amendments to the 2020 Annual Action Plan is attached for your consideration. Thank you for your assistance with this matter.

Very truly yours,

Daniel J. Ulatowski, AICP
Assistant Planning Director

X:\Community Development\New Structure\ANNUAL PLAN\Data 2020\5th Amendments\TB_Letter_PH_11.7.22.docx

Attachment: tb letter amend-1102022094705 (RES-2022-1113 : To Authorize Substantial Amendments to the 2020 Annual Action Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 26693 **RESOLUTION 2022-1114** **ADOPTED**

Emergency Purchase Authorization APD VPN Remote Server Repair (CRS #3696) MVP Network Consulting, LLC

TOWN BOARD AGENDA ITEM: NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Emergency Purchase Authorization**
APD VPN Remote Server Repair (CRS #3696)
MVP Network Consulting, LLC

Kindly adopt a resolution authorizing the Town Board to approve an emergency purchase made with MVP Network Consulting, LLC for work done on the department's VPN remote server. The Emergency Purchase Documentation Form is attached. The cost of this repair is $352.50 (formal invoice attached). This request is pending successful completion of the Contract Routing Process.

Thank you.

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

11/7/2022
Consent

FINANCIAL IMPACT:

A 3120 .4090: $352.50

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

MVP Network Consulting, LLC.
1485 Niagara St.
Suite 200
Buffalo, NY 14213
(716) 630-1701

INVOICE

Bill To:
Town of Amherst Police Department Attn: Steven Heim 500 John James Audubon Pkwy Buffalo, NY 14228 United States

Date	Invoice
10/26/2022	811127
Account	
Town of Amherst Police Department	

Terms	Due Date	PO Number	Reference	
Net 15 days	11/10/2022			

Project Name	Citrix Netscaler server - Professional Services Engagement			
	Work Type	Hours	Rate	Amount
Billable Services				
	Partner Management	0.33	150.00	49.50
	Remote Support	2.02	150.00	303.00
			Total Services:	352.50

All sales are final. Payments to MVP shall be made promptly. Further, in no event shall MVP be liable to partner for any lost revenue, lost profits, business interruption, loss of business information, or any other commercial damage arising out of the use or inability to use the system, or any special, incidental, consequential or other damages, whether arising from contract or negligence or other legal theory. Complete terms found at http://www.mvpworks.com/terms.

Invoice Subtotal:	352.50
Sales Tax:	0.00
Invoice Total:	352.50
Payments:	0.00
Credits:	0.00
Balance Due:	352.50

Thank you for your business!

For access to our portal or for detailed information regarding this invoice, please reach out to accounting@mvpworks.com or your Partner Success Manager.

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

Town of Amherst
Emergency Purchase Documentation Form

This form is to be completed for all emergency purchases made that contravene the Town's Purchasing Policy. You must contact the Supervisor (or Deputy Supervisor in the Supervisors absence) to obtain his/her approval prior to making the purchase. This form must be completed and submitted to the Town Board at the first work session following the Emergency purchase. A copy should also be submitted to the Town Attorney and Contract Compliance & Administration Department.

An exception to the competitive bidding requirements exists for emergency situations (GML §103[4]). There are three basic statutory criteria to be met in order to fall within this exception. These are that (1) the situation arises out of an accident or other unforeseen occurrence or condition; (2) the circumstances affect public buildings, public property, or life, health, safety or property of the political subdivision's residents; and (3) the situation requires immediate action which cannot await competitive bidding.

Generally, there must be a present, immediate and existing condition which is creating an imminent threat or danger and which requires such immediate action that a further delay to comply with competitive bidding requirements is so detrimental to the public interest that it overcomes the strong public policy in favor of bidding. Further, because the emergency must arrive out of an accident or unforeseen occurrence, it is doubtful a local government may invoke the emergency exception in a situation which the result of inaction or dilatory behavior on the part of local officials and which, therefore, could have been foreseen in time to advertise for bids.

Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practical under the circumstances.

1. Date of Emergency Purchase: 10/26/2022
2. Date you received approval from the Supervisor: BJK 9/7/22
3. Date of Town Board work session where Board is notified: _____
4. Amount of Emergency Purchase. Please provide a detailed listing of items purchased and the cost of each (attach additional detail if necessary): Approx $1600.00 - See attached quote
5. Is there adequate funding in your current operating budget to cover this purchase? yes
   Identify budget Org/Object: A3120 . 4090
6. Please describe the circumstances that resulted in the need to make an emergency purchase without following the Town's Purchasing Policy: Department's server that runs the VPN Network crashed causing a dept wide outage for all Dept. remote users. The necessary repairs require outside specialized services to fix.
7. Please describe what steps were taken to ensure the lowest cost for the Emergency Purchase. If none, please explain why your department was prevented from doing so: The Dept's IT division has trouble shot to the best of their ability without success. This repair is outside the ken of our abilities
8. Department Head Signature: _____ Date: 9/6/2022

CC: Town Board, Town Attorney, Contract Compliance & Administration

For Contract Compliance & Administration Use Only	
Date of Town Board Resolution:	Emergency Purchase Tracking/Res #:

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

AGREEMENT FOR EMERGENCY SERVICES

Let this document stand as an agreement between MVP Network Consulting, LLC, located at 1485 Niagara Street, Suite 200, Buffalo, New York 14213, and the Town of Amherst, located at 5583 Main Street, Williamsville, New York 14221, permitting the use of MVP Network Consulting, LLC for an emergency repair of the Amherst Police Department's CITRIX Server.

Agreed to and Accepted by:

MVP Network Consulting, LLC

By: _____
Signature

DANIELLE NUCHERENO
Printed Name

VP-OPERATIONS
Title

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: 9/7/22

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

716-630-1701
1485 Niagara St., Suite 200, Buffalo, NY 14213

Quote AAAQ21372

Prepared For:
Town of Amherst Police Department
Steven Heim
Phone:
500 John James Audubon Pkwy
Buffalo, NY 14228
sheim@apdny.org

Prepared By:
Danielle Nuchereno
Vice President - Operations
Phone:
Fax:
Email: dnuchereno@mvpworks.com

Scope of Work

Hi Steve,

Below please find quote that outlines our hourly rate. As discussed, we will assign an engineer to assist with your immediate issue with your Citrix Netscaler server. This work will be completed based on actual time spent at our hourly rate.

As we discussed, you will also need to renew your support with Citrix so that we can effectively provide remediation. Our senior cloud technical resource will work with you to determine the appropriate level of support for your needs.

Thanks,
Dani

Line Item Detail

Qty	Description	Picture	Unit Price	Ext Price
Hourly Rate - Work to be completed based on actual time				**$1,600.00**
10	MVP Service Hourly Rate - Estimated 10 Hours		$160.00	$1,600.00

Monthly Recurring: $0.00
Annual Recurring: $0.00

SubTotal:	**$1,600.00**
Shipping:	**$0.00**
Sales Tax:	**$0.00**
Total:	**$1,600.00**

For the full presentation proposal, click here to view or download the PDF version of this quote. You can sign and fax this in, or you can save time by simply electronically accepting this quote below.

Ready to Accept?

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

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: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

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,

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:

MVP Network Consulting, LLC
Print Name of Company

By: _____
Signature

Danielle Nuchereno
Printed name

Date: 9/6/2022

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: 9/7/22

Revised 12.30.19 SJS

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/18/2022

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: Karen Stucker-Leising	
Emerling, Floss, Murphy & Associates, LLC. 9092 Main Street Clarence NY 14031	PHONE (A/C, No, Ext): (716) 631-0190	FAX (A/C, No): (716) 631-0198
	E-MAIL ADDRESS: kleising@emsinsurance.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Massachusetts Bay Ins Co	22306
	INSURER B : Allmerica Financial Benefit	41840
	INSURER C : U. S. Underwriters Insurance Co	
	INSURER D :	
	INSURER E :	
	INSURER F :	

INSURED
MVP Network Consulting, LLC.
1485 Niagara Street, suite 200
Buffalo NY 14213

COVERAGES **CERTIFICATE NUMBER:** CL2222809796 **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		ODSA235431	03/01/2022	03/01/2023	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 $ 300,000 $ 5,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
B	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [X] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			AWS A506279 08	03/01/2022	03/01/2023	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			ODSA235431	03/01/2022	03/01/2023	EACH OCCURRENCE AGGREGATE [ ]	$ 1,000,000 $ 1,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [Y] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		W2SA235436	03/01/2022	03/01/2023	[X] PER STATUTE [X] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 500,000 $ 500,000 $ 500,000
C	Professional Liability			PT3000200	01/10/2022	01/10/2023	Limit	$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

re; Town of Amherst Police Department,
500 John James Audubon Pkwy
Buffalo NY 14228 and the Town of Amherst Police Department,4220 Bailey Ave., Amherst NY 14226: The Town of Amherst is included as an additional insured on a primary and non-contributory basis including ongoing and completed operations coverage for services provided by the named 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

© 1988-2015 ACORD CORPORATION. All rights reserved.

Attachment: FinalContractDocuments (RES-2022-1114 : Emergency Purchase Authorization: APD VPN Remote Server Repair CRS #3696)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 26679 **RESOLUTION 2022-1115** **ADOPTED**

Targeted Tactical Team Grant FY2022 (CRS #3693) Grant Agreement: NYS Division of Homeland Security and Emergency Services

TOWN BOARD AGENDA ITEM: NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Targeted Tactical Team Grant FY2022 (CRS #3693) Grant Agreement: NYS Division of Homeland Security and Emergency Services**

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached grant agreement between the Town of Amherst (Police) and NYS Division of Homeland Security and Emergency Services with regard to the above-entitled matter. Approval of this grant agreement is contingent upon the successful completion of the Contract Routing System.

Thank you.

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

11/7/2022
Consent

FINANCIAL IMPACT:

Grant Funding: $75,000.00

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

STATE AGENCY New York State Division of Homeland Security and Emergency Services 1220 Washington Avenue Building 7A Suite 710 Albany, NY 12242	NYS COMPTROLLER'S NUMBER: C160029 (Contract Number) ORIGINATING AGENCY CODE: 01077
GRANTEE/CONTRACTOR: (Name & Address) Amherst, Town of 5583 Main St Williamsville, NY 14221	TYPE OF PROGRAMS: WM2020 SHSP CFDA NUMBER: 97.067 DHSES NUMBERS: WM20160029
FEDERAL TAX IDENTIFICATION NO: 16-6002157 MUNICIPALITY NO: (if applicable) SFS VENDER NO: 1000003949 DUN & BRADSTREET NO: 030212336	INITIAL CONTRACT PERIOD: FROM 10/01/2022 TO 08/31/2023 FUNDING AMOUNT FOR INITIAL PERIOD: $75,000.00
STATUS: Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.	MULTI-YEAR TERM: (if applicable)
CHARITIES REGISTRATION NUMBER: (Enter number of Exempt) if "Exempt" is entered above, reason for exemption. n/a Contractor has ____ has not ____ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.	APPENDIX ATTACHED AND PART OF THIS AGREEMENT __ APPENDIX A Standard Clauses required by the Attorney General for all State contracts _X_ APPENDIX A1 Agency-specific Clauses _X_ APPENDIX B Budget _X_ APPENDIX C Payment and Reporting Schedule _X_ APPENDIX D Program Workplan and Special Conditions __ APPENDIX X Modification Agreement Form (to accompany modified appendices for changes in terms or considerations on an existing period or for renewal periods) __ DHSES-55 Budget Amendment/Grant Extension Request __ Other - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion _____ _____ _____ _____
IN WITNESS THEREOF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.	

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

NYS Division of Homeland Security and Emergency Services

BY: , Date:

State Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract".

GRANTEE:

BY: Mr. Brian J. Kulpa , Supervisor Date:

ATTORNEY GENERAL'S SIGNATURE _____ _____ Title: _____ _____ Date: _____ _____	COMPTROLLER'S SIGNATURE _____ Title: _____ Date: _____

Award Contract **SHSP**

Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

Award Contract **SHSP**

Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

Award Contract **SHSP**

Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

Award Contract **SHSP**

Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

Budget Summary by Participant

Amherst, Town of

Town of Amherst Police Department - Version 1

#	Consultant Services	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Sniper Element Training	4	$745.00	$2,980.00	$2,980.00	$0.00
2	Breaching Element Training	4	$2,000.00	$8,000.00	$8,000.00	$0.00
Total				$10,980.00	$10,980.00	$0.00

#	Equipment	AEL	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Pole Camera (covert under door)	13LE-00-SURV -	1	$9,319.00	$9,319.00	$9,319.00	$0.00

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

2	Tactical Vests (level IV)	01LE-01-ARMR	6	$3,000.00	$18,000.00	$18,000.00	$0.00
3	Night Vision Goggles	03OE-02-TILA	1	$8,662.00	$8,662.00	$8,662.00	$0.00
4	Rescue Task Force Rapid Vests	09MS-04-HSBN	1	$3,591.00	$3,591.00	$3,591.00	$0.00
5	Throwbot	03OE-07-ROBT	1	$18,364.00	$18,364.00	$18,364.00	$0.00
Total					$57,936.00	$57,936.00	$0.00

#	Travel and Subsistence	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	Travel Costs associated with Breach Training	4	$766.00	$3,064.00	$3,064.00	$0.00
2	Travel Costs associated with Sniper Training	4	$755.00	$3,020.00	$3,020.00	$0.00
Total				$6,084.00	$6,084.00	$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	$75,000.00	$75,000.00	$0.00

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	$75,000.00	$75,000.00	$0.00

Award Contract **SHSP**

Project No.	Grantee Name	
TT20-1021-E00	Amherst, Town of	10/27/2022

APPENDIX C
PAYMENT AND REPORTING SCHEDULE

For All Contractors:

I. PAYMENT PROVISIONS

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Payment and Recoupment Language

1. Contractor shall provide complete and accurate vouchers to DHSES in order to receive payment. Vouchers submitted to DHSES must contain all information and supporting documentation required by the Agreement, DHSES and the State Comptroller. Payment for vouchers submitted by the Contractor shall only be rendered electronically, unless a paper check is expressly authorized by the Director of DHSES, at the Director's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with the ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization for electronic payment must be made through the Statewide Financial System's (SFS) Vendor Portal: https://esupplier.sfs.ny.gov/psp/fscm/SUPPLIER/?cmd=login. For

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

assistance to access the SFS Vendor Portal, please contact the SFS Help Desk at 518-457-7717 or 855-233-8363 or email HelpDesk@sfs.ny.gov. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Agreement if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.

2. The Contractor agrees that this is a reimbursement-based contract; an advance may be provided as specified in Appendix D. All requests for reimbursement must reflect actual costs that have been disbursed by the Contractor. Items or services not received are not eligible for reimbursement.

Reimbursement requests need to include the following documents:
• Signed Voucher and Fiscal Cost Report
• Detailed Itemization Forms or other forms deemed acceptable by DHSES of any budgeted category for which reimbursement is requested
• Written documentation of all required DHSES approvals, as appropriate

3. Vouchers shall be submitted in a format acceptable to DHSES and the Office of the State Comptroller. Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the Project Budget (Appendix B) and during the contract period. Such voucher shall also be deemed to certify that: a) the payments requested do not duplicate reimbursement from other sources of funding; and b) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program.

B. Interim and/or Final Claims for Reimbursement

1. Contractors must submit all required fiscal reports, supporting documentation and program progress reports. Failure to meet these requirements will result in the rejection of associated vouchers. Final vouchers, reimbursement requests and reports must be submitted within 30 days of the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds. The Contractor must also refund all unexpended advances and interest earned over $500 on the advanced funds pursuant to 2 CFR Part 200, §200.305(b)(9). Property Records or Equipment Inventory Reports as defined in Appendix A-1, Section V, Paragraph R, must be available at the conclusion of the contract period and submitted to DHSES upon request.

2. If at the end of this contract there remain any monies (advanced or interest earned over $500 on the advanced funds) associated with this contract in the possession of the Contractor, the Contractor shall submit a check or money order for that amount payable to the order of the New York State Division of Homeland Security and Emergency Services. Remit the check along with the final fiscal cost report within 30 days of termination of this grant contract to:

NYS Division of Homeland Security and Emergency Services
Federal Fiscal Unit
State Campus - Building 7A
1220 Washington Avenue
Albany, NY 12242

3. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the Contract Unit of DHSES. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. Payment shall be preceded by an inspection period of 15 business days which shall be excluded from calculations of the payment due date for purposes of determining eligibility for interest payments. The Contractor must notify the Federal Fiscal Unit in writing of a change of address in order to benefit from the prompt payment provision of the State Finance Law. When progress reports are overdue, vouchers will not be eligible for prompt payment.

4. Timely and properly completed New York State vouchers, with supporting documentation when required,

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

shall be submitted to:

NYS Division of Homeland Security and Emergency Services
Attention: Contracts Unit
State Office Building Campus – Bldg. 7A
1220 Washington Avenue, Suite 610
Albany, NY 12242

II. REPORTING PROVISIONS

A. Required Reports:

Narrative/Qualitative Report (Progress Report)

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of Appendix A-1 of the Contract.

Expenditure Report (Fiscal Cost Report)

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III, Paragraph G(2)(a)(iii) of the Appendix A-1 of the Contract.

Final Report

The Contractor will submit the final report as described in Section III, Paragraph G(2)(a)(iv) of Appendix A-1 of the Contract, no later than 30 days after the end of the contract period.

1. Fiscal cost reports must be submitted showing grant expenditures. They must also show the amount of interest earned to date on any advanced funds.

All submitted vouchers will reflect the Contractor's actual expenditures and will be accompanied by supporting detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures or other documentation as required, and by a fiscal cost report for the reporting period. In the event that any expenditure for which the Contractor has been reimbursed by grant funds is subsequently disallowed, DHSES, in its sole discretion, may reduce the voucher payment by the amount disallowed. If necessary, the Contractor may be required to submit a final budget reallocation.

DHSES reserves the right not to release subsequent grant awards pending Contractor compliance with this Agreement.

2. The Contractor will submit program progress reports and one final report to DHSES on a prescribed form provided by DHSES as well as any additional information or amended data as required.

Progress reports will be due within 30 days of the last day of each calendar quarter or on an alternate schedule as prescribed in Appendix D. Progress reports will be due within 30 days of the last day of the calendar quarter from the start date of the program and the final report will be due upon completion of the project or termination of this Agreement. The final report, or where applicable interim progress reports, will summarize the project's achievements as well as describe activities for that quarter.

B. Reporting Periods

Programmatic and fiscal reports must be submitted as follows:

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Calendar Quarter: January 1 - March 31 -- Report Due: April 30
Calendar Quarter: April 1 - June 30 -- Report Due: July 30
Calendar Quarter: July 1 - September 30 -- Report Due: October 30
Calendar Quarter: October 1 - December 31 -- Report Due: January 30

Rev. 07/2021

Certified by - on

Award Contract		**SHSP**
Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

Work Plan

Goal

To develop and enhance tactical team response capabilities.

Objective #1

G & T Workplan Code - 50. Establish/enhance regional response teams: Tactical

Investment Justification - Counter Terrorism and Law Enforcement

NYS Critical Capability

Primary - Law Enforcement Counter-Terrorism Operations

The development, sustainment and/or enhancement of tactical team assets.

Task #1 for Objective #1

Purchase Allowable tactical team equipment (cameras, NVG's, vests, throwbot). Train appropriate personnel in the proper use of the equipment and place the equipment into service.

#	Performance Measure
1	Identify Equipment ordered and received. Provide a brief narrative on the training of personnel and the deployment of equipment. Describe how the project enhanced the tactical team in the region. Equipment accountability records are properly maintained. Provide explanation if equipment is received but not deployed, include deployment plans as appropriate.

Task #2 for Objective #1

Conduct approved training related to tactical team operations.

#	Performance Measure
1	Training conducted. Provide brief narrative on type of training conducted to include at a minimum the number of personnel trained, the disciplines being trained and the jurisdictions included in the training;

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

roster of attendees maintained on file. Describe how the project enhanced the tactical team capabilities in the region

Award Contract		**SHSP**
Project No.	**Grantee Name**	
TT20-1021-E00	Amherst, Town of	10/27/2022

NEW YORK STATE
DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES
GRANT CONTRACT

APPENDIX A-1

The Contract is hereby made by and between the State of New York, acting by and through the New York State Division of Homeland Security and Emergency Services (DHSES or State Agency) and the public or private entity ('Contractor' or 'Subrecipient') identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL TERMS AND CONDITIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Contract exceeds $50,000 (or $85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the Offices of the State Comptroller and Attorney General where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Appendix C (Payment and Reporting Schedule).

