Amherst Town Board

Organizational Meeting of the Town Board

Agenda

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

Francina J. Spoth
Town Clerk

In the event of a fire or other emergency, please follow the exit signs that are provided in this room and throughout Town Hall. Upon exiting this room, the main exits are located to the front and the rear of this building. ***Do not use the elevator during an emergency event.***

This meeting is being recorded and will stream live online
Amherstny.iqm2.com

Monday, January 4, 2021 **7:00 PM** **Amherst Municipal Building**

I. IN MEMORY

II. INVOCATION

Supervisor Kulpa

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL:

7:00 PM Meeting called to order on January 4, 2021 at Amherst Municipal Building, 5583 Main Street, Williamsville, NY.

Attendee Name	Present	Absent	Late	Arrived
Supervisor Brian J. Kulpa	☐	☐	☐	
Deputy Supervisor Jacqualine Berger	☐	☐	☐	
Councilmember Deborah Bruch Bucki	☐	☐	☐	
Councilmember Shawn Lavin	☐	☐	☐	
Councilmember Michael Szukala	☐	☐	☐	

V. MINUTES APPROVAL

1. Monday, December 14, 2020

VI. PROCLAMATIONS AND ANNOUNCEMENTS

Recognizing the support of Lindsey Coniber and Megan Nolan to the Amherst Community Diversity Commission.

In accordance with the Governor's Executive Order 202.1 and for public health and safety concerns related to COVID-19, the Town Board meeting on January 4, 2021, will not be meeting in-person and will be held via the Zoom video conference application. The public will have an opportunity to view and participate in the meeting live. At a later date, a meeting transcript will be available. The Public may view and participate via video or audio call in - Join the Zoom Meeting at 7:00PM.

Zoom Meeting Login: Visual/Display Online
https://us02web.zoom.us/j/85873275204?pwd=aEVpbFBjRmJPb1h6K3lGejE1OTdNZz09

Audio/Call-In Instructions: Note to callers your phone number will display to the public, to conceal your number enter *67 before you enter the phone number below. To comment during the public hearing call-in participants must dial *9 to "raise your hand" to be recognized for speaking.

Town Board Meeting Information:
Phone: 1-929-205-6099
Meeting ID: 858 7327 5204
Passcode: 088031

VII. PUBLIC HEARINGS

Speakers will be limited to 3 minutes.

1. Resolution 2021-1

To Authorize Amendments to the FY 2020 Annual Action Plans for Community Development.

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate.

ATTACHMENTS:

- TB Letter Sub Amend 010421 (PDF)
- Draft_Budget_2nd_COVID_12.21.20 (PDF)
- Microsoft Word - COVID 2020 Subst Amend COVID 2 Summary - Dec 21 2020 (PDF)

VIII. REORGANIZATION

1. Resolution 2021-2

Re-Appointment of Deputy Supervisor 2021

FINANCIAL IMPACT:

None

2. Resolution 2021-3

Re-Appointment of Town Attorney, Sr. Deputy Town Attorney, and Town Prosecutor 2021

FINANCIAL IMPACT:

None

3. Resolution 2021-4

Re-Appointment of Parliamentarian 2021

FINANCIAL IMPACT:

None

4. Resolution 2021-5

2021 Liaisons to Boards & Committees and Departments

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 Board and Committee Liaisons (PDF)
- 2021 Department Liaisons (PDF)

5. Resolution 2021-6

Re-Appointment of Town Comptroller 2021

FINANCIAL IMPACT:

None

6. Resolution 2021-7

Re-Appointment of Energy Manager 2021

FINANCIAL IMPACT:

None

7. Resolution 2021-8

Re-Appointment of Affirmative Action Officer 2021

FINANCIAL IMPACT:

None

8. Resolution 2021-9

Re-Appointment of Fair Housing Officer 2021

FINANCIAL IMPACT:

None

9. Resolution 2021-10

Re-Appointment of Town Historian 2021

FINANCIAL IMPACT:

None

10. Resolution 2021-11

Representation of Town of Amherst at the Associate of Erie County Governments 2021

FINANCIAL IMPACT:

None

11. Resolution 2021-12

Representation of Town of Amherst at Annual Meeting of the Association of Towns 2021

FINANCIAL IMPACT:

None for purposes of this resolution (if a virtual event is held in 2021, expenses will be submitted at a later date if required)

12. Resolution 2021-13

Designation of Official Town Newspaper 2021

FINANCIAL IMPACT:

None

13. Resolution 2021-14

Designation of Official Town Depositories 2021

FINANCIAL IMPACT:

None

14. Resolution 2021-15

Check Signing 2021

FINANCIAL IMPACT:

None

15. Resolution 2021-16

Payment of Department Expense Accounts 2021

FINANCIAL IMPACT:

None

16. Resolution 2021-17

Approve Town Officials' Blanket Bond 2021

FINANCIAL IMPACT:

None

17. Resolution 2021-18

2021 Office Hours and Standard Workday Hours

FINANCIAL IMPACT:

None

18. Resolution 2021-19

Set 2021 Holiday Schedule

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 Holiday Schedule (PDF)

19. Resolution 2021-20

Set Salaries for Town Employees and Civil Service Employees 2021

FINANCIAL IMPACT:

Per 2021 budget and negotiated contracts

20. Resolution 2021-21

Set Salaries for Exempt Employees 2021

FINANCIAL IMPACT:

Per schedule

ATTACHMENTS:

- Non-DH Chart - EXEMPT SALARIES 2021 (PDF)

21. Resolution 2021-22

Set Salaries for Department Heads and Assistant Department Heads 2021

FINANCIAL IMPACT:

Per schedule

ATTACHMENTS:

- DH Chart - EXEMPT SALARIES 2021 (PDF)

22. Resolution 2021-23

2021 Town Board Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 Proposed Town Board Meeting Dates (PDF)

23. Resolution 2021-24

2021 Planning Board Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 DRAFT Planning Board Calendar (PDF)

24. Resolution 2021-25

2021 Zoning Board of Appeals Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 ZBA Meeting Schedule B (PDF)

25. Resolution 2021-26

2021 Amherst Traffic Safety Board Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 16487 (PDF)

26. Resolution 2021-27

2021 Amherst Historic Preservation Commission Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 HPC Meeting Dates (PDF)

27. Resolution 2021-28

2021 Design Advisory Board Meeting Dates

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2021 DRAFT Design Advisory Board Calendar (PDF)

28. Resolution 2021-29

2021 Budget Calendar

FINANCIAL IMPACT:

None

ATTACHMENTS:

- 2022 BUDGET CALENDAR - FINAL FOR REORG AGENDA (PDF)

29. Resolution 2021-30

Appointment to Amherst Industrial Development Agency

FINANCIAL IMPACT:

None for resolution

ATTACHMENTS:

- Frank LoTempio III (DOCX)

30. Resolution 2021-31

Re-Appointment of A.D.A. (Americans with Disabilities Act) Coordinators 2021

FINANCIAL IMPACT:

None

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 (4)

Deputy Supervisor Jacqualine Berger appoints Susan Zummo to the Amherst Committee on Disabilities for her first term to conclude December 31, 2022.

3. Amherst Community Diversity Commission (4)

4. Amherst Conservation Advisory Council (4)

5. Amherst Industrial Development Agency (1)

6. Amherst Veterans Committee (3)

7. Arts & Culture in Public Places Board (1)

8. Board of Assessment Review

Membership is full.

9. Board of Electrician Examiners

Membership is full.

10. Board of Ethics (1)

11. Board of Plumbing and Drainage Examiners

Membership is full.

12. Citizens Financial Advisory Committee (3)

13. Design Advisory Board

14. Employee Suggestion Program Merit Award Board

Membership is full.

15. Employee Suggestion Review Committee

Membership is full.

16. Energy Conservation Citizens Advisory Committee (4)

17. Freedom of Information Law (FOIL) Board (3)

18. Glen Park Joint Board

Membership is full.

19. Government Study Committee (2)

20. Historic Preservation Commission

Membership is full.

21. Information Technology Advisory Committee (1)

22. Library Board of Trustees

Membership is full.

23. Minority / Woman Owned Business (4)

24. Open Government Advisory Board

Supervisor Kulpa re-appoints Roy DeFrancis to the Open Government Advisory Board for his second term to end December 31, 2023.

Deputy Supervisor Jacqualine Berger re-appoints Philip Meyer to the Open Government Advisory Board for his second term to end December 31, 2023.

25. Planning Board (1)

26. Recreation Commission (2)

27. Recycling and Waste Committee (3)

28. Senior Services Advisory Board (1)

29. Traffic Safety Board

Membership is full.

30. Youth Board (8)

Adult vacancies (4), Youth vacancies (4)

31. Zoning Board of Appeals

Membership is full.

X. PUBLIC EXPRESSION

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

XI. COUNCILMEMBER RESOLUTIONS

A. SUPERVISOR KULPA:

1. Resolution 2021-32

Approve Financing of Apparatus by Getzville Fire Company, Inc.