C. Contract Parts: This Contract incorporates the face pages attached, this Appendix and all of the marked Appendices identified on the face page hereof.

D. Order of Precedence: In the event of a conflict among (i) the terms of the Contract (including any and all Appendices and amendments) or (ii) between the terms of the Contract and the original request for proposal, the program application or other Appendix that was completed and executed by the Contractor in connection with the Contract, the order of precedence is as follows:

1. Appendix A-1[1]

2. Modifications to the Face Page

3. Modifications to Appendices B, C and D

4. The Face Page

5. Appendices B, C and D

6. Other attachments, including, but not limited to, the request for proposal or program application

E. Governing Law: This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

F. Funding: Funding for the entire Contract Period shall not exceed the funding amount specified as 'Funding Amount for the Initial Period' on the Face Page hereof or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Contract shall not exceed the applicable amounts specified in the applicable Appendix B form (Budget).

G. Contract Period: The period of this Contract shall be as specified on the face page hereof.

H. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Appendix D (Work Plan and Special Conditions) in accordance with the provisions of the Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program. For federally-funded grants, DHSES will conduct an evaluation to determine risks posed by Contractors in managing federal awards. Consistent with 2 CFR §200.332, the results of the evaluation may result in the imposition special conditions to this Contract including but not limited to increased monitoring, suspension of reimbursements and cancellation of the Contract.

I. Modifications: To modify the Contract, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in the term, is subject to the approval of the NYS Office of the State Comptroller. Any other modifications shall be processed in accordance with DHSES guidelines as stated in this Contract.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

J. Severability: Any provision of the Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Contract shall attempt in good faith to reform the Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

K. Interpretation: The headings in the Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

L. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

a. by certified or registered United States mail, return receipt requested;

b. by facsimile transmission;

c. by personal delivery;

d. by expedited delivery service; or

e. by e-mail.

2. Notices to the State shall be addressed to the Program Office.

3. Notices to the Contractor shall be addressed to the Contractor's designee.

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery services or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

M. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

N. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Contract up to any amounts due and owing to the State with regard to

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

the Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of setoff pursuant to an audit, the finalization of such audit by DHSES, its representatives, or OSC.

O. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Contract.

P. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of DHSES and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

Q. Legal Action: No litigation or regulatory action shall be brought against the federal government, the State of New York, DHSES or against any county or other local government entity with the funds provided under the Contract. The term 'litigation' shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the federal government, the State of New York, DHSES or any county or other local government entity. The term 'regulatory action' shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

R. No Arbitration: Disputes involving the Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

S. Secular Purpose: Services performed pursuant to the Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

T. Partisan Political Activity and Lobbying: Funds provided pursuant to the Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

U. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.[2]

V. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the federal False Claims Act, the New York State False Claims Act and whistleblower protections.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

W. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

X. Federally Funded Grants: All of the specific federal requirements that are applicable to the Contract are identified in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that the Contract is funded in whole or part with federal funds, (i) the provisions of the Contract that conflict with federal rules, federal regulations, or federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix. To the extent that section V (FEDERALLY FUNDED GRANT REQUIREMENTS) conflict with any other provisions of the Contract, the federal requirements of Section V shall supersede all other provisions of the Contract where required.

Y. The Contractor must meet the program objectives summarized in the Program Work Plan and Special Conditions (Appendix D) to the satisfaction of DHSES in accordance with provisions of the Contract, relevant laws, rules and regulations, administrative and fiscal guidelines and, where applicable, operating certificates for facilities or license for an activity or program.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Contract may consist of successive periods on the same terms and conditions, as specified within the Contract (a 'Simplified Renewal Contract'). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Contract.

2. Renewal Notice to Not-for-Profit Contractors:
a. Pursuant to State Finance Law §179-t, if the Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract no later than ninety (90) calendar days prior to the end of the term of the Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ('Unusual Circumstances'), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, 'Unusual Circumstances' shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b. Notification to the not-for-profit Contractor of the State's intent to not renew the Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Contract as required in this Section and State Finance Law §179-t, the Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Contract.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

C. Termination:

1. Grounds:

a. Mutual Consent: The Contract may be terminated at any time upon mutual written consent of the State and the Contractor.

b. Cause: The State may terminate the Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Contract.

c. Non-Responsibility: In accordance with the provisions of this Contract, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.

d. Convenience: The State may terminate the Contract in its sole discretion upon thirty (30) calendar days prior written notice.

e. Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Contract, the Contract may be terminated or reduced at DHSES's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to DHSES for payment of such costs. Upon termination or reduction of the Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to DHSES. In any event, no liability shall be incurred by the State (including DHSES) beyond monies available for the purposes of the Contract. The Contractor acknowledges that any funds due to DHSES or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.

f. Force Majeure: The State may terminate or suspend its performance under the Contract immediately upon the occurrence of a 'force majeure.' For purposes of the Contract, 'Force majeure' shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

a. Service of notice: Written notice of termination shall be sent by:

i. personal messenger service; or

ii. certified mail, return receipt requested and first class mail.

b. Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

i. if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

ii. if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

3. Effect of Notice and Termination on State's Payment Obligations:

a. Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b. The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Contract after its termination date.

4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Contract for the purposes set forth herein, the State may, at its option, require:

a. the repayment to the State of any monies previously paid to the Contractor; or

b. the return of any real property or equipment purchased under the terms of the Contract; or

c. an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, DHSES agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.

2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Contract shall not be reimbursed.

3. The Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Appendix C (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.

4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of DHSES, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments. Authorization for electronic payment must be made

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

through the Statewide Financial System's (SFS) Vendor Portal: https://esupplier.sfs.ny.gov/psp/fscm/SUPPLIER/?cmd=login. For assistance to access the SFS Vendor Portal, please contact the SFS Help Desk at 518-457-7717 or 855-233-8363 or email HelpDesk@sfs.ny.gov. Contractor acknowledges that it will not receive payment on any vouchers submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Director has expressly authorized payment by paper check as set forth above.

5. If travel expenses are an approved expenditure under this Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.

6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.

7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, 'Full Execution' shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Appendix C (Payment and Reporting Schedule).

2. Advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page.

3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Appendix C) will be modified as part of the renewal process.

4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Appendix C (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.

5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Contract in accordance with this Section and the applicable claiming schedule in Appendix C (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Appendix B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:

a. Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

b. Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

c. Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Appendix D (Work Plan and Special Conditions). The Contractor shall submit to DHSES biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to DHSES in accordance with the procedures set forth in Section III(A)(3) herein.

d. Milestone/Performance Reimbursement:[3] Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event. Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Appendix C (Payment and Reporting Schedule). DHSES shall make milestone payments subject to the Contractor's satisfactory performance.

e. Fee for Service Reimbursement:[4] Payment shall be limited to only those fees specifically agreed upon in the Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f. Rate Based Reimbursement:[5] Payment shall be limited to rate(s) established in the Contract. Payment may be requested no more frequently than monthly.

g. Scheduled Reimbursement: [6] DHSES shall generate vouchers at the frequencies and amounts as set forth in Appendix C(Payment and Reporting Schedule).

h. Interim Reimbursement: DHSES may generate vouchers on an interim basis and the amounts requested by the Contract as set forth in Attachment C (Payment and Reporting Schedule).

i. Fifth Quarter Payments: [7] Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. DHSES shall use a written directive for fifth quarter financing. DHSES shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.

4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Contract as security for the faithful completion of services or work, as applicable, under the Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.

5. The State shall not be liable for payments on the Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.

6. All vouchers submitted by the Contractor pursuant to the Contract shall be submitted to DHSES no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by DHSES, and, if actual expenditures by the Contractor are less than such sum, the amount payable by DHSES to the Contractor shall not exceed the amount of actual expenditures.

7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to thirty (30) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) unique entity identifier . Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of DHSES contracting to purchase the goods or services or lease the real or personal property covered by the Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in this Appendix. The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Office address listed in Appendix C.

2. If at the end or termination of the Contract, there remains any unexpended balance of the monies advanced under the Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Appendix C (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to DHSES in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Appendix C (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a. If the Expenditure Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with one or more of the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Narrative/Qualitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Appendix D (Work Plan and Special Conditions). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

ii. Statistical/Quantitative Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

iii. Expenditure Report: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Appendix C (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

iv. Final Report: The Contractor shall submit a final report as required by the Contract, not later than the time period listed in Appendix C (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Appendix D (Work Plan and Special Conditions).

v. Consolidated Fiscal Report (CFR): The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Appendix C (Payment and Reporting Schedule).

b. If the Performance-Based Reports option is indicated in Appendix C (Payment and Reporting Schedule), the Contractor shall provide DHSES with the following reports as required by the following provisions and Appendix C (Payment and Reporting Schedule) as applicable:

i. Progress Report: The Contractor shall provide DHSES with a written progress report using the forms and formats as provided by DHSES, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Appendix D (Work Plan and Special Conditions). Progress reports shall be submitted in a format prescribed in the Contract.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

ii. Final Progress Report: Final scheduled payment is due during the time period set forth in Appendix C (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Appendix C (Payment and Reporting Schedule). DHSES shall complete its audit and notify the Contractor of the results no later than the date set forth in Appendix C (Payment and Reporting Schedule). Payment shall be adjusted by DHSES to reflect only those services/expenditures that were made in accordance with the Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Appendix C (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Appendix C (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Appendix C (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to DHSES within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Contract and/or any subcontract entered into under the Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Contract. No contractual relationship shall be deemed

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of $100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of $100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Contract, and (3) that nothing contained in the subcontract, nor under the Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds $100,000, the subcontractor must submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, when a subcontract is executed, the Contractor must provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to DHSES, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Appendix C (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use of Material, Equipment, or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Contract for any activity other than those provided for under the Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of $1,000 or more per unit.

a. If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b. If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Contract to use for similar purposes. Otherwise, the Contractor

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Contract.

c. In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d. The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to DHSES naming DHSES as an additional insured, covering the loss, theft or destruction of such equipment.

e. A rental charge to the Contract for a piece of Property owned by the Contractor shall not be allowed.

f. The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g. No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Contract:

a. For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b. For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Contract shall be governed by the terms and conditions of Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) contained herein.

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a. The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Contract (collectively, Records).

b. The Contractor agrees to produce and retain for the balance of the term of the Contract, and for a period of six years from the later of the date of (i) the Contract and (ii) the most recent renewal of the Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

i. personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

ii. payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

iii. non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, cost allocation plans, and bid and procurement documentation, such as quotes, proposals and selection records, if applicable.

iv. receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c. The OSC, AG and any other person or entity authorized to conduct an examination, as well as DHSES or State Agencies involved in the Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d. The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e. Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a. For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of 2 CFR Part 200. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b. For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Section V (FEDERALLY FUNDED GRANT REQUIREMENTS) of this Appendix A-1.

F. Confidentiality: The Contractor agrees that it shall use and maintain information relating to individuals who may receive services, and their families pursuant to the Contract, or any other information, data or records deemed confidential by the State (Confidential Information) only for the limited purposes of the Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a. Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b. State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by DHSES and the results of such testing must be satisfactory to DHSES before web content shall be considered a qualified deliverable under the Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. The Contractor shall be subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting State Agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State Agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting State Agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts;

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

4. At the request of the State, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative shall not discriminate on the basis of race, creed, color, national origin sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

6. The Contractor shall have institutional policies or practices that address harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sexual orientation, gender identity, military status, sex, marital status, disability, or other protected basis.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

The Contractor shall include the provisions of subclauses 1 – 6 of this Section (IV)(J), in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such Federal law and if such duplication or conflict exists, the State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Contract is greater than $1 million, the Omnibus Procurement Act of 1992 requires that by signing the Contract, the Contractor certifies the following:

a. The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c. The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d. The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to DHSES staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and

4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Contract. The Contractor further covenants and represents that as of the date of execution of the Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Contract:

a. to require updates or clarifications to the Questionnaire upon written request;

b. to inquire about information included in or required information omitted from the Questionnaire;

c. to require the Contractor to provide such information to the State within a reasonable timeframe; and

d. to require as a condition precedent to entering into the Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e. to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Contract.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Contract based on:

a. any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or

b. the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non- responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish DHSES with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Contract.

P. Consultant Disclosure Law:[8] If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

R. Participation By Minority Group Members And Women With Respect To Grant Contracts: Requirements And Procedures (state-funded grants only)

1. General Provisions

a. The Division of Homeland Security and Emergency Services (DHSES) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ('MWBE Regulations') for all State contracts as defined therein, with a value (1) in excess of $25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of $100,000 for real property renovations and construction.

b. The Contractor to the subject contract (the 'Contractor' and the 'Contract,' respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DHSES, to fully comply and cooperate with the DHSES in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ('EEO') and contracting opportunities for certified minority and women-owned business enterprises (' MWBEs').

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Contractor's demonstration of 'good faith efforts' pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the 'Human Rights Law') or other applicable federal, state or local laws.

c. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

2. Contract Goals

a. For purposes of this contract, DHSES has established overall goals for Minority and Women-Owned Business Enterprises ('MWBE') participation which are specified in the contract work plan.

b. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the contract work plan hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp. Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

c. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document 'good faith efforts' to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DHSES for liquidated or other appropriate damages, as set forth herein.

3. Equal Employment Opportunity (EEO)

a. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the 'Division'). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

b. Contractor shall comply with the following provisions of Article 15-A:

i. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

ii. The Contractor shall maintain an EEO policy statement and submit it to the DHSES if requested.

iii. If Contractor or Subcontractor does not have an existing EEO policy statement, Section 4 below may be used to develop one.

iv. The Contractor's EEO policy statement shall include the following, or similar, language:

a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

minority group members and women in its work force.

b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

c) The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

d) The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection (iv) and Paragraph 'e' of this Section 3, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

c. Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

d. Workforce Employment Utilization Report

i. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DHSES of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by the DHSES during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.

ii. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.

iii. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

e. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

4. MWBE Utilization Plan

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

a. The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the contract.

b. Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the contract workplan.

c. Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DHSES shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

5. Waivers

If the DHSES, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DHSES may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

6. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to the DHSES by the last day of the month following the end of each calendar quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

7. Liquidated Damages - MWBE Participation

a. Where DHSES determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of Contract and DHSES may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.

b. Such liquidated damages shall be calculated as an amount equaling the difference between:

1) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
2) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

c. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DHSES, Contractor shall pay such liquidated damages to the DHSES within sixty (60) days after they are assessed by the DHSES unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the DHSES.

8. M/WBE AND EEO Policy Statement

a. The Contractor agrees to adopt the following policies or similar policies with respect to the project being developed or services rendered in this contract with the Division of Homeland Security and Emergency Services:

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

(1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

(2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

(3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

(4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

(5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

(6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b)This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Contractor agrees to comply with all MWBE and EEO contract goals reflected on the MWBE Utilization Plan and Staffing Plan respectively, that have been submitted with the application for this contract.

S. Additional Terms

1. The Contractor agrees that if the project is not operational within 60 days of the execution date of the Contract, it will report by letter to DHSES the steps taken to initiate the project, the reasons for delay, and the expected starting date. If the project is not operational within 90 days of the execution date of the Contract, the Contractor will submit a second statement to DHSES explaining the delay. DHSES may either cancel the project and redistribute the funds or extend the implementation date of the project beyond the 90-day period when warranted by extenuating circumstances.

2. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of DHSES, or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability prior performance, and financial capacity.

a. The DHSES Commissioner, or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when DHSES discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of the notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of DHSES, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

b. Upon written notice to the Contractor, and a reasonable opportunity to be heard with the appropriate DHSES officials or staff, the Contract may be terminated by the DHSES Commissioner, or his or her designee at the Contractor's expense where the Contractor is determined by the DHSES Commissioner, or his or her designee, to be non-responsible. In such event, the Commissioner, or his or her designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

3. DHSES shall make payments and any reconciliation in accordance with the Payment and Reporting Schedule (Appendix C). DHSES shall pay the Contractor for completed, approved projects, a sum not to exceed the amount noted on the Face Page hereof. The Contractor must not request payments or reimbursements that duplicate funding or reimbursement from any other source for Contractor costs and services pursuant to this Contract.

4. The Contractor shall submit detailed itemization forms or a form deemed acceptable to DHSES for personal service, fringe benefit and non-personal service expenditures with any voucher and fiscal cost report requesting reimbursement. Grant-related expenditures shall be reported on Fiscal Cost Reports approved by DHSES. For Federally-funded awards, the detailed Itemization forms shall include the required certifications pursuant to 2 CFR §200.415. These reports must be prepared periodically and as defined in Appendix C of this Contract. All reported expenditures must reconcile to the program accounting records and the approved budget. Prior period adjustments shall be reported in the same accounting period that the correction is made.

5. The Contractor's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless written authorization has been received from DHSES, shall not exceed rates authorized by the NYS Office Of State Comptroller (Audit and Control). Rates may be viewed online at: http://www.osc.state.ny.us/state-agencies/travel.

6. The Contractor's employment of a consultant must be supported by a written Contract executed by the Contractor and the consultant. A consultant is defined as an individual or organization hired by the Contractor

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

for the stated purpose of accomplishing a specific task relative to the funded project. All consultant services must be obtained in a manner that provides for fair and open competition. The Contractor shall retain copies of all solicitations seeking a consultant, written Contracts and documentation justifying the cost and selection of the consultant, and make them available to DHSES upon request. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of the consultant as if it were its own. Failure to follow these guidelines may result in a disallowance of costs.

7. Additionally, Contractor must adhere to the following guidelines at a minimum when making all procurements, including consultant services. Failure to follow these guidelines may result in a disallowance of costs.

a. A Contractor who proposes to purchase goods or services from a particular vendor without competitive bidding must obtain the prior written approval of DHSES. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable. Further, such procurement must be in accordance with the guidelines, bulletins and regulations of the Office of the State Comptroller, State Procurement Council, and the U.S. Department of Homeland Security. For Federally-funded awards, contractor must comply with 2 CFR §200.320(c). A copy of DHSES' approval must also be submitted with the voucher for payment.

b. The rate for consultant services, and cost of equipment or goods, shall be reasonable and consistent with the amount paid for similar services or goods and equipment in the marketplace. Time and effort reports are required for consultants.

c. Written justification and documentation for all procurements must be maintained on file, and made available to DHSES upon request. All procurements must be made in a fair and open manner and in accordance with the pre-determined methodology established for evaluating bids (e.g., lowest responsible bidder or best value).

d. A Contractor that is a State entity must make all procurements in accordance with State Finance Law Article 11 and any other applicable regulations.

e. A Contractor that is a local government must make all procurements in accordance with General Municipal Law Article 5-A, and any other applicable regulations.

f. A Contractor that is a not-for-profit and all other entities that do not meet the descriptions in Section III(S)(7)(d) or (e) herein must make all procurements as noted below:

i. If the Contractor is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.

ii. A Contractor may purchase any single piece of equipment, single service or multiples of each that cost up to $999 at its discretion.

iii. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between $1,000 and $4,999, a Contractor must secure at least three telephone quotes and create a record for audit of such quotes.

iv. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost of between $5,000 and $9,999, the Contractor must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

v. A Contractor spending in aggregate of $10,000 and above must use a competitive bidding process. Guidance may be obtained from DHSES. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

g. Acceptance of State support for interoperable and emergency communications projects, including funding through the Interoperable Emergency Communication Grant Program, requires that Contractors must use open-standard/vendor-neutral technologies to allow for other public safety/public service agencies (including State agencies and authorities) and jurisdictions in your region to operate on your radio system(s) when required, regardless of the total percentage of system funding from the State. This access for other agencies must be permitted to support operational and interoperable goals, and without restriction as to specific manufacturers' subscriber equipment. All reasonably compatible subscriber equipment must be permitted to be operated on your system by outside agencies, thus allowing coordinated efforts between local and state public safety/public service agencies and maximizing resources and capabilities.

h. DHSES reserves the right to suspend program funds if the Contractor is found to be in noncompliance with the provisions of this Contract or other grant Contracts between the Contractor and DHSES or, if the Contractor or principals of the Contractor are under investigation by a New York State or local law enforcement agency for noncompliance with State or federal laws or regulatory provisions or, if in DHSES' judgment, the services provided by the Contractor under the Contract are unsatisfactory or untimely.

i. DHSES shall provide the Contractor with written notice of noncompliance.

ii. Upon the Contractor's failure to correct or comply with the written notice by DHSES, DHSES reserves the right to terminate this Contract, recoup funds and recover any assets purchased with the proceeds of this Contract.

i. DHSES reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon appropriate notification to the Contractor, or upon reasonable assurance that the Contractor is not in compliance with these terms.

j. As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of 'persons' who are engaged in 'investment activities in Iran' (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

i. By entering into this Contract, Contractor (or any assignee) certifies in accordance with State Finance Law §165-a that it is not on the 'Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012' ('Prohibited Entities List') posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf.

ii. Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

iii. During the term of the Contract, should DHSES receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance,

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

recovering damages, or declaring the Contractor in default.

iv. DHSES reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

V. FEDERALLY FUNDED GRANT REQUIREMENTS

A. Hatch Act. The Contractor agrees, as a material condition of the Contract, to comply with all applicable provisions of the Hatch Act (5 U.S.C. 1501 et seq.), as amended.

B. Requirement for System of Award Management: Unless you are exempted from this requirement under 2 CFR 25.110, you as the subrecipient must maintain the currency of your information in the System of Award Management (SAM) until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Pursuant to section 2 CFR §25.300, Contractors must maintain a current unique entity identifier prior to and during the life of the Contract. Nonprofit organizations that are first-tier subrecipients for Nonprofit Security Grant Program (NSGP) funding must have a unique entity identifier , but are not required to be registered in SAM.

C. In accordance with 2 CFR §§200.112 and 200.113, Contractor understands and agrees that it must: (1) disclose in writing any potential conflict of interest to DHSES; and (2) disclose, in a timely manner, in writing to DHSES all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the grant award. The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the State contracting agency is able to assess the actual or potential conflict. The Contractor shall provide any additional information necessary for the State contracting agency to fully assess and address the actual or potential conflict of interest. Failure to make required disclosures can result in any remedy available to DHSES for Contractor's noncompliance, including suspension or debarment.

D. The Contractor must ensure that, for all contracts entered into by the Contractor, the contract provisions required by 2 CFR §200.327 (and Appendix II to 2 CFR Part 200) are included in such contracts. The Contractor further agrees to impose and enforce this requirement for any Contractor subaward agreements.

E. Where advance payments are approved by DHSES, the Contractor agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B. The advanced funds must be placed in an interest-bearing account and are subject to the rules outlined in 2 CFR Part 200, (Uniform Administrative Requirements for Grants and Cooperative Contracts to State and Local Governments) which require Contractors to promptly remit back to the federal government, through New York State Division of Homeland Security and Emergency Services, any interest earned on these advanced funds. The Contractor may keep interest earned up to $500 per federal fiscal year for administrative expenses. This maximum limit is not per award; it is inclusive of all interest earned as the result of all federal grant program funds received per year. Interest must be reported on Fiscal Cost Reports and remitted to DHSES quarterly.

F. Audit Requirements. This Contract, and any sub-awards resulting from this Contract, may be subject to fiscal and program audits by DHSES, NYS Office of State Comptroller, pertinent federal agencies, and other designated entities to ascertain financial compliance with federal and/or State laws, regulations, and guidelines applicable to this Contract. The Contractor shall meet all audit requirements of the federal government and State of New York. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

G. Equipment Markings. The Contractor further agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: 'Purchased with funds provided by the U.S. Department of Homeland Security. '

H. Administrative, Cost and Audit Requirements: The Contractor must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants are listed below:

1. General Administrative Requirements:

a. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

2. Cost Principles:

a. 2 CFR Part 200, Subpart E

3. Audit Requirements:

a. 2 CFR Part 200, Subpart F

I. Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. Consistent with 2 CFR §200.321, the grantee and any subgrantees will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps must include:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
e. 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
f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in subsections (2)(a) through (e) of this section.

J. Compliance with Laws, Regulations and Program Guidance. The Contractor shall ensure it is aware of and complies with all applicable laws, regulations and program guidance. It is the responsibility of the Contractor to become familiar with and comply with all terms and conditions associated with acceptance of funds.

K. Adequate Documentation: The Contractor must ensure full compliance with all cost documentation requirements, including specific personal service documentation, as applicable directly to the Contractor, sub-recipient or collaborative agency/organization. The Contractor must maintain specific documentation as support for project related personal service expenditures as this Contract is supported by federal funds. Depending upon the nature or extent of personal service provided under this Contract, the Contractor shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with all applicable laws, regulations and program guidance. Failure to do so may result in disallowance of costs.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

L. Single Audit Requirements: For audits of fiscal years beginning on or after December 26, 2014, recipients that expend $750,000 or more from all federal funding sources during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of GAO's Government Auditing Standards, located at https://www.gao.gov/topics/auditing-and-financial-management, and the requirements of Subpart F of 2 C.F.R. Part 200, located at http://www.ecfr.gov/cgi-bin/text-idx?SID=63811dc3410c008e2f8e28c325cdc09e&mc=true&node=sp2.1.200.f&rgn=div6. The final report for such audit must be completed within nine months of the end of the Contractor's fiscal year. The Contractor must provide one copy of such audit report to DHSES within nine (9) months of the end of its fiscal year, or communicate in writing to DHSES that Contractor is exempt from such requirement.

M. Program Income: Program income earned by the Contractor during the grant funding Period must be reported in writing to DHSES, in addition to any other statutory reporting requirements. Program income consists of income earned by the grant recipient that is directly generated by a supported activity or earned as a result of the grant program. Program income includes, but is not limited to, income from fees for services performed, the use of rental or real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with federal award funds. For example, if the purpose of a grant is to conduct conferences, any training fees that are generated would be considered program income. Interest earned on grant funds is not considered program income unless specified in Appendix D. The Contractor agrees to report the receipt and expenditures of grant program income to DHSES. Program income (not to include interest earned), generated by the use of these grant funds will be used to enhance the grant project.

N. Accounting for Grant Expenditures:

1. Grant funds may be expended only for purposes and activities set forth in this Contract. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the Contractor receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.).

2. Contractor agrees that it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations.

3. None of the goals, objectives or tasks, as set forth in Appendix D, shall be sub-awarded to another organization without specific prior written approval by DHSES. Where the intention to make sub-awards is clearly indicated in the application, DHSES approval is deemed given, if these activities are funded, as proposed.

4. If this Contract makes provisions for the Contractor to sub-grant funds to other recipients, the Contractor agrees that all sub-Contractors shall be held accountable by the Contractor for all terms and conditions set forth in this Contract in its entirety. The Contractor further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Contract and the Contractor must guarantee the work of any sub-Contractor as if it were its own.

5. The Contractor agrees that all sub-Contractor arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

• Activities to be performed;
• Time schedule;

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

• Project policies;
• Other policies and procedures to be followed;
• Dollar limitation of the Contract;
• Appendix A-1, Appendix C, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Contract;
• Applicable federal and/or State cost principles to be used in determining allowable costs; and
• Property Records or Equipment Inventory Reports.

O. The Contractor will not be reimbursed for sub-granted funds unless all expenditures by a sub-Contractor are listed on detailed itemization forms or a form deemed acceptable to DHSES. Backup documentation for such expenditures must be made available to DHSES upon request. All expenditures must be programmatically consistent with the goals and objectives of this Contract and with the Budget set forth in Appendix B.

P. Space rental provided by this Contract must be supported by a written lease, maintained on file and made available by the Contractor upon request.

Q. Equipment and Property:

1. Any equipment, furniture or supplies or other property purchased pursuant to this Contract is deemed to be the property of the State, except as may otherwise be governed by federal or State laws, rules or regulations or stated in this Contract.

2. Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A Contractor may use its own definition of equipment provided that such definition would at least include all equipment defined above. A copy of the property record(s) or equipment inventory report(s) with relevant purchasing and supporting documentation must be made available to DHSES upon request. Property records or equipment inventory reports must be maintained, by award, that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. The Contractor must document receipt of all applicable equipment purchased with grant funds. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two (2) years.

3. Upon completion of all contractual requirements by the Contractor, DHSES will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in connection with a public security program. When disposing of equipment purchased with homeland security grant funding, a State agency must dispose of equipment in accordance with State Laws and procedures. All other Contractors shall dispose of equipment as follows:

a. Items of equipment with a current per unit market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

b. Items of equipment with a current per unit fair market value of $5,000 or more may be retained or sold. If sold, the awarding agency shall have a right to an amount calculated by multiplying the proceeds from the sale by the awarding agency's share of the equipment. If retained, the current market value is to be used in the calculation. To remit payments, award recipients should contact DHSES at 1-866-837-9133 for guidance.

4. Upon completion of all contractual requirements by the Contractor under this Contract, DHSES shall accept a request for continued use and possession of the equipment purchased with grant funds providing the equipment continues to be used in accordance with the contracted activities and guidelines in this Contract.

5. The Contractor must conduct a physical inventory of property records at least once every two years to verify the existence, current utilization and continued need for the property. In the event the property is no longer

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

required by the Contractor, this fact should be reported to DHSES as soon as possible and appropriate guidelines followed, as specified in this Appendix. 6. If Contractor disposes of any equipment purchased under this Contract during the active lifespan of said equipment, Contractor must reinvest any proceeds from the disposal into additional equipment items to continue Contractor's organization's activities subject to the guidelines of this Contract. If the Contractor does not reinvest proceeds to continue activities subject to this Contract, the percentage of the proceeds equal to the proportion of the original purchase price paid by funds for the Contract must be repaid to the State of New York.

R. Remedies. In the event Contractor fails to observe or perform any term or condition of the agreement, the State may exercise all rights and remedies available to law or in equity.

S. Termination for Cause and Convenience.

Termination rights of the parties shall be as prescribed in Section II(C) of the grant agreement.

T. Equal Employment Opportunity. (Applicable to contracts for construction work)

During the performance of this Agreement the Contractor agrees as follows:

a) 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 skeleton 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.

b) 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.

c) 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 applicant 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 legal duty to furnish information.

d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement 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.

e) 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.

f) 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

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

of investigation to ascertain compliance with such rules, regulations, and orders.

g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government Agreements or federally assisted construction Agreements 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.

h) The Contractor will include the portion of the sentence immediately preceding paragraph (l) 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 sub-contractor or vendor as a result of such direction by the administering agency, the Contractor may request the United State to enter into such litigation to protect the interests of the United States.

The authorized user 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 authorized user so participating is the 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 Agreement.

The authorized user 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 compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The authorized user further agrees that it will refrain from entering into any Agreement or Agreement modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government Agreements and federally assisted construction Agreements 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. ln addition, the authorized user 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 (Agreement, 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.

U. Davis-Bacon Act. (Applicable to contracts for construction work)

The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $ 2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, Provided, That such modifications are first approved by the Department of Labor):

1) Minimum wages.

i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii)

A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2) The classification is utilized in the area by the construction industry; and
3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3) Payrolls and basic records.

i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii)

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

B) Each payroll submitted shall be accompanied by a 'Statement of Compliance,' signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the 'Statement of Compliance' required by paragraph (a)(3)(ii)(B) of this section.

D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4) Apprentices and trainees

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10) Certification of eligibility.

i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. Copeland 'Anti-Kickback' Act (Applicable to contracts for construction work greater than $2,000)

Contractor. The contractor shall comply with 18 U.S.C. § 874,40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

W. Contract Work Hours and Safety Standards Act (Applicable to contracts greater than $100,000 and mechanics or laborers)

1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3) Withholding for unpaid wages and liquidated damages. DHSES shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

X. Clean Air Act and The Federal Water Pollution Control Act. (Applicable to all contracts in excess of $150,000)

Clean Air Act

a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et, seq.

b) The Contractor agrees to report each violation to the State of New York and understands and agrees that the State of New York will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33u.s.c. 1251 et seq.

b) The Contractor agrees to report each violation to the State of New York and understands and agrees that the State of New York will, in tum, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Y. Debarment and Suspension. (Applicable to contracts greater than $25,000)

a) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

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).

b) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

c) This certification is a material representation of fact relied upon by the State of New York. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of New York, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

d) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any Agreement that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Z. Byrd Anti-Lobbying Amendment. (Applicable to contracts greater than $100,000)

Byrd Anti-Lobbying Amendment, 31 US.C. § 1352 (as amended)

Contractors that apply or bid for an award of $100,000 or more must file the required certifications. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal Agreement, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

AA. Procurement of Recovered Materials. (Applicable where work involves the use of materials and the contract value is over $10,000)

a) In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired --
i. Competitively within a time frame providing for compliance with the Agreement performance schedule
ii. Meeting agreement performance requirements; or
iii. At a reasonable price.

b) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

c) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

BB. Prohibition on Contracting for Covered Telecommunications Equipment or Services

a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

b) Prohibitions.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c) Exceptions.

1) This clause does not prohibit contractors from providing—

i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d) Reporting requirement.

1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

about mitigation actions undertaken or recommended.

ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

CC. Domestic Preferences for Procurements

Domestic Preference for Procurements As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: 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. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

DD. Access to Records/Retention of Records.

a) The Contractor agrees to provide the State of New York, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

c) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

d) In compliance with the Disaster Recovery Act of 2018, the State of New York and the Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

e) The Contractor shall establish and maintain complete records, including accurate books, financial records, supporting documents, accounts and other evidence directly pertinent to performance of work performed under this Contract consistent with generally accepted bookkeeping practices. Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (collectively, the 'Records') (i) for three (3) years from the time of closeout of FEMA's grant to the State or for the period provided in the FEMA regulations at 2 C.F.R. 200.333-337 or (ii) for six (6) years after the closeout of the Agreement, or, as long as required by state law, whichever may be longer.

EE. Federal Debt.

The Contractor certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

FF. DHS Seal, Logo, and Flags.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

GG. Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of the Agreement. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

HH. No Obligation by Federal Government.

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the nonFederal entity, Contractor, or any other party pertaining to any matter resulting from the Agreement.

II. Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

JJ. Affirmative Socioeconomic Steps

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible

KK. Copyright

The Contractor grants to DHSES, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the DHSES or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to DHSES data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by DHSES.

LL. U.S. Executive Order 13224.

Contractor, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

MM. Subcontracting.

The Contractor represents to DHSES that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract. The Contractor must include the contract provisions required by 2 CFR §200.327 (and Appendix II to 2 CFR Part 200), in every contract issued by it so that such provisions will be

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

binding upon each of its contractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

ENDNOTES:

[1] To the extent that section V- Federally Funded Grant Requirements conflict with any other provisions of the Contract, the Federal requirements of Section V shall supersede all other provisions of the Contract.

[2] As of 2019, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Indiana, Louisiana, Mississippi, North Carolina, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

[3] A milestone/performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Contract effort.

[4] Fee for Service is a rate established by the Contractor for a service or services rendered.

[5] Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

[6] Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

[7] Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

[8] Not applicable to not-for-profit entities.

VER 07/2022

Certified by - on

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Federal grant funds provided are a subaward of Homeland Security Grant Program (HSGP) funds awarded to the New York State Division of Homeland Security and Emergency Services (DHSES) from the U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA).

A. Permissible Use of Funding

1. HSGP funds must be used in accordance with the guidelines set forth in the HSGP Notice of Funding Opportunity, which can be located at https://www.fema.gov/grants.

2. All expenditures under this grant must support the Goals and Objectives outlined in the 2022-2025 NYS Homeland Security Strategy and approved investment justifications. New York State's Homeland Security Strategy can be located on the DHSES website at https://www.dhses.ny.gov/new-york-states-homeland-security-strategy.

3. Designated Urban Areas under the Urban Areas Security Initiative (UASI) must have a charter document on file with the Federal Emergency Management Agency (FEMA) prior to drawing down UASI funding. The charter must address critical issues such as membership, governance structure, voting rights, grant management and administration responsibilities, and funding allocation methodologies.

B. Record Requirements

1. Subrecipients shall keep an agenda and meeting minutes on file for all meetings conducted regarding HSGP funded activities.

2. Any documents produced as a result of these meetings such as plans, schedules, or procedures, will also be kept on file and be made available to DHSES, upon request.

C. Equipment Purchases

1. Equipment purchased with grant funds must fall within the allowable equipment categories for HSGP as listed on the Authorized Equipment List (AEL) (https://www.fema.gov/grants/tools/authorized-equipment-list).

2. Subrecipients are responsible to request a determination of eligibility from the U.S. Department of Homeland Security (DHS), through DHSES, for any equipment item in question. Unless otherwise stated in the program guidance, equipment must meet all mandatory regulatory and/or DHS adopted standards to be eligible for purchase using HSGP funds.

3. The New York State Communication Interoperability Plan (SCIP), as well as DHS Grant Guidance for grant funding, requires that all interoperable communications equipment must be on the Authorized Equipment List (AEL) and must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

4. Recipients and subrecipients of FEMA federal financial assistance are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115 232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute as it applies to FEMA recipients, subrecipients, and their contractors and subcontractors prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

D. Training & Exercise Related Activities

1. Any non DHS training course to be supported by this award must be submitted in advance to DHSES for written approval.

2. All exercises conducted must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP). Report scheduled exercises to the DHSES Office of Emergency Management (OEM) Training and Exercise Section using NY Responds 60 days prior to the start of the exercise. An After Action Report/Improvement Plan (AAR/IP) must be prepared and submitted to DHSES following every exercise, regardless of type or scope. AAR/IPs must conform to the HSEEP format and must be submitted to DHSES using NY Responds within 60 days of completion of the exercise.

3. Subrecipients are required to be NIMS compliant. DHSES requires that subrecipients contact their county point of contact to determine how the particular county requires reporting. Subrecipients are expected to provide DHSES upon request any data required for annual NIMS certification purposes.

E. Law Enforcement Requirements

1. Subrecipients that are law enforcement agencies agree that such funding shall be utilized for prevention, preparedness, and response initiatives consistent with the New York State Homeland Security Strategy, and with Counter Terrorism Zone (CTZ) efforts at the State and local level. This will ensure that fiscal resources are used for seamless and effective counter terrorism planning, training, information sharing, investigation, equipment acquisition, and response functions.

2. Particular attention must be paid to equipment and technology acquisitions, and, where similar technology already exists in the State's law enforcement communities, subrecipients will ensure that interoperability between and among existing law enforcement systems, and the New York State Intelligence Center (NYSIC), is accomplished.

3. Subrecipients further agree to consult with the NYSIC to ensure agency participation and inclusion in New York State's Field Intelligence Officer (FIO) Program.

F. EHP Requirements

1. Subrecipients shall comply with all applicable federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).

2. Failure of subrecipients to meet federal, State, and local EHP requirements and obtain applicable permits may jeopardize federal funding. Subrecipients shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings. Subrecipients must comply with all conditions placed on the project as the result of the EHP review.

3. Any change to the approved project scope of work will require re evaluation for compliance with these EHP requirements.

4. If ground disturbing activities occur during project implementation, subrecipients must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, such subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

Office.

5. Any activities requiring environmental and historic preservation review that have been initiated prior to FEMA approval could result in non compliance finding. For your convenience, the screening form is available at: https://www.dhses.ny.gov/environmental-planning-and-historic-preservation-ehp.

G. Equipment Maintenance Requirements

1. Subrecipients must track grant funds used for maintenance contracts, warranties, repair or replacement costs and upgrades, and report such expenditures in fiscal and program reports.

H. New York State Emergency Management Certification and Training Program

1. Participation in and successful completion of the New York State Emergency Management Certification and Training Program (EMC Training Program) is a mandatory requirement under this Contract and a condition of funding. The EMC Training Program will be made available to, and required for, DHSES specified county and city government officials in order to ensure a consistent emergency management preparedness and response strategy across the State. Attendee substitutions, except as expressly approved by DHSES, shall not be permitted or deemed to be in compliance with this requirement.