FINANCIAL IMPACT:

N/A

B. DEPUTY SUPERVISOR BERGER:

1. Resolution 2021-33

Authorization to Spend T-Account Funds

FINANCIAL IMPACT:

T 3062 & T 3063 - TBD

2. Resolution 2021-34

Planning Board Appointment

FINANCIAL IMPACT:

none

3. Resolution 2021-35

Amherst Conservation Advisory Committee Appointments

FINANCIAL IMPACT:

none

4. Resolution 2021-36

Amherst Youth Board Reappointments

FINANCIAL IMPACT:

None.

C. COUNCILMEMBER BUCKI:

1. Resolution 2021-37

Appointments to 9/11 Commemoration Committee

FINANCIAL IMPACT:

None.

2. Resolution 2021-38

Appointments to Historic Preservation Commission

FINANCIAL IMPACT:

None.

3. Resolution 2021-39

Employee Suggestion Program Merit Award Board Appointments

FINANCIAL IMPACT:

To be determined if an award is made.

4. Resolution 2021-40

Re-Appointment to the Employee Suggestion Review Committee

FINANCIAL IMPACT:

None.

D. COUNCILMEMBER LAVIN:

1. Resolution 2021-41

Board of Ethics Appointments

FINANCIAL IMPACT:

none

E. COUNCILMEMBER SZUKALA:

1. Resolution 2021-42

Re-Appointments to Amherst Traffic Safety Board

FINANCIAL IMPACT:

None.

XII. DEPARTMENT HEAD RESOLUTIONS AND REPORTS

A. TOWN ATTORNEY:

1. Resolution 2021-43

Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000)

FINANCIAL IMPACT:

Bond Resolution - $150,000

ATTACHMENTS:

- CertBondReso (PDF)
- SEQR (PDF)
- Final MPR - Generator & Restrooms (PDF)

2. Resolution 2021-44

Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $750,000)

FINANCIAL IMPACT:

Bond Resolution - $750,000

ATTACHMENTS:

- DraftSEQRNegDec (PDF)
- CertBondReso (PDF)
- MPR - Final (PDF)

3. Resolution 2021-45

Automatic Granting of Senior and Disability Real Property Tax Exemptions For 2021 Assessment Roll

FINANCIAL IMPACT:

None for the purposes of this resolution.

4. Resolution 2021-46

Hancock Estabrook Engagement Letter and Retainer Agreement (CRS #2325)

FINANCIAL IMPACT:

Partner - $275.00/hour

Associate - $225.00/hour

Paralegal - $90.00/hour

A1420.4090 (2021 Budget)

ATTACHMENTS:

- HancockEstabrookAudWest-12302020110530 (PDF)

B. TOWN CLERK:

1. Resolution 2021-47

Snow Plow Permits

FINANCIAL IMPACT:

Income to the Town.

2. Resolution 2021-48

New Firefighter for Getzville Fire Company

ATTACHMENTS:

- O'Brien_Getzville (PDF)

3. Resolution 2021-49

New Firefighter for Swormville Fire Company

ATTACHMENTS:

- Swormville Nadrich-12182020084027 (PDF)

C. ASSESSOR:

D. BUILDING/BUILDING MAINTENANCE:

E. CENTRAL ALARM:

F. COMPTROLLER:

1. Resolution 2021-50

2021 Standard Mileage Rate

FINANCIAL IMPACT:

Funding in various department budgets.

2. Resolution 2021-51

Budget Transfers and Amendments

FINANCIAL IMPACT:

See descriptions.

G. CONTRACT COMPLIANCE:

1. Resolution 2021-52

Town Wide Paint Contract - Sherwin Williams - CRS #2312

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

ATTACHMENTS:

- Sherwin Williams CRS (PDF)

2. Resolution 2021-53

Town Wide Ice Melt CRS #2320

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amouont TBD

ATTACHMENTS:

- Chemical Distributors Agreement CRS (PDF)

3. Resolution 2021-54

Award of Bid #2020028A - Tractor Parts - CRS #2291

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

ATTACHMENTS:

- Bid Tab Tractor Parts (PDF)

4. Resolution 2021-55

Award of Bid #2020027A - Worthington Pump Rebuild - CRS #2337

FINANCIAL IMPACT:

$90,000

ATTACHMENTS:

- Bid Tab 2020027A Worthington Pump Rebuild (PDF)

5. Resolution 2021-56

Authorize COVID-19 Laboratory Services Agreement with KSL Diagnostics, Inc. CRS #2340

FINANCIAL IMPACT:

A9060-0394, Under $20,000

ATTACHMENTS:

- KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (PDF)