2. To fulfill the EMC Training Program requirement of the Contract and in order to be eligible for funding under this Contract, subrecipients must arrange for DHSES specified subrecipient employees to receive and acknowledge receipt of EMC Training no later than 180 days after execution of this Contract. Copies of the training certificates for each required participant must be submitted to DHSES upon execution of the Contract, or, in the event that training is scheduled, but not yet complete, the subrecipient will be required to submit a signed statement indicating the scheduled future dates of attendance, and no later than thirty (30) days after the training is complete, forward such training certificates to DHSES. Continued compliance with the EMC Training Program also requires an annual refresher training of one day per 365 day cycle from the date of initial training for previously trained individuals if such person remains employed by the subrecipient and fulfilling the same functions as he or she fulfilled during the initial training. Should a new employee be designated to serve in the DHSES specified positions, then he or she must come into compliance with the EMC Training Program requirements not later than 180 days after taking office.

3. Subrecipient must commit to active participation in a DHSES Annual Capabilities Assessment as a condition of funding. Active participation includes making reasonable staff, records, information, and time resources available to DHSES to perform the Annual Capabilities Assessment and meet the objectives and goals of the program. Subrecipients must be aware that the process of conducting a DHSES Annual Capabilities Assessment is an ongoing process and requires a continued commitment on the part of the subrecipient to ensure that it is effective.

4. All subrecipients funded through this program agree to provide DHSES, upon request at any time during the life of the grant contract, such cooperation and information deemed necessary by DHSES to ascertain: (1) the nature and extent of any threats or hazards that may pose a risk to the subrecipient; and (2) the status of any corresponding subrecipient plans, capabilities, or other resources for preventing, protecting against, mitigating, responding to, and recovering from such threats or hazards.

5. Additionally, pursuant to Article 26 of the NYS Executive law, DHSES is authorized to undertake periodic drills and simulations designed to assess and prepare responses to terrorist acts or threats and other natural and man made disasters. Funded subrecipients agree to attend and participate in any DHSES sponsored conferences, training, workshops or meetings (excluding those identified by DHSES as voluntary) that may be conducted, by and at the request of DHSES, during the life of the grant contract.

6. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

the immediate suspension and/or revocation of the grant award.

I. National Cyber Security Review

1. Completion of the National Cybersecurity Review (NCSR) is a mandatory annual requirement under this Contract and a condition of funding. The NCSR will be open from October to December each year and enables agencies to benchmark and measure progress of improving their cybersecurity posture. The Chief Information Officer (CIO), Chief Information Security Officer (CISO), or equivalent for each subrecipient should complete the NCSR. If there is no CIO/CISO, the most senior cybersecurity professional should complete the assessment. The NCSR is available at no cost to the user. The Multi-State Information Sharing and Analysis Center (MS-ISAC) improves the overall cybersecurity posture of the nation's state, local, tribal, territorial, nonprofit, and private sector agencies through focused cyber threat prevention, protection, response, and recovery. It is a no-cost, membership-based community that includes 24/7 cybersecurity support, analysis and monitoring, and a central location for reporting threats and suspicious activities. The MS-ISAC is available for both technical and administrative assistance on the NCSR. For more on the MS-ISAC, visit https://www.cisecurity.org/ms-isac/services/ncsr/ or email ncsr@cissecurity.org.

2. Failure to comply with any of the requirements, as listed above, may result in sanctions up to and including the immediate suspension and/or revocation of the grant award.

Attachment: GrantAgreement (RES-2022-1115 : 2022 Targeted Tactical Team Grant CRS #3693)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 26682 **RESOLUTION 2022-1116** **ADOPTED**

Travel Request Digital Evidence Investigations Training Course

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Digital Evidence Investigations Training Course

Kindly adopt a resolution authorizing One (1) Police Officer to attend a Digital Evidence Investigations Training Course in Huntsville, Alabama. This course is being held from December 11, 2022 to December 17, 2022. The cost for the training and travel for this course is paid for by the organization teaching the course.

Thank you.

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

11/7/2022
Consent

FINANCIAL IMPACT:

None for the purposes of this Resolution

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: 11/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 26688 **RESOLUTION 2022-1117** **ADOPTED**

Travel Request: Digital Evidence Management

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Digital Evidence Management Training Course

Kindly adopt a resolution authorizing One (1) Police Officer to attend a Digital Evidence Management Training Course in Huntsville, Alabama. This course is being held from December 4, 2022 to December 9, 2022. The cost for the training and travel for this course is paid for by the organization teaching the course.

Thank you.

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

11/7/2022
Consent

FINANCIAL IMPACT:

None for the purposes of this Resolution

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: 11/07/22 07:00 PM
Department: Police
Initiated by: **Scott Chamberlin**
Co-Sponsored by:

DOC ID: 26689 **RESOLUTION 2022-1118** **ADOPTED**

Travel Request Drug Recognition Expert Recertification Course

TOWN BOARD AGENDA ITEM : NOVEMBER 7, 2022

TO: **Town Board**

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

RE: **Travel Request**
Drug Recognition Expert Recertification Course

Kindly adopt a resolution authorizing One (1) Senior Investigator to attend Drug Recognition Expert Recertification course in Syracuse, New York. This course was held from November 3, 2022 to November 5, 2022. A police department vehicle was utilized to travel to this course. The cost for the training and travel is approximately $294.62.

Thank you.

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

11/7/2022
Consent

FINANCIAL IMPACT:

A 3121 .4050: $105.84

A 3121 .4120: $162.00

*Contingency amount is not included in this breakdown

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

RAVEL EXPENSE APPROVAL/REIMBURSEMENT FORM

☐ $250 or LESS and under 75 miles — Department Head Approval ONLY Required — *REVISED 01/01/2018*

☑ $250 + or greater than 75 miles — Department Head AND Town Board Approval Required

NAME	Employee #	Department	Phone Number
[redacted]		Police	716-689-1311

Destination and Purpose of Trip

Date of Departure	Date of Return	Destination	Purpose/Justification
11/3/2022	11/5/2022	Syracuse , NY	DRE (Drug Recognition Expert) Recertification

Expenses	Estimated	Budget A/C #	Actual
Transportation: Use of APD Vehicle	$100 (gas for APD vehicle)	A3121.4050	
Mileage @ $0.545			
Tolls	$5.84	A3121.4050	
Parking			
Local Transportation (bus/taxi)			
Plane/Rail/Bus			
Lodging:			
# nights @ $			
Meals:			
IRS Per Diem Per Day: $			
1st & Last Day of Travel @ 75%			
2 # Breakfasts @ $ 14	$28	A3121.4120	
2 # Lunches @ $ 16	$32	"	
3 # Dinners @ $ 29	$87	"	
3 # Incidentals @ $ 5	$15	"	
Registration/Conference Fee			
Other			
Subtotal	$267.84		N/A
Contingency - 10% of subtotal or $200	$ 26.78		N/A
TOTAL	$ 294.62		

Request Approved By:

Department Head Signature

11/02/22

Date

Town Board :

Town Board Resolution & Date

I hereby certify that I have expended the above itemized amounts for business purposes for the Town of Amherst. Required receipts are attached.

Employee Signature — Date

Print Employee Name

Reimbursement Approved By:

Department Head Signature — Date

Complete Shaded Area
For Expense Reimbursement

orms\Travel Expense Reimbursement Form 4.7.17

Attachment: RedactedTravelRequestDRECert11.7.2022 (RES-2022-1118 : Travel Request: DRE Recertification)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26592 **RESOLUTION 2022-1119** **ADOPTED**

Purchasing Agreement (Sportsfield Specialties) - CRS #3525

Authorize the Supervisor to sign an agreement between the Town of Amherst and Sportsfield Specialties, Inc. through the Keystone National Purchasing Network for purchase and installation of backstops.

11/7/2022
Consent

FINANCIAL IMPACT:

KP2207.4972 $95,493.00

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

PURCHASING AGREEMENT

Let this document stand as an agreement between Sportsfield Specialities, Inc. and the Town of Amherst permitting the Town of Amherst to participate in the purchase of loose and installed athletic equipment under the Keystone Purchasing Network/KPN National Bids Program, contract # KPN-202001-02 through February 28, 2023.

During the term of this agreement, Sportsfield Specialties, Inc. agrees to invoice the Town of Amherst for all parts, materials and labor at the rates specified in the KPN contract or at further discounted rates when such rates are part of a special being offered on certain parts or a special service package offered to Sportsfield Specialties, Inc. customers. Labor rates are to follow New York State prevailing wage, and certified payroll must be submitted. It further being agreed that the prices set forth on Sportsfield Specialities, Inc. invoices shall be the price charged and that no further attempts will be made to change or seek payment at a different price.

Agreed to and Accepted by:

SPORTSFIELD SPECIALITIES, INC.

By: Lauren Valese
Signature

Lauren Valese
Printed Name

Contract Administrator
Title

Date: 07/19/22

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

Addendum to Contract Major Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate. Umbrella coverage shall be in an amount of at least $5,000,000.00.

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Contractor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Contractor, in accordance with its status as an independent Contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

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:

Sportsfield Specialties, Inc
Print Name of Company

By: Lauren Valese
Signature

Lauren Valese
Printed name

Date: 07/19/22

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Revised 12.30..19

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

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: Sportsfield Specialties, Inc

Signature: Lauren Valese

Print Name: Lauren Valese

Title: Contract Administrator

Date: 07/19/22

Sworn To Before Me This

19 Day of July, 2022

Michelle Leal Wiltsie

Notary Public

MICHELLE LEAL WILTSIE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WI5033342
Qualified in Delaware County
My Commission Expires 09-19-2022

Revised 4.2017

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/20/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Harding Brooks Insurance Agency
441 Commerce Road
Vestal NY 13850

License#: PC-1123577

CONTACT NAME: Pam DeMarco
PHONE (A/C, No, Ext): 607-729-9292 **FAX (A/C, No):** 607-798-6693
E-MAIL ADDRESS: pdemarco@hardingbrooks.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Charter Oak Fire Insurance Co	25615
INSURER B : Westchester Fire Insurance Co.	10030
INSURER C : Travelers Indemnity Company	25658
INSURER D : Phoenix Insurance Company	25623
INSURER E : Travelers Indemnity Co of Ct	25682
INSURER F :	

INSURED
Sportsfield Specialties Inc
PO Box 231
Delhi NY 13753

SPORSPE-01

COVERAGES **CERTIFICATE NUMBER:** 1869629458 **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	
E	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [X] LOC OTHER:	Y	Y	6301H517687	7/1/2022	7/1/2023	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 $ 300,000 $ 10,000 $ 1,000,000 $ 3,000,000 $ 2,000,000 $
D	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY	Y	Y	8102N213562	7/1/2022	7/1/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $ $
C	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000	Y	Y	CUP6T40023A	7/1/2022	7/1/2023	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000 $
A	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	Y	U8 7K527240	7/1/2022	7/1/2023	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
B A C	Excess Umbrella Installation Floater Excess Umbrella	Y	Y	N10790451 630 1H517687 ZUP31N54162	7/1/2022 7/1/2022 7/1/2022	7/1/2023 7/1/2023 7/1/2023	Occurrence/Aggregate Job Site Occurrence/Aggregate	5,000,000 $500,000 10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is an additional insured only when required by written contract or agreement as per attached policy forms.
Waiver of Subrogation provided only when required by written contract or agreement as per attached policy forms.

Project: Town of Amherst

Town of Amherst is an additional insured only when required by written contract or agreement as per attached policy forms. Waiver of Subrogation provided only when required by written contract or agreement as per attached policy forms.

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
Thomas A Harding

© 1988-2015 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

AGENCY CUSTOMER ID: _____

LOC #: _____

ACORD

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY	NAMED INSURED
Harding Brooks Associates LLC	Sportsfield Specialties, Inc.
POLICY NUMBER: Refer to Acord 25	
CARRIER: Refer to Acord 25 / NAIC CODE:	EFFECTIVE DATE: 07/01/2021 - 07/01/2022

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: _____ FORM TITLE: : Notes

Form #CG D6 04 - Blanket Additional Insured - Automatic Status if Required by Written Contract (Contractors)
Form #CG D1 44 - Blanket Additional Insured - Persons or Organizations for Bodily Injury or Property Damage as required by Written Contract or Agreement
Form #CG T1 00 - Commercial General Liability Coverage Form
Form #CG D4 58 - XTEND Endorsement for Manufacturers and Wholesalers
Form #IL T8 03 - Designated Entity - Notice of Cancellation Provided by Us
Form #CG D2 11 - Designated Project(s) General Aggregate Limit
Form #CA T4 74 - Blanket Additional Insured - Primary and Non-Contributory with Other Insurance
Form #CA T4 99 - Blanket Additional Insured - Primary and Non-Contributory with other Insurance - Contractors
Form #CA T9 60 - New York Business Auto Extension Endorsement
Form #IL T$ 05 - Designated Entity - Notice of Cancellation Provided by Us
Form #WC 00 03 13 - Waiver of Our Right to Recover from Others Endorsement
Form #WC 99 06 R3 - Notice of Cancellation to Designated Persons or Organizations
Form #GL - IL T4 05 - Designated Entity - Notice of Cancellation Provided by Us
Form #AL - IL T4 05 - Designated Entity - Notice of Cancellation Provided by Us

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2008 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – AUTOMATIC STATUS IF REQUIRED BY WRITTEN CONTRACT (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that:

a. You agree in a written contract or agreement to include as an additional insured on this Coverage Part; and

b. Has not been added as an additional insured for the same project by attachment of an endorsement under this Coverage Part which includes such person or organization in the endorsement's schedule;

is an insured, but:

a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and

b. Only as described in Paragraph **(1)**, **(2)** or **(3)** below, whichever applies:

(1) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

(a) The Additional Insured – Owners, Lessees or Contractors – (Form B) endorsement CG 20 10 11 85; or

(b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10 10 01, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 10 01;

the person or organization is an additional insured only if the injury or damage arises out of "your work" to which the written contract or agreement applies;

(2) If the written contract or agreement specifically requires you to provide additional insured coverage to that person or organization by the use of:

(a) The Additional Insured – Owners, Lessees or Contractors – Scheduled Person or Organization endorsement CG 20 10 07 04 or CG 20 10 04 13, the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37 07 04 or CG 20 37 04 13, or both of such endorsements with either of those edition dates; or

(b) Either or both of the following: the Additional Insured – Owners, Lessees or Contractors – Scheduled Person Or Organization endorsement CG 20 10, or the Additional Insured – Owners, Lessees or Contractors – Completed Operations endorsement CG 20 37, without an edition date of such endorsement specified;

the person or organization is an additional insured only if the injury or damage is caused, in whole or in part, by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; or

(3) If neither Paragraph **(1)** nor **(2)** above applies:

(a) The person or organization is an additional insured only if, and to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies; and

(b) Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.

this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section **III** – Limits Of Insurance.

b. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

(b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

c. The additional insured must comply with the following duties:

(1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

(a) How, when and where the "occurrence" or offense took place;

(b) The names and addresses of any injured persons and witnesses; and

(c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

(2) If a claim is made or "suit" is brought against the additional insured:

(a) Immediately record the specifics of the claim or "suit" and the date received; and

(b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.

(3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.

(4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph **4.**, Other Insurance, of Section **IV** – Commercial General Liability Conditions.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.

Policy #630 1H517687
Insured: Sportsfield Specialties, Inc.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PERSONS OR ORGANIZATIONS FOR BODILY INJURY OR PROPERTY DAMAGE AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is not otherwise an insured under this Coverage Part and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

a. With respect to liability for "bodily injury" or "property damage" that occurs subsequent to the signing of that contract or agreement; and

b. If the "bodily injury" or "property damage" is caused, in whole or in part, by your acts or omissions in the performance of "your work" to which that contract or agreement applies or the acts or omissions of any person or organization performing operations on your behalf.

The insurance provided to such additional insured is subject to the following provisions:

a. The limits of insurance provided to such additional insured will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. This insurance does not apply to any person or organization for whom you have purchased an Owners and Contractors Protective policy.

c. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury" or "property damage" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

(b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

d. If the written contract or agreement does not require that the insurance provided under this Coverage Part apply on a primary basis, or a primary and non-contributory basis, then this insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material from Insurance Services Office, Inc. with its permission.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **II** – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph **1.** of Section **II** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. 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" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. 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

(2) Assumed in a contract or agreement that is an "insured contract", provided that 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 attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:

(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 attorneys' 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.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's 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 whether the insured may be liable as an employer or in any other capacity and 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. 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 produced by or originating from equipment that

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

is used to heat, cool or dehumidify the building, or produced by or originating from equipment that is used to heat water for personal use by the building's occupants or their guests;

(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) If such "pollutants" are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(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"; or

(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 or were at any time performing operations 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

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization 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".

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) 50 feet long or less; and

(b) Not being used to carry any person or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is:

(a) Chartered with a pilot to any insured;

(b) Not owned by any insured; and

(c) Not being used to carry any person or property for a charge.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" arising out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

However, this exclusion does not apply to liability for damages because of "bodily injury".

q. Unsolicited Communication

"Bodily injury" or "property damage" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

r. Access Or Disclosure Of Confidential Or Personal Information

"Bodily injury" or "property damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

s. Asbestos

(1) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "bodily injury" or "property damage" is caused or contributed to by the hazardous properties of asbestos.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

(2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph **(1)** above.

(3) 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, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

t. Employment-Related Practices

"Bodily injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraph **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions **c.** through **n.** do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph **6.** of Section **III** – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

This exclusion does not apply to "personal injury" caused by malicious prosecution.

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Or Used Prior To Policy Period

(1) "Personal and advertising injury" arising out of oral or written publication, including publication by electronic means, of material whose first publication took place before the beginning of the policy period; or

(2) "Advertising injury" arising out of infringement of copyright, "title" or "slogan" in your "advertisement" whose first infringement in your "advertisement" was committed before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed 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

(2) Because of "personal injury" assumed by you in a contract or agreement that is an "insured contract", provided that the "personal injury" is caused by an offense committed subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed by you in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "personal injury", provided that:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed by you in the same "insured contract"; and

(b) Such attorneys' 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.

f. Breach Of Contract

"Advertising injury" arising out of a breach of contract.

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Intellectual Property

"Personal and advertising injury" arising out of any actual or alleged infringement or violation of any of the following rights or laws, or any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation:

(1) Copyright;

(2) Patent;

(3) Trade dress;

(4) Trade name;

(5) Trademark;

(6) Trade secret; or

(7) Other intellectual property rights or laws.

This exclusion does not apply to:

(1) "Advertising injury" arising out of any actual or alleged infringement or violation of another's copyright, "title" or "slogan" in your "advertisement"; or

(2) Any other "personal and advertising injury" alleged in any claim or "suit" that also alleges any such infringement or violation of another's copyright, "title" or "slogan" in your "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" caused by an offense committed by an insured whose business is:

(1) Advertising, "broadcasting" or publishing;

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

(2) Designing or determining content of websites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.(1)**, **(2)** and **(3)** of the definition of "personal injury".

For the purposes of this exclusion:

(1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and

(2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

(1) 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

(2) Claim or suit by or on behalf of any governmental authority or any other person or organization 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".

o. War

"Personal and advertising injury" arising out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Unsolicited Communication

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

q. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

r. Asbestos

(1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.

(2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph **(1)** above.

(3) 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

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

s. Employment-Related Practices

"Personal injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "personal injury" to that person at whom any of the employment-related practices described in Paragraph **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "personal injury".

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
   a. All expenses we incur.
   b. Up to $2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
   c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
   d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.
   e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
   f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
   g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

   These payments will not reduce the limits of insurance.
2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
   a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
   b. This insurance applies to such liability assumed by the insured;
   c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
   d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
   e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
   f. The indemnitee:
      (1) Agrees in writing to:
         (a) Cooperate with us in the investigation, settlement or defense of the "suit";
         (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
         (c) Notify any other insurer whose coverage is available to the indemnitee; and
         (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
      (2) Provides us with written authorization to:
         (a) Obtain records and other information related to the "suit"; and
         (b) Conduct and control the defense of the indemnitee in such "suit".

   So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I** – Coverages – Coverage **A** – Bodily Injury And Property Damage Liability or Paragraph **2.e.** of Section **I** – Coverages – Coverage **B** – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

   Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

a. We have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
   a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
   b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
   c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
   d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
   e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
   a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
      (1) "Bodily injury" or "personal injury":
         (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
         (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;
         (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(1)(a)** or **(b)** above; or
         (d) Arising out of his or her providing or failing to provide professional health care services.

      Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.
      (2) "Property damage" to property:
         (a) Owned, occupied or used by;
         (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

      you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
   b. Any person (other than your "employee" or "volunteer worker"), or any organization, while acting as your real estate manager.
   c. Any person or organization having proper temporary custody of your property if you die, but only:
      (1) With respect to liability arising out of the maintenance or use of that property; and
      (2) Until your legal representative has been appointed.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:

(1) 50 feet long or less; and

(2) Not being used to carry any person or property for a charge.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph **1.** of Section **II** – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

a. An organization, other than a partnership, joint venture or limited liability company; or

b. A trust;

as indicated in its name or the documents that govern its structure.

4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:

a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. The insurance provided to such premises owner, manager or lessor does not apply to:

(1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:

a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

venture or limited liability company that is not shown as a Named Insured in the Declarations. This paragraph does not apply to any such partnership, joint venture or limited liability company that otherwise qualifies as an insured under Section **II** – Who Is An Insured.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
   a. Insureds;
   b. Claims made or "suits" brought; or
   c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
   a. Medical expenses under Coverage **C**;
   b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
   c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal injury" and "advertising injury" sustained by any one person or organization.
5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
   a. Damages under Coverage **A**; and
   b. Medical expenses under Coverage **C**;

   because of all "bodily injury" and "property damage" arising out of any one "occurrence".

   For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".
6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will be:
   a. The amount shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part; or
   b. $300,000 if no amount is shown for the Damage To Premises Rented To You Limit in the Declarations of this Coverage Part.
7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. **Bankruptcy**

   Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit**
   a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
      (1) How, when and where the "occurrence" or offense took place;
      (2) The names and addresses of any injured persons and witnesses; and
      (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
   b. If a claim is made or "suit" is brought against any insured, you must:
      (1) Immediately record the specifics of the claim or "suit" and the date received; and
      (2) Notify us as soon as practicable.

      You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
   c. You and any other involved insured must:
      (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. The following provisions apply to Paragraph **a.** above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph **1.** or **2.** of Section **II** – Who Is An Insured:

(1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.

(2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:

(a) Any individual who is:

(i) A partner or member of any partnership or joint venture;

(ii) A manager of any limited liability company;

(iii) An executive officer or director of any other organization; or

(iv) A trustee of any trust;

that is your partner, joint venture member, manager or trustee; or

(b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.

(3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph **e.(1)** or **(2)** above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph **e.** does not affect that requirement.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

4. Other Insurance

If valid and collectible other insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as described in Paragraphs **a.** and **b.** below.

As used anywhere in this Coverage Part, other insurance means insurance, or the funding of losses, that is provided by, through or on behalf of:

(i) Another insurance company;

(ii) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit provision of Paragraph **5.** of Section **III** – Limits Of Insurance or the Non cumulation of Personal and Advertising Injury Limit provision of Paragraph **4.** of Section **III** – Limits of Insurance applies because the Amendment – Non Cumulation Of Each Occurrence Limit Of Liability And Non Cumulation Of Personal And Advertising Injury Limit endorsement is included in this policy;

(iii) Any risk retention group; or

(iv) Any self-insurance method or program, in which case the insured will be deemed to be the provider of other insurance.

Other insurance does not include umbrella insurance, or excess insurance, that was bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

As used anywhere in this Coverage Part, other insurer means a provider of other insurance. As used in Paragraph **c.** below, insurer means a provider of insurance.

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below, except when Paragraph **d.** below applies.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is insurance for "premises damage";

(iii) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to any exclusion in this Coverage Part that applies to aircraft, "autos" or watercraft;

(iv) That is insurance available to a premises owner, manager or lessor that qualifies as an insured under Paragraph **4.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies; or

(v) That is insurance available to an equipment lessor that qualifies as an insured under Paragraph **5.** of Section **II** – Who Is An Insured, except when Paragraph **d.** below applies.

(b) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured, or is any other insured that does not qualify as a named insured, under such other insurance.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

c. **Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

d. **Primary And Non-Contributory Insurance If Required By Written Contract**

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought occurs; and

(2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

5. **Premium Audit**

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. **Representations**

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

b. Those statements are based upon representations you made to us; and

c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

7. **Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

8. **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.

9. **When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and

b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

2. "Advertising injury":
   a. Means injury caused by one or more of the following offenses:
      (1) Oral or written publication, including publication by electronic means, of material in your "advertisement" that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged;
      (2) Oral or written publication, including publication by electronic means, of material in your "advertisement" that:
         (a) Appropriates a person's name, voice, photograph or likeness; or
         (b) Unreasonably places a person in a false light; or
      (3) Infringement of copyright, "title" or "slogan" in your "advertisement", provided that the claim is made or the "suit" is brought by a person or organization that claims ownership of such copyright, "title" or "slogan".
   b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph **a.** above.
3. "Auto" means:
   a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
   b. Any other land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged.

   However, "auto" does not include "mobile equipment".
4. "Bodily injury" means:
   a. Physical harm, including sickness or disease, sustained by a person; or
   b. Mental anguish, injury or illness, or emotional distress, resulting at any time from such physical harm, sickness or disease.
5. "Broadcasting" means transmitting any audio or visual material for any purpose:
   a. By radio or television; or
   b. In, by or with any other electronic means of communication, such as the Internet, if that material is part of:
      (1) Radio or television programming being transmitted;
      (2) Other entertainment, educational, instructional, music or news programming being transmitted; or
      (3) Advertising transmitted with any of such programming.
6. "Coverage territory" means:
   a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
   b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
   c. All other parts of the world if the injury or damage arises out of:
      (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
      (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
      (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

   provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph **a.** above, or in a settlement we agree to.
7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

10. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

11. "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.

12. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

    a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

    b. You have failed to fulfill the terms of a contract or agreement;

    if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

13. "Insured contract" means:

    a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";

    b. A sidetrack agreement;

    c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

    d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

    e. An elevator maintenance agreement;

    f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

    Paragraph **f.** does not include that part of any contract or agreement:

    (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

    (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

        (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

        (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

    (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph **(2)** above and supervisory, inspection, architectural or engineering activities.

14. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

15. "Loading or unloading" means the handling of property:

    a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

    b. While it is in or on an aircraft, watercraft or "auto"; or

    c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

    but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

16. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

    a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

    b. Vehicles maintained for use solely on or next to premises you own or rent;

    c. Vehicles that travel on crawler treads;

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged. Such land vehicles are considered "autos".

17. "Occurrence" means:

a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or

b. An act or omission committed in providing or failing to provide first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

18. "Personal and advertising injury" means "personal injury" or "advertising injury".

19. "Personal injury":

a. Means injury, other than "advertising injury", caused by one or more of the following offenses:

(1) False arrest, detention or imprisonment;

(2) Malicious prosecution;

(3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, provided that the wrongful eviction, wrongful entry or invasion of the right of private occupancy is committed by or on behalf of the owner, landlord or lessor of that room, dwelling or premises;

(4) Oral or written publication, including publication by electronic means, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services, provided that the claim is made or the "suit" is brought by a person or organization that claims to have been slandered or libeled, or that claims to have had its goods, products or services disparaged; or

(5) Oral or written publication, including publication by electronic means, of material that:

(a) Appropriates a person's name, voice, photograph or likeness; or

(b) Unreasonably places a person in a false light.

b. Includes "bodily injury" caused by one or more of the offenses described in Paragraph **a.** above.

20. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

21. "Premises damage" means:

a. With respect to the first paragraph of the exceptions in Exclusion **j.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or

b. With respect to the exception to Exclusions **c.** through **n.** in the last paragraph of Paragraph **2.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:

(1) Fire;

(2) Explosion;

(3) Lightning;

(4) Smoke resulting from fire, explosion or lightning; or

(5) Water.

But "premises damage" under this Paragraph **b.** does not include "property damage" to any premises caused by:

(1) Rupture, bursting, or operation of pressure relief devices;

(2) Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or

(3) Explosion of steam boilers, steam pipes, steam engines or steam turbines.

22. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

(2) The existence of tools, uninstalled equipment or abandoned or unused materials; or

(3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

23. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

24. "Slogan":

a. Means a phrase that others use for the purpose of attracting attention in their advertising.

b. Does not include a phrase used as, or in, the name of:

(1) Any person or organization, other than you; or

(2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

25. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

26. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

27. "Title" means a name of a literary or artistic work.

28. "Unsolicited communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.

29. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

30. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

31. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Policy #630 1H517687 COMMERCIAL GENERAL LIABILITY

Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR MANUFACTURERS AND WHOLESALERS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

A. Who Is An Insured – Unnamed Subsidiaries

B. Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees And Co-Volunteer Workers

C. Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies

D. Blanket Additional Insured – Broad Form Vendors

E. Blanket Additional Insured – Controlling Interest

F. Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers

G. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises

H. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations

I. Blanket Additional Insured – Grantors Of Franchises

J. Incidental Medical Malpractice

K. Medical Payments – Increased Limit

L. Blanket Waiver Of Subrogation

M. Contractual Liability – Railroads

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and

b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

a. Before you maintained an ownership interest of more than 50% in such subsidiary; or

b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph **1.** of Section **II** – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

a. A limited liability company;

b. An organization other than a partnership, joint venture or limited liability company; or

c. A trust;

as indicated in its name or the documents that govern its structure.

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

B. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES AND CO-VOLUNTEER WORKERS

The following is added to Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED:**

Paragraphs **(1)(a)**, **(b)** and **(c)** above do not apply to "bodily injury" to a co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" while performing duties related to the conduct of your business.

C. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES

The following replaces Paragraph **3.** of **SECTION II – WHO IS AN INSURED:**

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph **1.** of Section **II** – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

a. A limited liability company;

b. An organization, other than a partnership, joint venture or limited liability company; or

c. A trust;

as indicated in its name or the documents that govern its structure.

D. BLANKET ADDITIONAL INSURED – BROAD FORM VENDORS

The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that is a vendor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

a. Occurs subsequent to the signing of that contract or agreement; and

b. Arises out of "your products" that are distributed or sold in the regular course of such vendor's business.

The insurance provided to such vendor is subject to the following provisions:

a. The limits of insurance provided to such vendor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. The insurance provided to such vendor does not apply to:

(1) Any express warranty not authorized by you or any distribution or sale for a purpose not authorized by you;

(2) Any change in "your products" made by such vendor;

(3) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(4) Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission

(5) Demonstration, installation, servicing or repair operations, except such operations performed at such vendor's premises in connection with the sale of "your products"; or

(6) "Your products" that, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or on behalf of such vendor.

Coverage under this provision does not apply to:

a. Any person or organization from whom you have acquired "your products", or any ingredient, part or container entering into, accompanying or containing such products; or

b. Any vendor for which coverage as an additional insured specifically is scheduled by endorsement.

E. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

a. Such financial control; or

b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph **4.** of **SECTION II – WHO IS AN INSURED**:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

F. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

b. The insurance provided to such person or organization does not apply to:

(1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or

(2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

G. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations.

H BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or

b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

I. BLANKET ADDITIONAL INSURED – GRANTORS OF FRANCHISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that grants a franchise to you is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of your operations in the franchise granted by that person or organization.

If a written contract or agreement exists between you and such additional insured, the limits of insurance provided to such insured will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

(a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist, occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

(b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following replaces the last sentence of Paragraph **5.** of **SECTION III – LIMITS OF INSURANCE**:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph **2.**, **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of, the insured.

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

5. The following is added to the **DEFINITIONS** Section:

   "Incidental medical services" means:

   a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or

   b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

6. The following is added to Paragraph **4.b., Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

   This insurance is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph **2.a.(1)** of Section **II** – Who Is An Insured.

K. MEDICAL PAYMENTS – INCREASED LIMIT

The following replaces Paragraph **7.** of **SECTION III – LIMITS OF INSURANCE**:

7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person, and will be the higher of:

   a. $10,000; or

   b. The amount shown in the Declarations of this Coverage Part for Medical Expense Limit.

L. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph **8., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

a. "Bodily injury" or "property damage" that occurs; or

b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.

M. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph **c.** of the definition of "insured contract" in the **DEFINITIONS** Section:

   c. Any easement or license agreement;

2. Paragraph **f.(1)** of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission

POLICY NUMBER: Y-630-1H517687-TCT-21 ISSUE DATE: 07-14-21

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE

CANCELLATION: **Number of Days Notice:** 30

PERSON OR ORGANIZATION:
ANY PERSON OR ORGANIZATION TO WHOM
(CONTINUED ON IL T8 03)

ADDRESS:
THE ADDRESS FOR THAT PERSON OR
(CONTINUED ON IL T8 03)
DELHI
NY
13753

PROVISIONS

If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

© 2019 The Travelers Indemnity Company. All rights reserved.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

POLICY NUMBER: Y-630-1H517687-TCT-21 GENERAL PURPOSE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED ENTITY - NOTICE OF CANCELLATION PROVIDED BY US
(IL T4 05 03 11)

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

CONTINUATION OF FORM IL T4 05 PERSON OR ORGANIZATION:

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND

2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

Insured: Sportsfield Specialties, Inc.
POLICY NUMBER: Y-630-1E517687

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 07/01/2021

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

DESIGNATED PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Project(s):	Designated Project General Aggregate(s):
EACH "PROJECT" FOR WHICH YOU HAVE AGREED IN A WRITTEN CONTRACT THAT IS IN EFFECT DURING THIS POLICY PERIOD, TO PROVIDE A SEPARATE GENERAL AGGREGATE LIMIT, PROVIDED THAT THE CONTRACT IS SIGNED BY YOU BEFORE THE "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURS.	GENERAL AGGREGATE LIMIT SHOWN ON THE DECLARATIONS.

A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A. (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to operations at a single designated "project" shown in the Schedule above:

1. A separate Designated Project General Aggregate Limit applies to each designated "project", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations, unless separate **Designated Project General Aggregate(s)** are scheduled above.
2. The Designated Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A.**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C**, regardless of the number of:
   a. Insureds;
   b. Claims made or "suits" brought; or
   c. Persons or organizations making claims or bringing "suits".
3. Any payments made under **COVERAGE A.** for damages or under **COVERAGE C.** for medical expenses shall reduce the Designated Project General Aggregate Limit for that designated "project". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Project General Aggregate Limit for any other designated "project" shown in the Schedule above.
4. The limits shown in the Declarations for **Each Occurrence, Damage To Premises Rented To You and Medical Expense** continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Project General Aggregate Limit.

B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A. (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C. (SECTION I)**, which cannot be attributed only to operations at a single designated "project" shown in the Schedule above:

Copyright, The Travelers Indemnity Company, 2004

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

1. Any payments made under **COVERAGE A.** for damages or under **COVERAGE C.** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
2. Such payments shall not reduce any Designated Project General Aggregate Limit.

C. Part **2.** of **SECTION III – LIMITS OF INSURANCE** is deleted and replaced by the following:

2. The General Aggregate Limit is the most we will pay for the sum of:
   a. Damages under **Coverage B**; and
   b. Damages from "occurrences" under **COVERAGE A (SECTION I)** and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)** which cannot be attributed only to operations at a single designated "project" shown in the **SCHEDULE** above.

D. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Project General Aggregate Limit.

E. For the purposes of this endorsement the **Definitions Section** is amended by the addition of the following definition:

"Project" means an area away from premises owned by or rented to you at which you are performing operations pursuant to a contract or agreement. For the purposes of determining the applicable aggregate limit of insurance, each "project" that includes premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single "project".

F. The provisions of **SECTION III – LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

Copyright, The Travelers Indemnity Company, 2004

POLICY NUMBER: Y-630-1H517687

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 07/01/2021

Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

TOTAL AGGREGATE LIMIT AND DESIGNATED LOCATION AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE – LIMITS OF INSURANCE AND DESIGNATED LOCATIONS

LIMITS OF INSURANCE

Total Aggregate Limit (Other Than Products-Completed Operations)	$ 6,000,000
Designated Location Aggregate Limit (Other Than Products-Completed Operations)	$ 3,000,000
General Aggregate Limit (Other Than Products-Completed Operations)	$ 3,000,000

Designated Locations: 1/1 41155 STATE HWY 10, DELHI, NY 13753
2/2 1455 HARRISON ROAD, SALISBURY, NC 28147

PROVISIONS

1. The General Aggregate Limit (Other Than Products-Completed Operations) shown in the Declarations is replaced by the Limits of Insurance shown in the Schedule – Limits Of Insurance And Designated Locations.
2. The following replaces Paragraph **1.** of **SECTION III – LIMITS OF INSURANCE :**
   1. The Limits of Insurance shown in the Declarations or the Schedule – Limits Of Insurance And Designated Locations, whichever apply, and the rules below fix the most we will pay regardless of the number of:
      a. Insureds;
      b. Claims made or "suits" brought;
      c. Persons or organizations making claims or bringing "suits"; or
      d. "Locations".
3. The following replaces Paragraph **2.** of **SECTION III – LIMITS OF INSURANCE:**
   2. a. The Total Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Locations is the most we will pay for the sum of all amounts under the Designated Location Aggregate Limit and all amounts under the General Aggregate Limit. This includes:
      (1) Damages under Coverage **A** , except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
      (2) Damages under Coverage **B**; and
      (3) Medical expenses under Coverage **C**.

   b. Subject to the Total Aggregate Limit described in Paragraph **2.a.** above, the Designated Location Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Locations applies and is further subject to all of the following provisions:
      (1) The Designated Location Aggregate Limit is the most we will pay for the sum of:
         (a) Damages under Coverage **A** because of "bodily injury" and "property damage" caused by "occurrences"; and
         (b) Medical expenses under Coverage **C** for "bodily injury" caused by accidents;

      that can be attributed only to operations at a single "location".

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

(2) The Designated Location Aggregate Limit applies separately to each "location".

(3) The Designated Location Aggregate Limit does not apply to damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph **3.** below applies to such damages.

(4) The Designated Location Aggregate Limit does not apply to damages under Coverage **B**. Instead, the General Aggregate Limit described in Paragraph **2.c.** below applies to such damages.

(5) Any payments made for damages or medical expenses to which the Designated Location Aggregate Limit applies will reduce:

(a) The Total Aggregate Limit; and

(b) The Designated Location Aggregate Limit for the "location".

Such payments will not reduce the General Aggregate Limit described in Paragraph **2.c.** below, nor will they reduce the Designated Location Aggregate Limit for any other "location".

c. Subject to the Total Aggregate Limit described in Paragraph **2.a.** above, the General Aggregate Limit shown in the Schedule – Limits Of Insurance And Designated Locations applies and is further subject to all of the following provisions:

(1) The General Aggregate Limit is the most we will pay for the sum of:

(a) Damages under Coverage **A** because of "bodily injury" and "property damage" caused by "occurrences", and medical expenses under Coverage **C** for "bodily injury" caused by accidents, that cannot be attributed only to operations at a single "location"; and

(b) Damages under Coverage **B**.

(2) The General Aggregate Limit does not apply to damages for "bodily injury" or "property damage" included in the "products-completed operations hazard". Instead, the Products-Completed Operations Aggregate Limit described in Paragraph **3.** below applies to such damages.

(3) Any payments made for damages or medical expenses to which the General Aggregate Limit applies will reduce both the Total Aggregate Limit and the General Aggregate Limit. Such payments will not reduce the Designated Location Aggregate Limit for any "location".

4. The following replaces Paragraph **3.** of **SECTION III – LIMITS OF INSURANCE**:

3. The Products-Completed Operations Aggregate Limit shown in the Declarations is the most we will pay under Coverage **A** for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard". Any payments made for such damages will not reduce the Total Aggregate Limit, the General Aggregate Limit or the Designated Location Aggregate Limit for any "location".

5. The following is added to the **DEFINITIONS** Section, but only for purposes of the Designated Location shown in the Schedule – Limits Of Insurance And Designated Locations:

"Location" means any designated location shown in the Schedule – Limits Of Insurance And Designated Locations that is owned by or rented to you. For the purposes of determining the applicable aggregate limit of insurance, each "location" that includes a premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or waterway, or by a right-of-way of a railroad, will be considered a single "location".

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2017 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Policy #810 2N213562 COMMERCIAL AUTO
Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   Regardless of the provisions of paragraph a. and paragraph **d.** of this part **5. Other Insurance,** this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2016 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Policy #810 2N213562 COMMERCIAL AUTO

Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE – CONTRACTORS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   This includes any person or organization who you are required under a written contract or agreement, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   Regardless of the provisions of paragraph **a.** and paragraph **d.** of this part **5. Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is a named insured when a written contract or agreement with you, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2016 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Policy #810 2N213562 COMMERCIAL AUTO

Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

A. **BROAD FORM NAMED INSURED**
B. **BLANKET ADDITIONAL INSURED**
C. **EMPLOYEE HIRED AUTO**
D. **EMPLOYEES AS INSURED**
E. **SUPPLEMENTARY PAYMENTS – INCREASED LIMITS**
F. **WAIVER OF DEDUCTIBLE – GLASS**
G. **HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT**
H. **PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT**
I. **PERSONAL PROPERTY**
J. **AIRBAGS**
K. **NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS.**
L. **BLANKET WAIVER OF SUBROGATION**
M. **UNINTENTIONAL ERRORS OR OMISSIONS**

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who is An Insured provision contained in Section **II**.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE:**

   An "employee" of yours is an "Insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

(1) Any covered "auto" you lease, hire, rent or borrow; and

(2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE:**

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE:**

   (2) Up to $3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE:**

   (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.

F. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D., Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE:**

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

G. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph **A.4.b., Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE:**

However, the most we will pay for any expenses for loss of use is $65 per day, to a maximum of $750 for any one "accident".

H. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a., Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE:**

We will pay up to $50 per day to a maximum of $1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

I. PERSONAL PROPERTY

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE:**

Personal Property

We will pay up to $400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

J. AIRBAGS

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE:**

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;

b. The airbags are not covered under any warranty; and

c. The airbags were not intentionally inflated.

We will pay up to a maximum of $1,000 for any one "loss".

K. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph **A.2.a.**, of **SECTION IV – BUSINESS AUTO CONDITIONS:**

Your duty to give us or our authorized representative notice as soon as reasonably

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

possible of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

(a) You (if you are an individual);

(b) A partner (if you are a partnership);

(c) A member (if you are a limited liability company);

(d) An executive officer, director or insurance manager (if you are a corporation or other organization); or

(e) Any "employee" authorized by you to give notice of the "accident" or "loss".

L. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

M. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

© 2015 The Travelers Indemnity Company. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc., with its permission.

POLICY NUMBER: 810-2N213562 ISSUE DATE: 07/01/2021

Insured: Sportsfield Specialties, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED ENTITY – NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE

CANCELLATION: **Number of Days Notice of Cancellation:** 30

PERSON OR ORGANIZATION: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

ADDRESS:
THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

PROVISIONS:

If we cancel this policy for any statutorily permitted reason other than nonpayment of premium, and a number of days is shown for cancellation in the schedule above, we will mail notice of cancellation to the person or organization shown in the schedule above. We will mail such notice to the address shown in the schedule above at least the number of days shown for cancellation in the schedule above before the effective date of cancellation.

© 2011 The Travelers Indemnity Company. All rights reserved.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

TRAVELERS

ONE TOWER SQUARE
HARTFORD CT 06183

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 00 03 13 (00) - 001

POLICY NUMBER: UB-7K527240

Insured: Sportsfield Specialties, Inc.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.

DATE OF ISSUE: 07/01/2022 ST ASSIGN:

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

TRAVELERS
ONE TOWER SQUARE
HARTFORD CT 06183

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY
ENDORSEMENT WC 99 06 R3 (00) - 001

POLICY NUMBER: UB-7K527240
Insured: Sportsfield Specialties, Inc.

NOTICE OF CANCELLATION TO DESIGNATED PERSONS OR ORGANIZATIONS

The following is added to PART SIX – CONDITIONS :

Notice Of Cancellation To Designated Persons Or Organizations

If we cancel this policy for any reason other than non-payment of premium by you, we will provide notice of such cancellation to each person or organization designated in the Schedule below. We will mail or deliver such notice to each person or organization at its listed address at least the number of days shown for that person or organization before the cancellation is to take effect.

You are responsible for providing us with the information necessary to accurately complete the Schedule below. If we cannot mail or deliver a notice of cancellation to a designated person or organization because the name or address of such designated person or organization provided to us is not accurate or complete, we have no responsibility to mail, deliver or otherwise notify such designated person or organization of the cancellation.

SCHEDULE

Name and Address of Designated Persons or Organizations:	Number of Days Notice
ANY PERSON OR ORGANIZATION WITH WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN ,BUT ONLY IF: 1. YOU SEE TO IT THAT WE RECEIVE A WRITTEN REQUEST TO PROVIDE SUCHNOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION,AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THECANCELLATION OF THIS POLICY; AND 2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS ENDORSEMENT. ADDRESS: THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTENREQUEST FROM YOU TO US.	30

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. Endorsement No.
Insured Premium $

Insurance Company Countersigned by _____

DATE OF ISSUE: 07/01/2022 ST ASSIGN:

© 2013 The Travelers Indemnity Company. All rights reserved.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) Sportsfield Specialties Inc PO Box 231 Delhi, NY 13753 **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** 607-746-8911 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** **1d. Federal Employer Identification Number of Insured or Social Security Number** 161546924
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** Charter Oak Fire Insurance Co **3b. Policy Number of entity listed in box "1a"** UB 7K527240 **3c. Policy effective period** 07/01/2022 **to** 07/01/2023 **3d. The Proprietor, Partners or Executive Officers are** ☒ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon 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: Thomas H. Harding
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Thomas H Harding 7/20/2022
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: (607) 729-9292

*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.state.ny.us

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

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: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF INSURANCE COVERAGE
NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

PART 1. To be completed by NYS disability and Paid Family Leave benefits carrier or licensed insurance agent of that carrier

1a. Legal Name & Address of Insured (use street address only)
SPORTSFIELD SPECIALTIES INC.

P.O. BOX 231
DELHI, NY 13753

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
607-746-8911

1c. Federal Employer Identification Number of Insured or Social Security Number
161546924

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"
DBL544958

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 3/4/2022 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be emailed to PAU@wcb.ny.gov or it can be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4B, 4C or 5B have been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law(Article 9 of the Workers' Compensation Law) with respect to all of their employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (12-21)

DB-120.1 (12-21)

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

Additional Instructions for Form DB-120.1

By signing this form, the insurance carrier identified in Box 3 on this form is certifying that it is insuring the business referenced in Box 1a for disability and/or Paid Family Leave benefits under the NYS Disability and Paid Family Leave Benefits Law. The insurance carrier or its licensed agent will send this Certificate of Insurance Coverage (Certificate) to the entity listed as the certificate holder in Box 2.

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is cancelled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in Box 3c, whichever is earlier.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This Certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This Certificate may be used as evidence of a NYS disability and/or Paid Family Leave benefits contract of insurance only while the underlying policy is in effect.

Please Note: Upon the cancellation of the disability and/or Paid Family Leave benefits policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Insurance Coverage for NYS disability and/or Paid Family Leave Benefits or other authorized proof that the business is complying with the mandatory coverage requirements of the NYS Disability and Paid Family Leave Benefits Law.

NYS DISABILITY AND PAID FAMILY LEAVE BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand and twenty-one, the payment of family leave benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits and after January first, two thousand eighteen, the payment of family leave benefits for all employees has been secured as provided by this article.

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

From: Dan DeVantier [mailto:ddevantier@sportsfield.com]
Sent: Friday, October 07, 2022 7:52 AM
To: Guzdek, Eric <EGuzdek@amherst.ny.us>
Cc: Juul, Lynda <ljuul@amherst.ny.us>; Lauren Iwanow <liwanow@sportsfield.com>
Subject: Town of Amherst

Eric,

Below you will find a breakdown for the line items at MSRP.

Netting System: $55,399.40
PE Stamp: $5,025.00
Installation: $50,000.00

Dan DeVantier, Northeast & Mid-Atlantic Sales Manager
Sportsfield Specialties, Inc.
Direct Sales Division
Mobile: 607-437-7301
ddevantier@sportsfield.com
41155 State Hwy 10 Delhi, NY 13753
www.sportsfield.com

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

SPORTSFIELD SPECIALTIES
WWW.SPORTSFIELD.COM
Excellence from Design to Installation

SALES QUOTATION

Document Number	Document Date	Page
66388	**07/19/22**	**1/4**

Customer No.
C01208

Customer Reference No.
Town of Amherst - KPN #202001-02

Sales Contact
Daniel Devantier
Direct: 607-746-1440
Cell: 607-437-7301
ddevantier@sportsfield.com

Bill-to Address:
Estimator
USA

Ship-to Address:
Town of Amherst
General Delivery
Amherst NY 14223
USA

Item	Quantity	UoM	Price	Total
TNPPUC	**1**	**Each**	**34,430.00**	**34,430.00**

Custom Pole to Pole Tension Netting System, Includes Powder Coated Black Steel Poles with Welded Tabs, Cabling, Hardware Per Drawings and Specifications and Black Ultra Cross Knotless Dyneema® Netting with 1-3/4" Square Mesh and a Rope Bound Perimeter

Remarks: Custom 40'H x 90'L Tension Pole-to-Pole Canopy Backstop Netting System:

Home Span: 20'L
First Base Span: 35'L
Third Base Span: 35'L
*Includes Tapered Canopy

Includes (2) 45'L x 12.750"O.D. x 0.375"TH Powder Coated Black Steel Front Backstop Poles with Welded Tabs for 5' Ground Sleeve Embedment, (2) 35'L x 12.750"O.D. x 0.375"TH Powder Coated Black Steel Rear Backstop Poles with Welded Tabs for 5' Ground Sleeve Embedment, Ground Sleeves, Cabling and Hardware Per Engineered Design, and 5700 sqft Black Ultra Cross Knotless Dyneema® Netting Panels with 1-3/4" Square Mesh and a Rope Bound Perimeter.

Pricing Per Preliminary Materials And Foundation Size, Subject to Required PE Stampability Per Town-Provided GeoTech Soils Report. Pricing is Contingent Upon Stampability of the System and Verification of Required Pole Size. No Snow/Ice Loads.

GSO1260	**4**	**Each**	**0.00**	

Octagonal Steel Ground Sleeve, 60" Long with Welded Base Plate for 12.75" O.D. Post

PE-CUSTOM	**1**	**Each**	**2,760.00**	**2,760.00**

Custom Stamped and Sealed Drawings and Calculations by a Licensed Professional Engineer, Structural Design Details and Concrete Anchoring Foundation Based on Local Building Codes and Soil Conditions, Customer to Provide Required Soils Report Information

Remarks: PE Stamp for Custom 40'H x 90'L Tension Pole-to-Pole Canopy Backstop Nettting System Per Town-Provided GeoTech Soils Report.

Carry Over: **37,190.00**

Printed By: liwanow

Printed On:
7/19/202211:54:49AM

Remit To:
PO Box 231
Delhi, NY 13753

Billing Questions:
Phone: 607-746-8911
Email: Billing@Sportsfield.com

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

SPORTSFIELD SPECIALTIES
WWW.SPORTSFIELD.COM

SALES QUOTATION

Document Number	Document Date	Page
66388	07/19/22	2/4

Carry Over: **37,190.00**

Item	Quantity	UoM	Price	Total
TNPPUC	**1**	**Each**	**11,967.00**	**11,967.00**

Custom Pole to Pole Tension Netting System, Includes Powder Coated Black Steel Poles with Welded Tabs, Cabling, Hardware Per Drawings and Specifications and Black Ultra Cross Knotless Dyneema® Netting with 1-3/4" Square Mesh and a Rope Bound Perimeter

Remarks: Custom 30'H x 90'L Tension Pole-to-Pole Backstop Netting 1B Side Extension:

For Stepped Integration into 40'H Backstop Netting System at 1B Terminating Pole.

Includes (2) 35'L x 8.625"O.D. x 0.322"TH Powder Coated Black Steel Baseline Extension Poles with Welded Tabs for 5' Ground Sleeve Embedment and Approximate 50'-40' Spacing Starting From Home Plate Side, Cabling and Hardware Per Engineered Design, and 2700sqft Black Ultra Cross Knotless Dyneema® Netting Panels with 1-3/4" Square Mesh and a Rope Bound Perimeter.

Pricing Per Preliminary Materials And Foundation Size, Subject to Required PE Stampability Per Town-Provided GeoTech Soils Report. Pricing is Contingent Upon Stampability of the System and Verification of Required Pole Size. No Snow/Ice Loads.

GSO860	**2**	**Each**	**0.00**	

Octagonal Steel Ground Sleeve, 60" Long with Welded Base Plate for 8.625" O.D. Post

PESTNPP	**1**	**Each**	**1,380.00**	**1,380.00**

Stamped and Sealed Drawings and Calculations by a Licensed Professional Engineer for Pole to Pole Tension Ground Sleeve Insert or Direct Pole Embedment Ball Safety Netting Systems, Structural Design Details and Concrete Anchoring Foundation Based on Local Building Codes and Soil Conditions, Customer to Provide Required Soils Report Information

Remarks: PE Stamp for Custom 30'H x 90'L Tension Pole-to-Pole Backstop Netting 1B Side Extension Per Town-Provided GeoTech Soils Report.

INSTALL	**1**	**Each**	**43,176.00**	**43,176.00**

Installation service(s) per remarks.

Remarks: Installation of Custom 40'H x 90'L Tension Canopy Pole-to-Pole Backstop Netting System with 30'H x 90'L Third Baseline Pole to Pole Extension, Per Details Above:

Includes Excavating and Setting (6) Concrete Ground Sleeve Foundations. Includes Assembly of Netting System Poles, Cabling, Hardware and Netting.

Pricing Contingent Upon (1) Combined Mobilization For Complete Scope. Assumes Clear Access For Equipment And No Field Protection Needed. Assumes Appropriate Natural Grass Digging Conditions And Designated Location On Site For Dumping/Distributing Spoils, Does Not Include Allowances For Rock Shoring/Drilling or Dumpster. Includes Prevailing Wage Rates, Does Not Include GC License. Subject To Additional Terms And Conditions Below.

Pricing Per Preliminary Materials And Foundation Size, Subject to Required PE Stampability Per Town-Provided GeoTech Soils Report.

Please be aware that due to our limited storage capacity, we do not have much flexibility to extend ship dates for certain products. Please let us know immediately if you need to adjust your shipment date.

Carry Over: **93,713.00**

Printed By: liwanow

Printed On:
7/19/202211:54:49AM

Remit To:
PO Box 231
Delhi, NY 13753

Billing Questions:
Phone: 607-746-8911
Email: Billing@Sportsfield.com

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

SPORTSFIELD SPECIALTIES
WWW.SPORTSFIELD.COM

SALES QUOTATION

Document Number	Document Date	Page
66388	07/19/22	3/4

Carry Over: **93,713.00**

Item	Quantity	UoM	Price	Total

DISCLAIMER: Sportsfield Specialties, Inc. protective netting systems are designed and intended as a complete netting system. In the event your facility replaces an existing system, relies on existing structural elements, or purchases an extension to an existing protective netting system, Sportsfield Specialties, Inc. does not make any representations or warranty relating to the overall design of the combined facility and/or the connection points to and the cables that are part of the existing netting system. Owner's decision to proceed with an extension in lieu of a complete new netting system will be at Owner's sole risk and without liability to Sportsfield Specialties, Inc. and Owner shall indemnify and hold harmless Sportsfield Specialties, Inc. from all claims, damages, losses and expenses arising out of or resulting therefrom.

· If foundations are required, public and private utilities must be marked ny end user prior to our arrival. Sportsfield Specialties cannot be held liable for any damages resulting from unmarked utilities.
· Proposal assumes appropriate digging conditions and does not include shoring or rock drilling.
· End user to designate on site location for dumping spoils.
· The installation pricing included in this proposal reflects preliminary foundation estimates based on similar projects completed in the past. SSI reserves the right to update pricing as required once the stamped design is received from a licensed Professional Engineer.

· Pricing does not include tax.
· Includes equipment rental as required.
· Proposal assumes equipment (lifts, utility vehicles, etc.) can access warning track and/or construction area without field protection. SSI will not be held liable for any resulting damages if field protection is not requested by the Owner/Contractor.
· If field protection is used, SSI will not be held liable for any damages to the field, turf, warning track and/or construction area.
· Restoration of warning track, grass, turf and/or any other field surface is not included.
· Some wrinkles in the windscreen/vinyl are characteristic of the material and are to be expected.
· Excludes permits, bonds, inspections and any associated costs.
· The costs associated with union/prevailing wages are not included unless otherwise stated. Any prevailing wage schedules or certified payroll requirements must be explicitly outlined prior to bid and/or contract execution to ensure wage compliance.
· The installation of athletic equipment includes an estimated number of mobilizations to ensure favorable cost management and utilizes the most efficient scheduling practices. Therefore, it is the responsibility of the Contractor or Owner's Representative to mitigate unsuccessful mobilizations. If additional mobilizations are necessary, there will be an additional charge subject to travel time, mileage, lodging and other associated expenses.
· At the completion of the project, Sportsfield Specialties and/or the Installer will schedule a walk-through with the Contractor/Owner's Representative to address any issues/concerns before leaving the job site. If the Contractor/Owner's Representative is not available for a walk-through, or non-warranty issues are discovered after the Installer leaves the job site, additional remobilization charges to address the punch list may apply.

DISCLAIMER: Due to the ongoing increase of steel and aluminum raw material pricing caused by increased demand, coupled with market instability and uncertainty due to the implementation of international trade tariffs, Sportsfield Specialties, Inc. will no longer be able to guarantee current product pricing after this quotation has expired in sixty (60) days. To avoid a potential product price increase, customers will need to provide Sportsfield Specialties, Inc. with a fully executed purchase order or letter of intent before this quotation expires to guarantee this product pricing. Sportsfield Specialties, Inc. reserves the right to requote product pricing as necessary based on current steel and aluminum raw material pricing once this quotation has expired in sixty (60) days.

Payment Term Prepaid

Freight Shipping Type: **Bestway**

Description	Amount
Freight(D4) Flatbd	1,570.00
Freight(D4) NC	210.00

Quotation Subtotal:	**$ 93,713.00**
Freight:	**$1,780.00**
Tax:	**$0.00**
Total Amount:	**$ 95,493.00**

Quotation Valid Until: 09/17/22

Printed By: liwanow

Printed On:
7/19/202211:54:49AM

Remit To:
PO Box 231
Delhi, NY 13753

Billing Questions:
Phone: 607-746-8911
Email: Billing@Sportsfield.com

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

SPORTSFIELD SPECIALTIES
WWW.SPORTSFIELD.COM

SALES QUOTATION

Document Number	Document Date	Page
66388	07/19/22	4/4

Remarks:
Contact:
Eric Guzdek
716-631-7132 x7512

Quote Created By: Lauren Iwanow

1. Customer is responsible for material take-off, quantities and specification compliance and/or equivalency of quoted products.
2. All prices listed are in US Dollars
3. Lead times vary and are based on material availability. Please contact your Sales Manager or Customer Service Representative for an estimated delivery date for your order. Receipt of purchase order, credit approval, acceptance of color, material(s) and design are required prior to shipment.
4. All freight is FOB Origin. **Freight rates are estimates provided at the time of quotation. Actual freight rates, which include shipping & handling, will be billed at the time of shipment. The customer is responsible for any difference between the quoted freight rate and the actual freight rate at the time of shipment.** The actual freight rates may differ from the estimates as a result of variable factors, such as the change in product quantity and/or material order, state of the national economy, fuel costs, capacity and/or rate levels at the time of shipment. Split orders will require additional freight charges. Freight quoted does not include additional equipment to unload or unloading services, assembly or installation.
5. Applicable State and Local Sales Tax will be added to the final invoice unless a tax exempt or Resale Certificate is provided prior to order shipment.
6. Wire transfers, prepayment by check and established credit terms are accepted payment methods. Accepted credit cards are VISA, Mastercard and American Express.
7. Pricing assumes any electrical connections and wiring are supplied by others unless otherwise indicated.
8. Customer is responsible for approval and associated cost of any applicable local and state codes.
9. Due to the ongoing increase of steel and aluminum raw material pricing caused by increased demand, coupled with market instability and uncertainty due to the implementation of international trade tariffs, Sportsfield Specialties, Inc. will no longer be able to guarantee current product pricing after this quotation has expired in sixty (60) days. To avoid a potential product price increase, customers will need to provide

Date

Signature

Printed Name/Title

Attachment: Sportsfield complete (RES-2022-1119 : Purchasing Agreement (Sportsfield Specialties) - CRS #3525)

Printed By: liwanow

Printed On:
7/19/202211:54:49AM

Remit To:
PO Box 231
Delhi, NY 13753

Billing Questions:
Phone: 607-746-8911
Email: Billing@Sportsfield.com

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26661 **RESOLUTION 2022-1120** **ADOPTED**

Contract Extension Modern Portable Toilets - CRS #3415

Authorize the Supervisor to sign an extension agreement with Modern Portable Toilets, Bid #2020013.