H. COURT:

I. EMERGENCY SERVICES:

J. ENGINEERING:

1. Resolution 2021-57

Public and Private Improvement Permit Inspection Services - DiDonato Associates CRS No. 2327

FINANCIAL IMPACT:

No Financial Impact

ATTACHMENTS:

- DiDonato PIP(PDF)

2. Resolution 2021-58

Public and Private Improvement Permit Inspection Services - Fisher Associates CRS No. 2335

FINANCIAL IMPACT:

No Financial Impact

ATTACHMENTS:

- Fisher Associates PIP (PDF)

3. Resolution 2021-59

Public and Private Improvement Permit Inspection Services, Marquis Engineering CRS No. 2336

FINANCIAL IMPACT:

No Financial Impact

ATTACHMENTS:

- Marquis PIP (PDF)

4. Resolution 2021-60

Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin Electric CRS No. 2317

FINANCIAL IMPACT:

KP2009.4972; $18,050.09

ATTACHMENTS:

- Goodwin Change Order Form (PDF)

5. Resolution 2021-61

Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise Mechanical CRS No. 2329

FINANCIAL IMPACT:

KP2009.4972; $2,533.83

ATTACHMENTS:

- Parise Change Order Form (PDF)

6. Resolution 2021-62

Ditch 5 Culvert Extension @ Flint Road Change Order No. 2 & Final CRS No. 2330

FINANCIAL IMPACT:

Decrease of $6,124.24; KP1921-4972

ATTACHMENTS:

- Ditch 5 Change Order - Union Concrete (PDF)

K. FINANCE:

1. Resolution 2021-63

Adopt Procurement Policy & Contract Management Policy

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

- Procurement Policy - 2021 Reorg - Final (PDF)
- 16546 (PDF)

L. HIGHWAY:

M. HUMAN RESOURCES:

1. Resolution 2021-64

Voluntary Separation Incentive CSEA 2021

FINANCIAL IMPACT:

TBD

2. Resolution 2021-65

Police Officer (3 Positions)

N. INFORMATION TECHNOLOGY:

O. PLANNING:

1. Resolution 2021-66

To Set a Date for the Second of Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the FY 2021 Community Development Action Plan.

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no monetary consideration and will have no impact on the Town Budget or tax rate.

ATTACHMENTS:

- TB_Letter_2nd_public_hearing (PDF)

P. POLICE:

1. Resolution 2021-67

2021 Asset Forfeiture Trust Account

FINANCIAL IMPACT:

T2917: $50,000.00

2. Resolution 2021-68

2021 Safety Education Trust Fund

FINANCIAL IMPACT:

T4012: Expenditure of up to $3,000.00 in 2021

3. Resolution 2021-69

2021 Stop DWI Contract (CRS#2331) County of Erie

FINANCIAL IMPACT:

A3121 .02615: Amount TBD

ATTACHMENTS:

- 2021STOP-DWI Contract (PDF)

Q. SENIOR SERVICES:

1. Resolution 2021-70

Request to Increase Use Trust & Agency Funds - Acct. #T2100-4002

FINANCIAL IMPACT:

Increase Use of Senior Services Trust & Agency Funds in 2020 from $4,000 to $7,000

R. YOUTH AND RECREATION:

1. Resolution 2021-71

Authorization to Spend T Account Funds

FINANCIAL IMPACT:

T 2505.4002 - up to $5,000.00

ATTACHMENTS:

- T-Account Expenditure Approval (DOC)

2. Resolution 2021-72

Lease Agreement - CRS #2322

FINANCIAL IMPACT:

Revenue of $3,070.00 in both 2021 and 2022 to A 1621.02410

ATTACHMENTS:

- Kristen Redell Lease (PDF)

3. Resolution 2021-73

2020 Budget Transfer

FINANCIAL IMPACT:

Transfer $700.00 fom A 7253.4240 (2020 budget) to KP 2039.2250

XIII. COMMUNICATIONS

1. Communication 2021-1

Request for Public Hearing

ATTACHMENTS:

- 6565 Main (PDF)

2. Communication 2021-2

Amherst Community Diversity Commission 2021 Calendar

ATTACHMENTS:

- diversity calendar - final (Temp) (Converted) (PDF)

3. Communication 2021-3

Notice of Claim: Araceli Emerizy & James Emerizy Vs Town of Amherst Et Al.

ATTACHMENTS:

- DOC121420-12142020122816 (PDF)

4. Communication 2021-4

Notice of Claim: Joanne Barbati Vs Town of Amherst

ATTACHMENTS:

- DOC121520-12152020104145 (PDF)

5. Communication 2021-5

Notice of Claim: Jacqueline Culliton Vs. Town of Amherst Et Al.