11/7/2022
Consent

FINANCIAL IMPACT:

Various accounts, TBD

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

TOWN OF AMHERST
ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Second and Final Contract Extension

Modern Disposal Services, Inc. agrees to hold prices and extend the current contract with the Town of Amherst for Portable Toilets (Bid #2020013; CRS/CMS ID #2009/2144).

This contract will be extended for a one-year period from May 4, 2022 to May 3, 2023.

SIGNED:

Modern Disposal Services, Inc.
GARY ROE
MUNICIPAL ACCOUNT MGR.

5/23/2022
Date

Brian J. Kulpa, Supervisor
Town of Amherst

Date

Attachment: Modern Portable Toilet extension 2 (RES-2022-1120 : Contract Extension Modern Portable Toilets - CRS #3415)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26660 **RESOLUTION 2022-1121** **ADOPTED**

Permission to Auction

Authorize the Youth & Recreation Department to auction the old stove at 5005 Sheridan Drive and replace it with the stove from 4110 Bailey Avenue which is no longer needed at that location.

11/7/2022
Consent

FINANCIAL IMPACT:

Revenue TBD

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: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26586 **RESOLUTION 2022-1122** **ADOPTED**

Winter Market Vendor (Acquisto) - CRS #3650

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Laurie Acquisto for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

TOWN OF AMHERST
ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Laurie Acquisto
Laurie Acquisto, Artist
446 Highland Avenue
Buffalo, NY 14223
716-931-9818
dtlnow0704@yahoo.com

September 7, 2022

Dear Ms. Acquisto:

This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: Laurie Acquisto (716)931-9818

Laurie Acquisto, DBA Laurie Acquisto, Artist, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

Laurie Acquisto _____ 9/19/22
Print Name Date

Laurie Acquisto _____ Signature

Artist _____ Title

Town of Amherst:

_____ _____
Brian J. Kulpa, Supervisor Date

Attachment: LaurieAcquistoArtistContract (RES-2022-1122 : Winter Market Vendor (Acquisto) - CRS #3650)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26587 **RESOLUTION 2022-1123** **ADOPTED**

Winter Market Vendor - Tracy Waugaman CRS #3651

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Tracy Waugaman for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

TOWN OF AMHERST

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Tracy Waugaman
AWCreationsNY
64 Linwood Ave
North Tonawanda NY 14120
716-550-3915
Twauga91@gmail.com

October 4, 2022

Dear Ms. Waugaman:
This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: TRACY Waugaman 7165503915
Tracy Waugaman, DBA AWCreationsNY, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

TRACY WAUGAMAN — Print Name
10/4/22 — Date
Tracy Waugaman — Signature
Owner — Title

Town of Amherst:

Brian J. Kulpa, Supervisor
Date

Attachment: TracyWaugamanArtistContract (RES-2022-1123 : Winter Market Vendor (Waugaman) - CRS #3651)

TOWN OF AMHERST

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Tracy Waugaman
AWCreationsNY
64 Linwood Ave
North Tonawanda NY 14120
716-550-3915
Twauga91@gmail.com

October 4, 2022

Dear Ms. Waugaman:
This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: Tracy Waugaman 7165503915
Tracy Waugaman, DBA AWCreationsNY, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

Tracy Waugaman — Print Name
10/4/22 — Date
Tracy Waugaman — Signature
Owner — Title

Town of Amherst:

Brian J. Kulpa, Supervisor — Date

Attachment: TracyWaugamanArtistContract (RES-2022-1123 : Winter Market Vendor (Waugaman) - CRS #3651)

TOWN OF AMHERST

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Tracy Waugaman
AWCreationsNY
64 Linwood Ave
North Tonawanda NY 14120
716-550-3915
Twauga91@gmail.com

October 4, 2022

Dear Ms. Waugaman:
This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: Tracy Waugaman 7165503915
Tracy Waugaman, DBA AWCreationsNY, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

Tracy Waugaman
Print Name

10/4/22
Date

Tracy Waugaman
Signature

Owner
Title

Town of Amherst:

Brian J. Kulpa, Supervisor

Date

Attachment: TracyWaugamanArtistContract (RES-2022-1123 : Winter Market Vendor (Waugaman) - CRS #3651)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26588 **RESOLUTION 2022-1124** **ADOPTED**

Winter Market Vendor (Effervescence) - CRS #3654

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Effervescence for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
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: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: Effervescence

Contact: Rose Quinn

Address: 176 Linwood Ave, Tonawanda, NY 14150

Email Address: effervescence.skincare@gmail.com Phone: 716-525-5002

Please give a Description of Services and/or Items to be sold:

100% All-Natural, Vegan and Eco Friendly Skincare, Hair Care and Body Care. I handmake all products myself. Products in le: Glow Serum, Makeup Remover, Facial Mists, Oil Control Serum, Vitamin C Mask, Charcoal Clay Mask, Lip Oil, Lip Scrub Lip Balm, Essential Oil Roll-Ons, Body Glow, Deodorant, Massage Oil, Body Scrubs, Massage Oil, Dry Shampoo, Hair Oil, Beard Oil, Anti-Frizz Hair Spray, Bath Bombs.

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

*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 Rose Quinn Date 2/11/22

Signature of Town Supervisor _____ Date _____

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

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: Rose Quinn

Signature: Rose Quinn Date: 2/11/22

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/4/2022

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	CONTACT NAME: Greg Skaljac
Luce, Smith & Scott, Inc 6860 W. Snowville Road Suite 110 Brecksville, OH 44141	PHONE (A/C, No, Ext): 440-746-1700 FAX (A/C, No): E-MAIL ADDRESS: info@handmadeinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Cincinnati Insurance Company	0244-106
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Effervescence
176 Linwood Ave
Tonawanda, New York 14150

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:	X	X	ETN0599402	4/5/2022	4/5/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,0 $ 300,0 $ 1,0 $ 1,000,0 $ 2,000,0 $ 2,000,0
	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 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 an additional insured when the insured and the "certificate holder" have agreed in a written contract or agreement that the "certificate holder" be added as an additional insured on the insured's policy per the terms and conditions of the insured's policy per Cincinnati Insurance form#s R4GA2060318, GC20150413, CG20110413. Waiver of Subrogation per attached Cincinnati Insurance form# CG24041093. Primary and Noncontributory per Cincinnati Insurance form# CG20010413. This statement does not change or alter any term or condition of the insured's policy.

CERTIFICATE HOLDER

Town of Amherst
5583 Main St
Williamsville, New York 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

William M. Kelleher

© 1988-2014 ACORD CORPORATION. All rights reserved.

ACORDs provided by Forms Boss. www.FormsBoss.com; (c) Impressive Publishing 800-208-1977

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HAND MADE ARTISANS COMMERCIAL GENERAL LIABILITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Table of Contents

		Begins on Page:
A.	Additional Exclusions	1
B.	Who Is An Insured Changes	2
C.	Limits of Insurance Changes	3
D.	Conditions Changes	3
E.	Additional Definitions	3

A. **SECTION I - COVERAGES** is modified as follows:

1. **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is modified to include the following:

   This insurance does not apply to "bodily injury" or "property damage" arising out of:

   a. Services rendered or preparations, products, apparatus, or equipment rendered or used in violation of federal, state, municipal or other laws or regulations;

   b. The use, administration or application of any dye or coloring to eyelashes or eyebrows;

   c. Preparation for; or use, administration or application of; or removal of any form of permanent cosmetic makeup including but not limited to micro pigment implantation and tattooing;

   d. The piercing of any part of the human body;

   e. Drugs, pharmaceuticals, vitamins or supplements, suppositories, or ingestible nutraceuticals;

   f. Invasive products intended to remain in the body;

   g. Any product requiring a prescription;

   h. Children's toys;

   i. Aerosol products;

   j. Acetone-based products;

   k. Permanent cosmetics or invasive body inks;

   l. Ingestible food products, unless sold in a set (such as a gift basket), in conjunction with a "craft work";

   m. Coffee and tea when sold as a products line or included as part of a products line;

   n. Plug-in electrical products sold or held for sale by you;

   o. Products that do not meet FDA GRAS (Generally Recognized As Safe) guidelines;

   p. Repackaged products manufactured by others;

   q. Tanning beds or tanning equipment;

   r. Hazardous materials and any kind of cleanup of hazardous materials;

   s. Salon or spa operations;

   t. Welding operations, or welding or cutting equipment or material; or

   u. Candles.

2. **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions** is modified to include the following:

   This insurance does not apply to "personal and advertising injury" arising out of:

   a. Services rendered or preparations, products, apparatus, or equipment rendered or used in

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

violation of federal, state, municipal or other laws or regulations;

b. The use, administration or application of any dye or coloring to eyelashes or eyebrows;

c. Preparation for; or use, administration or application of; or removal of any form of permanent cosmetic makeup including but not limited to micro pigment implantation and tattooing;

d. The piercing of any part of the human body;

e. Drugs, pharmaceuticals, vitamins or supplements, suppositories, or Ingestible nutraceuticals;

f. Invasive products intended to remain in the body;

g. Any product requiring a prescription;

h. Children's toys;

i. Aerosol products;

j. Acetone-based products;

k. Permanent cosmetics or invasive body inks;

l. Ingestible food products, unless sold in a set (such as a gift basket), in conjunction with a "craft work";

m. Coffee and tea when sold as a products line or included as part of a products line;

n. Plug-in electrical products sold or held for sale by you;

o. Products that do not meet FDA GRAS (Generally Recognized As Safe) guidelines;

p. Repackaged products manufactured by others;

q. Tanning beds or tanning equipment;

r. Hazardous materials and any kind of cleanup of hazardous materials;

s. Salon or spa operations;

t. Welding operations, or welding or cutting equipment or material; or

u. Candles.

B. SECTION II - WHO IS AN INSURED is deleted in its entirety and replaced by the following:

Each "certificate holder" is an insured but only while performing duties related to the conduct of the "certificate holder's" "craft work" business.

Each of the following is also an insured:

1. Your "volunteer workers" only while performing duties related to the conduct of your "craft work" business, or your "employees", but only for acts within the scope of their employment by you or while performing duties related to the conduct of your "craft work" business. However, none of these "employees" or "volunteer workers" are insureds for:

a. "Bodily injury" or "personal and advertising injury":

(1) To you, to your partners or members (if you are a partnership or limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(2) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **a.(1)** above;

(3) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **a.(1)** or **a.(2)** above; or

(4) Arising out of his or her providing or failing to provide professional health care services.

b. "Property damage" to property:

(1) Owned, occupied or used by; or

(2) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or limited liability company).

2. Any person or organization when the "certificate holder" and such person or organization have agreed in a writ-

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

ten contract or written agreement that such person or organization be added as an additional insured on the "certificate holder's" policy.

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

a. During the policy period; and

b. Subsequent to the "certificate holder's" execution of the written contract or written agreement described above.

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

a. The "certificate holder's" acts or omissions; or

b. The acts or omissions of those acting on the "certificate holder's" behalf;

in the performance of the "certificate holder's" "craft work" business.

However, the insurance afforded to such additional insured:

a. Only applies to the extent permitted by law; and

b. Will not be broader than that which the "certificate holder" is required by the contract or agreement to provide for such additional insured.

In no event will a person's or organization's status as an additional insured under this endorsement extend beyond the expiration/cancellation date of the Policy or Certificate of Coverage, whichever is earliest.

C. **SECTION III - LIMITS OF INSURANCE** is modified to include the following:

1. In respects to any additional insured, as outlined in **HAND MADE ARTISANS COMMERCIAL GENERAL LIABILITY ENDORSEMENT, B.,** Paragraph **2.,** the most we will pay on behalf of the additional insured is the amount of insurance:

   a. Required by the contract or agreement described **HAND MADE ARTISANS COMMERCIAL GENERAL LIABILITY ENDORSEMENT, B.,** Paragraph **2.**; or

   b. Available under the applicable Limits of Insurance shown in the Declarations;

   whichever is less.

   The limits of insurance available to an additional insured for any one "occurrence" are shared with and not in addition to limits of insurance already available to the "certificate holder".

2. Any claim which is made or maintained as a class action or other multiple plaintiff "suit" shall be deemed to arise from one "occurrence" or "personal and advertising injury" offense shall be subject to **SECTION III - LIMITS OF INSURANCE,** Paragraphs **2.** and **3.**, and the Each Occurrence Limit shown in the Declarations.

3. The last paragraph of **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced by the following:

   The Limits of Insurance of this Coverage Part apply separately to each:

   a. "coverage term"; and

   b. "Certificate holder".

D. **SECTION IV - CONDITIONS** is deleted in its entirety. Please refer to the **RISK PURCHASING GROUP COMMON POLICY CONDITIONS** for all Conditions particular to this Coverage Part.

E. **SECTION V - DEFINITIONS** is modified to include the following definitions:

1. "Certificate holder" means an "enrollee" on the "enrollment list" who is named on the Certificate of Coverage.

2. "Craft work" means handicraft or artisanal handicraft which includes the manufacture and sale of products created by hand with or without the use of simple tools using bulk product.

3. "Enrolled" means to make written application for this insurance on the prescribed forms. An individual is not "enrolled" until they become an "enrollee" in good standing as determined by the First Named Insured.

4. "Enrollee" means:

   a. A person or entity in good standing as determined by the First Named Insured and who has paid enrollment costs or dues for the insurance coverage provided in this policy; and

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

b. A person or entity in good standing as determined by the First Named Insured and who has submitted an application per the charter, rules or guidelines for enrollment in the insurance program of the First Named Insured.

5. "Enrollment list" means a list maintained by the First Named Insured which identifies:

a. Each "enrollee" who has paid enrollment costs or dues for insurance coverage provided in this policy;

b. Each "enrollee" in good standing as determined by the First Named Insured per the charter, rules or guidelines for enrollment in the insurance program of the First Named Insured;

c. The address of the "enrollee";

d. The type of insurance selected by the "enrollee"; and

e. The date the "enrollee's" enrollment in the insurance program became effective.

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 15 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - VENDORS

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) (Vendor)	Your Products
Any person or organization for whom you are required in a written contract or written agreement to add as an additional insured on this Coverage Part, provided that the written contract or written agreement: (1) is executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains; and (2) is currently in effect or becomes effective during the term of this Coverage Part.	Products manufactured in your "craft work" business. "Craft work" is defined in the HAND MADE ARTISAN COMMERCIAL GENERAL LIABILITY ENDORSEMENT. (R4 GA 206) attached to this policy.
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 any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule which are distributed or sold in the regular course of the vendor's business.

However:

1. The insurance afforded to such vendor only applies to the extent permitted by law; and
2. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

B. With respect to the insurance afforded to these vendors, the following additional exclusions apply:

1. The insurance afforded the vendor does not apply to:
   a. "Bodily injury" or "property damage" for which the vendor 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 that the vendor would have in the absence of the contract or agreement;
   b. Any express warranty unauthorized by you;
   c. Any physical or chemical change in the product made intentionally by the vendor;
   d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
   e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in

© Insurance Services Office, Inc., 2012

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

connection with the distribution or sale of the products;

f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Sub-paragraphs **d.** or **f.**; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

C. With respect to the insurance afforded to these vendors, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor 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.

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

© Insurance Services Office, Inc., 2012

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 11 04 13

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):
Name Of Person(s) Or Organization(s) (Additional Insured): Any person or organization for whom you are required in a written contract or written agreement to add as an additional insured on this Coverage Part, provided that the written contract or written agreement: (1) is executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains; and (2) is currently in effect or becomes effective during the term of this Coverage Part.
Additional Premium:$ Included
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 arising out of 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 shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

© Insurance Services Office, Inc., 2012

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

Any person or organization for whom you are required in a written contract or written agreement to add this form on this Coverage Part, provided that the written contract or written agreement: (1) is executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains; and (2) is currently in effect or becomes effective during the term of this Coverage Part.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV -- COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

Copyright, Insurance Services Office, Inc., 1992

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Attachment: EffervescenceContractwCOL (RES-2022-1124 : Winter Market Vendor (Effervescence) - CRS #3654)

 © Insurance Services Office, Inc., 2012

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26597 **RESOLUTION 2022-1125** **ADOPTED**

Winter Market Vendor (Keem) - CRS #3663

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Francis Keem for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

Attachment: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

To be considered for participation the Town of Amherst Youth & Recreation/Parks Holiday Market, 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

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: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

The deadline to submit a contract and COI for the 2022 Holiday Market is October 26, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link. Vendors may use this link to complete their registration for the HOLIDAY MARKET only. 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 October 25. 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 HOLIDAY MARKET, 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: ___Fransylvania Produce_____

Contact: ___Francis Keem_____

Address: _3512 Upper Mountain Rd. Sanborn, NY 14132_____

Email Address: __Fransylvaniamaple@gmail.com_____
Phone: _716-474-8443_____

Please give a Description of Services and/or Items to be sold: ___Maple Products: Syrup, molded sugar pieces, cream, granulated sugar, hard candy, cotton candy, coffee (packaged), tea (packaged), barrel aged syrup, mustards, hot sauce, BBQ sauce

Attachment: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

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 October 26, 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: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

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: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

*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 October 26, 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 10/14/2022

Signature of Town Supervisor _____ Date _____

Attachment: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

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: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

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: Francis Keem

Signature: _____ Date: 10/14/2022

Attachment: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/14/2022

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 POLICI BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZ REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorse 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	CONTACT NAME: Alex Arrigo
THE ARRIGO AGENCY INC PO BOX 728 BATAVIA NY 14021	PHONE (A/C, No, Ext): 585-297-7396 FAX (A/C, No): E-MAIL ADDRESS: ALEX.ARRIGO@AMERICAN-NATIONAL.COM
INSURED FRANCIS KEEM FRANSYLVANIA PRODUCE 3512 UPPER MOUNTAIN RD SANBORN NY 14132	**INSURER(S) AFFORDING COVERAGE** — **NAIC** INSURER A : UNITED FARM FAMILY INS CO INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERI INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH TH CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERM EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**COMMERCIAL GENERAL LIABILITY**			3101G2821	9/30/22	9/30/23	EACH OCCURRENCE	$ 1,000,(
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,(
	☒ SPECIAL FARM PACKAGE						MED EXP (Any one person)	$ 5,(
	☒ PRODUCT LIABILITY						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	
	ANYPROPRIETOR/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 Winter Holiday Market 2022

Town of Amherst is listed as additional insured

CERTIFICATE HOLDER

Town of Amherst
5583 Main St
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFO THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Alex Arrigo

© 1988-2015 ACORD CORPORATIO

The ACORD name and logo are registered marks of ACORD

Attachment: FransylvaniaProduceContractwCOI (RES-2022-1125 : Winter Market Vendor (Keem) - CRS #3663)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26628 **RESOLUTION 2022-1126** **WITHDRAWN**

Winter Market Vendor (Buffalo Aquatics) - CRS #3669

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Buffalo Aquatics LLC for participation in the Winter Market at the Northtown Center.

FINANCIAL IMPACT:

None

RESULT:	**WITHDRAWN**

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

To be considered for participation the Town of Amherst Youth & Recreation/Parks Holiday Market, 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

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

Attachment: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

The deadline to submit a contract and COI for the 2022 Holiday Market is October 26, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link. Vendors may use this link to complete their registration for the HOLIDAY MARKET only. 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 October 25. 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 HOLIDAY MARKET, 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: Goldfish Swim School - Williasmville

Contact: Alison Harris

Address: 7950 Transit Road Williamsville, NY 14221

Email Address: alison.harris@goldfishss.com Phone: (716)427-6200

Please give a Description of Services and/or Items to be sold:

We provide swim lessons for children ages 4 months to 12 years old

Attachment: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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 October 26, 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: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

*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 October 26, 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 10/13/2022

Signature of Town Supervisor _____ Date _____

Attachment: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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: Alison Harris

Signature: _____ Date: 10/13/2022

Attachment: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M 10/18/2022

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	Insurance Consultants Group LLC 20180 CENTER RIDGE ROAD ROCKY RIVER OHIO 44116	**CONTACT NAME:** MATT BRIGGS **PHONE (A/C, No, Ext):** 440-356-2055 **FAX (A/C, No):** 440-331-1482 **E-MAIL ADDRESS:**	
		INSURER(S) AFFORDING COVERAGE	**NAIC #**
		INSURER A : Philadelphia Indemnity Insurance Company	18058
INSURED	Buffalo Aquatics LLC 7950 Transit Rd Buffalo NY 14221	**INSURER B :**	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	☑ **COMMERCIAL GENERAL LIABILITY** ☐ CLAIMS-MADE ☑ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☑ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	Y	Y	PHPK1946660	07/12/2022	07/12/2023	EACH OCCURRENCE	$	1,000,0
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$	1,000,0
							MED EXP (Any one person)	$	5,0
							PERSONAL & ADV INJURY	$	1,000,0
							GENERAL AGGREGATE	$	3,000,0
							PRODUCTS - COMP/OP AGG	$	2,000,0
								$	
A	**AUTOMOBILE LIABILITY** ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☑ HIRED AUTOS ONLY ☑ NON-OWNED AUTOS ONLY	Y	Y	PHPK1946660	07/12/2022	07/12/2023	COMBINED SINGLE LIMIT (Ea accident)	$	1,000,0
							BODILY INJURY (Per person)	$	
							BODILY INJURY (Per accident)	$	
							PROPERTY DAMAGE (Per accident)	$	
								$	
A	☑ **UMBRELLA LIAB** ☑ OCCUR ☐ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $	Y	Y	PHPA034079	07/12/2022	07/22/2023	EACH OCCURRENCE	$	1,000,0
							AGGREGATE	$	1,000,0
								$	
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** Y / N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	y	PHPK1946660	07/12/2022	07/12/2023	☐ PER STATUTE ☐ OTH-ER		
							E.L. EACH ACCIDENT	$	1,000,0
							E.L. DISEASE - EA EMPLOYEE	$	1,000,0
							E.L. DISEASE - POLICY LIMIT	$	1,000,0
A	EMPLOYMENT PRACTICES	Y	Y	PHSD 1407413	07/12/2022	07/12/2023			100,0
A	Participant Accident	y	y	PHSD 1407413	07/12/2022	07/12/2023			50,0

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town opf Amherst is named as an additional insured on a primary and non contributory basis. Workers compnesation 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 Matthew D Briggs

© 1988-2015 ACORD CORPORATION. All rights reserved

Attachment: BuffaloAquaticsContractwCOI (RES-2022-1126 : Winter Market Vendor (Buffalo Aquatics) - CRS #3669)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26631 **RESOLUTION 2022-1127** **ADOPTED**

Winter Market Vendor (Seven One Six Wood) - CRS #3670

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Seven One Six Wood Design for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

Attachment: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

To be considered for participation the Town of Amherst Youth & Recreation/Parks Holiday Market, 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

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: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

The deadline to submit a contract and COI for the 2022 Holiday Market is October 26, 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 October 25. 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: Seven One Six Wood Design

Contact: Scott Erikson

Address: 80 Earhart Dr Suite 10 Amherst 14221

Email Address: sevenonesixwooddesign@gmail.com Phone: 716.343.0950

Please give a Description of Services and/or Items to be sold: wooden home decor, Buffalo themed gifts, cutting boards, plant displays

Attachment: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

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 October 26, 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: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

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: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

*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 October 26, 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 8/13/22

Signature of Town Supervisor _____ Date _____

Attachment: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

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: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

AMHERST TOWN Parks

. Heating and cooking equipment authorized by the Fire Inspector shall be installed per applicable code 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: Scott Erikson

Signature:

Date: 8/13/22

Attachment: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

SEVEN-2

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/30/2022

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 United Insurance Agency, Inc. 90 Bryant Woods South Amherst, NY 14228 Nancy E. Dietrich 716-632-6118	CONTACT NAME: Christine Robinson PHONE (A/C, No, Ext): 716-632-6118 FAX (A/C, No): 716-631-5045 E-MAIL ADDRESS: crobinson@uiai.com
INSURED Seven One Six Wood Design 80 Earhart Dr #7-10 Williamsville, NY 14221	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Erie & Niagara Insurance — 10374 INSURER B : Hartford Casualty Ins. — 524210 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	[ ] CLAIMS-MADE [X] OCCUR	Y	Y	MP0008998	03/01/2022	03/01/2023	EACH OCCURRENCE	$ 2,000,(
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 50,(
							MED EXP (Any one person)	$ 5,(
							PERSONAL & ADV INJURY	$ 2,000,(
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,(
	X POLICY [ ] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 4,000,(
	OTHER:							$
A	AUTOMOBILE LIABILITY							
	[ ] ANY AUTO						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,(
	X OWNED AUTOS ONLY X SCHEDULED AUTOS			Q077503293	07/19/2022	07/19/2023	BODILY INJURY (Per person)	$
	X HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR						EACH OCCURRENCE	$
	[ ] EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$
	[ ] DED [ ] RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ]	N / A		01WECAL10TN	04/01/2022	04/01/2023	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,(

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Amherst is additional insured on a primary and non contributory basis.

CERTIFICATE HOLDER

TOWNOFA

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

Edward C. Kelly Jr

© 1988-2015 ACORD CORPORATION All rights reserved.
The ACORD name and logo are registered marks of ACORD

Attachment: 716WoodDesignContractwCOL (RES-2022-1127 : Winter Market Vendor (Seven One Six Wood) - CRS #3670)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26657 **RESOLUTION 2022-1128** **ADOPTED**

Winter Market Vendor (Dehghanipour) - CRS #3685

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Elham Dehghanipour for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

TOWN OF AMHERST

ERIE COUNTY, NEW YORK

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Elham Dehghanipour
Scheherazade Candles
344 Hinds St., Apt 78
Tonawanda, NY 14150
903-816-5956
elhamdehqan@gmail.com

October 4, 2022

Dear Elham:
This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: _____.
Elham Dehghanipour, DBA Scheherazade Candles, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

Elham Dehghanipour — Print Name
10/26/2022 — Date

_____ Signature

Owner — Title

Town of Amherst:

_____ Brian J. Kulpa, Supervisor

_____ Date

Attachment: ElhamDehghanipourArtistContract (RES-2022-1128 : Winter Market Vendor (Dehghanipour) - CRS #3685)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26658 **RESOLUTION 2022-1129** **ADOPTED**

Winter Market Vendor (Aguglia) - CRS #3684

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Kelia Aguglia for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

TOWN OF AMHERST

5583 MAIN STREET
WILLIAMSVILLE, NEW YORK 14221
PHONE: 716-631-7013
FAX 716-631-7036
www.amherst.ny.us

BRIAN J. KULPA
Supervisor
716-631-7032

JACQUALINE G. BERGER
Deputy Supervisor/ Councilmember

Councilmembers:
DEBORAH BRUCH BUCKI RN, PhD
SHAWN A. LAVIN
MICHAEL SZUKALA

Keila Aguglia
Kay's Custom Tumblers
21 Lou Drive, Depew, NY 14043
(716) 479-0910
kayxhods@yahoo.com

October 20, 2022

Dear Ms. Aguglia:
This is your agreement to participate in the Town of Amherst, Holiday Market at the Northtown Center as an independent contractor/artist. Please provide a name and cell phone number so that our event staff can contact you in case of any last minute changes: Keila Aguglia 716-479-0910.
Keila Aguglia, DBA Kay's Custom Tumblers, agrees to indemnify and hold harmless the Town of Amherst for any charges, damages, or liability resulting directly or indirectly from the negligence or culpable conduct of the business or artist its agents and/or employees, and to release the Town of Amherst and its agents, districts, commissions, and boards from liability arising from the participation of the above described event.

AGREEMENT:
DATES and TIMES:
December 11, 2022, 9am-1pm (Setup beginning at 7am, and tear down from 1pm-2pm)
LOCATION: Northtown Center, 1615 Amherst Manor Drive, Williamsville, NY 14221

Agreed to and approved by:

Keila Aguglia
Print Name

10-21-22
Date

Keila Aguglia
Signature

Title

Town of Amherst:

Brian J. Kulpa, Supervisor

Date

Attachment: KeilaAgugliaArtistContract (RES-2022-1129 : Winter Market Vendor (Aguglia) - CRS #3684)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 26668 **RESOLUTION 2022-1130** **ADOPTED**

Winter Market Vendor (Rockcastle) - CRS #3674

Authorize the Supervisor to sign a contract between the Town of Amherst (Youth & Recreation Department) and Steven & Julie Rockcastle for participation in the Winter Market at the Northtown Center.

11/7/2022
Consent

FINANCIAL IMPACT:

None

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

AMHERST TOWN Parks

Town of Amherst – Youth and Recreation
Town Parks General Event Contract

RETAIL VENDOR

To be considered for participation the Town of Amherst Youth & Recreation/Parks Holiday Market, 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

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

JR

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

AMHERST TOWN Parks

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,

JR

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

AMHERST TOWN **Parks**

The deadline to submit a contract and COI for the 2022 Holiday Market is October 26, 2022.

Vendors meeting contract and COI requirements will be emailed an online sign-up/registration link. Vendors may use this link to complete their registration for the HOLIDAY MARKET only. 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 October 25. 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 HOLIDAY MARKET, 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:
Contact: Julie Rockcastle
Address: 2361 Waits Corners Rd Pavilion NY 14767
Email Address: julie.blueheron@gmail.com Phone: 716-753-0371

Please give a Description of Services and/or Items to be sold: Farm Products:
100% Grass Fed Beef, Organic Chicken, Soups + Dips
Honey, Maple Syrup, Tart Cherry Juice

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

AMHERST TOWN Parks

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 October 26, 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.

JR

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

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: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

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 October 26, 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 Julie Rockcastle Date 10/14/22

Signature of Town Supervisor _____ Date _____

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

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: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

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: Julie Rockcastle

Signature: Julie Rockcastle

Date: 10/14/22

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

Scanned with CamScanner

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/19/2022

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
The Deuink Agency
A Division of Great Lakes Insurance Services Group LLC
562 Clymer Sherman Rd, PO Box 39
Clymer NY 14724

CONTACT NAME: Brenda Jordan
PHONE (A/C, No, Ext): **FAX (A/C, No):** 8885880048
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Finger Lakes	43842
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Steven & Julie Rockcastle
2361 WAIT CORNERS RD
Panama NY 14767

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	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR [X] Farm Liability [X] Product Liability GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	N	FOP100000533	06/29/2022	06/29/2023	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$ 1,000
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS 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 [ ] 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 on general liability

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
Brenda L Jordan

Fax: Email:

© 1988-2015 ACORD CORPORATION. All rights reserved.

Attachment: RockcastleContractwCOL (RES-2022-1130 : Winter Market Vendor (Rockcastle) - CRS #3674)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
DOC ID: 26655

COMMUNICATION 2022-114

APPROVED

Request for Public Hearing - 6254 Main Street

Request from Jeffery Palumbo, Esq. for a public hearing with respect to the rezoning of 6254 Main Street from R-3 to MFR-4A.

This hearing has been scheduled for December 12.

11/7/2022
Consent

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

Block, Longo, LaMarca
& Brzezinski, P.C.
ATTORNEYS | SINCE 1933
9276 MAIN STREET, CLARENCE, NY 14031
OFFICE: (716) 854-4080

WWW.BLOCKANDLONGO.COM

PARTNERS:

MARK J. LONGO, ESQ. — PRESIDENT/CEO
JOY LAMARCA, ESQ. — VICE PRESIDENT
KEVIN E. BRZEZINSKI, ESQ. — VICE PRESIDENT
JAMI DURANTE ROGOWSKI, ESQ.
GEORGE R. SLINGERLAND, ESQ.
BRITTNAY M. MCMAHON, ESQ.

CLARENCE OFFICE:

JEFFERY D. PALUMBO, ESQ., SPECIAL COUNSEL
CHRISTOPHER A. CARDILLO, ESQ., SPECIAL COUNSEL
JENNIFER A. HURLEY, ESQ., SPECIAL COUNSEL
TRACY A. MURRAY, PARALEGAL

October 24, 2022

Francina J. Spoth, Town Clerk
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14221

Re: Rezoning of 6254 Main Street; Z-2022-09

Dear Ms. Spoth:

On October 20, 2022, the Planning Board unanimously recommended approval of the above referenced rezoning. Kindly place this matter on the Town Board's agenda to schedule a public hearing on the proposed rezoning.

Should you require any additional information, please do not hesitate to contact me. Thank you in advance.

Very truly yours,

Jeffery D. Palumbo

JDP:bae

cc: Mohit Kumar

'22 OCT 27 AM 7:18

Attachment: palumbo letter (COM-2022-114 : Request for Public Hearing - 6254 Main Street)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
DOC ID: 26702

COMMUNICATION 2022-115

APPROVED

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

Request from Sean Hopkins, Esq. for a public hearing with respect to the rezoning of 1720, 1740 & 1760 Maple Road from OB & R-3 to DC-5.

This hearing has been scheduled for December 12.

11/7/2022
Consent

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

November 2, 2022

Timothy J. Koller, Deputy Town Clerk
Town of Amherst Town Clerk's Office
5583 Main Street
Williamsville, NY 14221

Re: Request to Schedule Public Hearing - Rezoning of 1720, 1740 & 1760 Maple Road from OB and R-3 to DC-5 [Z-2022-08[
Applicant/Project Sponsor: PB Investors, LLC c/o Paul Bliss
File No. 10003.58

Dear Tim:

Pursuant to our telephone conversation on November 1st, this letter is being submitted on behalf of PB Investors, LLC ("Applicant") to request that the Town Board adopt a resolution during its next meeting on Monday, November 7th for the purpose of scheduling a public hearing in connection with the pending request to amend the zoning classification of 1720, 1740 and 1760 Maple Road from OB and R-3 to DC-5 during its meeting to be held on Monday, December 12th at 7:00 p.m.

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

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC

Sean W. Hopkins, Esq.

cc: Daniel Howard, AICP, Planning Director
Paul Bliss, PB Investors, LLC

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

Attachment: Koller-Ltr-Request to Schedule Public Hearing-11-02-22 (COM-2022-115 : Request for Public Hearing - 1720, 1740 & 1760 Maple

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
DOC ID: 26650

COMMUNICATION 2022-116 **REFERRED**

Notice of Claim: Progressive Advanced Insurance Company A/S/O Dharmjit Sandhu Vs. Town of Amherst

11/7/2022
Referred to Town Attorney

RESULT:	**REFERRED [UNANIMOUS]**
MOVER:	Brian J. Kulpa, Supervisor
SECONDER:	Jacqualine Berger, Deputy Supervisor
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
10/18/2022 7:25:00 AM
Certified Mail 9489 0090 0027 6333 0548 15 Return Receipt Requested

TOWN OF AMHERST
TOWN CLERK
5583 MAIN ST
WILLIAMSVILLE, NY 14221

Your Client: MOSLOW, JOHN J
Your Claim Number:7234219
Our Insured:SANDHU, DHARMJIT S
Our Claim Number:22-5541066
Amount Subject to Reimbursement:$5,613.04
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: 1166 DODGE RD IN GETZVILLE, NY
Date and Time of Loss:5/26/2022, 02:30 PM

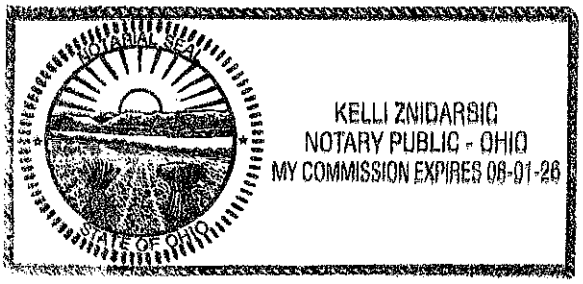
Description of Loss: OUR INSURED WAS TRAVELING AT 1166 DODGE RD IN GETZVILLE, NY WHEN A TOWN VEHICLE WITH PLATE #BB7148 OPERATERD BY MOSLOW, JOHN J, FAILED TO MAINTAIN PROPER LOOKOUT AND CONTROL OF VEHICLE, IMPROPERLY BACKED AND STRUCK OUR INSURED'S VEHICLE. WE ARE SEEKING REIMBURSEMNT FOR OUR INSURED'S VEHICLE DAMAGES.

Please make your draft payable to" Progressive Advanced Insurance Company as subrogee of SANDHU, DHARMJIT S ", 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 Advanced Insurance Company
Tel. 877-818-0139
Fax. 888-781-6947
GovernmentStatus@email.progressive.com

Sworn to me and subscribed in my presence this 19 day of Oct 2022



_____
NOTARY PUBLIC

Attachment: DOC102722-10272022102420 (COM-2022-116 : NOC: Progressive Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 11/07/22 07:00 PM
Department: Town Clerk
DOC ID: 26625

COMMUNICATION 2022-117 **REFERRED**

Notice of Claim: Ly Thao Do Vs. Town of Amherst Et Al.

11/7/2022
Referred to Town Attorney

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

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

Ly Thao Do
[redacted]

NOTICE OF CLAIM

Claimant,

v.

TOWN OF AMHERST.
5583 Main Street
Amherst, New York 14221

AMHERST POLICE DEPARTMENT
500 John James Audubon Parkway
Amherst, New York 14221

Respondents.

'22 OCT 20 PM3:10

PLEASE TAKE NOTICE, that the Claimant, Ly Thao Do, claims and demands from the Respondents, Town of Amherst and Amherst Police Department, recompense for personal injuries and damages sustained by Claimant by reason of the negligent acts and omissions of the Respondents, their agents, servants, and/or employees, and in support thereof, the Claimant states:

1. The Claimant, Ly Thao Do, resides at [redacted] The Claimant is represented by The Barnes Firm, P.C., Philip J. Maiarana, Esq., with offices at 500 Pearl Street, 7th Floor, Buffalo, New York 14202.

Attachment: DOC102122-10212022082735 (COM-2022-117 : Notice of Claim: Ly Thao Do Vs. Town of Amherst Et Al.)

2. The nature of Claimant's claim is for personal injury, past and future pain and suffering, and past and future economic loss and other attendant damages.

3. The incident in which personal injuries and damages were sustained by the Claimant occurred on or about October 11, 2022, at approximately 7:35 am, at about the intersection of Transit Road and Millersport Highway in Amherst, County of Erie, State of New York. Upon information and belief, the Claimant, Ly Thao Do, was caused to sustain serious personal injuries when Respondents, and their agents, servants and employees, made a left hand turn at the intersection of Transit Road and Millersport Highway in the Town of Amherst and caused a collision with Claimant's vehicle.

4. Upon information and belief, the negligence, carelessness and/or recklessness of the Respondents, and their agents, servants and employees includes but is not limited to: failure to keep a proper lookout; failure to be alert; traveling and driving in an unsafe manner; failure to exercise due care; failure to avoid a collision; failure to apply their brakes; failure to sound their horn; failure to warn, and caused the accident with Claimant's vehicle as well as cause serious physical injury.

5. Alternatively, if Respondents were engaging in an emergency call at the time of the subject collision (which we are uncertain of at this time) Respondents, and their agents, servants and employees acted with gross negligence and reckless disregard.

Attachment: DOC102122-10212022082735 (COM-2022-117 : Notice of Claim: Ly Thao Do Vs. Town of Amherst Et Al.)

6. By virtue of the negligence of the Respondents and their agents, servants and employees, Claimant has sustained personal injuries, pain and suffering, economic loss and other attendant damages and has sustained serious injury and economic loss in excess of basic economic loss as both defined in Article 51 of the New York State Insurance Law.

DATED: Buffalo, New York
October 17, 2022

THE BARNES FIRM, P.C.

By: _____

Philip J. Maiarana, Esq.
Attorneys for Plaintiff
500 Pearl Street, Suite 700
Buffalo, NY 14202
(800) 800-0000 x. 205
Philip.Maiarana@thebarnesfirm.com

Attachment: DOC102122-10212022082735 (COM-2022-117 : Notice of Claim: Ly Thao Do Vs. Town of Amherst Et Al.)