ATTACHMENTS:

- DOC121720-12172020145127 (PDF)

6. Communication 2021-6

Notice of Claim: Jamelah Samaha Vs Town of Amherst

ATTACHMENTS:

- DOC122320-12232020095424 (PDF)

7. Communication 2021-7

Summons & Complaint: Mary Devaney Vs Town of Amherst Et Al.

ATTACHMENTS:

- DOC121420-12142020124029 (PDF)

8. Communication 2021-8

Summons & Verified Complaint: Cara Wojtach Vs. Town of Amherst Et Al.

ATTACHMENTS:

- DOC121820-12182020135452 (PDF)

9. Communication 2021-9

Summons & Verified Complaint: Savanna Hinten Vs. Town of Amherst Et Al.

ATTACHMENTS:

- DOC121820-12182020150516 (PDF)

XIV. PUBLIC IMPROVEMENT PERMITS

1. Resolution 2021-74

PIP 3073 - Auden Amherst Development - Sanitary Sewer

FINANCIAL IMPACT:

G9000-02377; $7,339.50

ATTACHMENTS:

- DOC123020 (PDF)

XV. PUBLIC EXPRESSION #2

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

XVI. ADJOURNMENT

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22709

RESOLUTION 2021-1

To Authorize Amendments to the FY 2020 Annual Action Plans for Community Development.

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

WHEREAS, the Town has established amendments for the second special CDBG appropriation made by the CARES Act and revised programming in regular entitlement allocations to respond to the COVID-19 crisis; and

WHEREAS, the Town is seeking to amend the FY 2020 Action Plan to increase the FY 2020 CDBG Budget to incorporate $1,159,433 in Supplemental COVID (award #2) funds awarded by the CARES Act and allocate according to the following program/budget lines:

Village of Williamsville - PPE for Williamsville Fire Dept.	$ 20,160
Emergency Mortgage Assistance for LMI Households	$ 265,273
Family Justice Center	$ 30,000
Housing Counseling/Admin. (Belmont Housing Resources for WNY)	$ 40,000
Legal Aid Bureau - LMI Asst. for Threat of Homelessness	$ 25,000
Center for Elder Law & Justice - LMI Elderly Legal Asst.	$ 62,500
Amherst Senior Services Programming	$ 30,000
Meals on Wheels	$ 40,000
Senior Services Mental Health Asst.	$ 125,000
Medical Director - Programming Support	$ 24,000
Testing - Programming Support	$ 95,000
Senior Foundation Community Center & Outreach	$ 300,000
Small Business Outreach & Technical Assistance (COVID)	$ 20,000
Community Vaccine Logistics	$ 30,000
Administration/Office Staff	$ 50,000
Office Expenses	$ 1,500
Public Information & Advertising	$ 1,000

WHEREAS, the Town will also decrease the FY 2020 CDBG Homeowner Rehab Program by $100,000 in regular 2020 Entitlement funds, and increase the FY 2020 CDBG Public Infrastructure in LMI areas (budget line) by $100,000 in regular 2020 Entitlement funds to support a Sewer Lining Project; and

WHEREAS, there was a 5 day comment period for these amendments advertised in the Amherst Bee and posted on the Town's website; and

WHEREAS, Community Development did not receive any written comments on the proposed amendments;

NOW THEREFORE BE IT RESOLVED, the Town of Amherst Town Board hereby authorizes the above amendments to the FY 2020 Annual Action Plans.

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no local monetary consideration and will have no impact on the Town Budget or tax rate.

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

December 28, 2020

Agenda of January 4, 2021

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

Subject: To Authorize Amendments to the FY 2020 Annual Action Plans for Community Development.

Honorable Board Members:

Amherst Community Development is proposing Substantial Amendments to FY 2020 Annual Action Plans for Amherst's Community Development Block Grant (CDBG) Program in order to support the Town's response and recovery from the COVID-19 Pandemic.

The amendments outline the programming and budget for the second special appropriation of CDBG funds, totaling $1,159,433, as awarded from the CARES Act to the 2020 Annual Action Plan. A summary of these amendments and their corresponding budgets are attached.

The Special Public Hearing notice was published on December 16, 2020 in the Amherst Bee requesting public comment on the proposed amendments. Community Development has not received any written comments to date.

A proposed resolution for adopting the substantial amendments to the Annual Action Plans is attached for your consideration. Thank you for your assistance with this matter.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

Enc.
X:\Community Development\New Structure\ANNUAL PLAN\Data 2020\Amendments\2nd Amendments\TB_Letter_Sub._Amend._1.4.21.docx

Attachment: TB Letter Sub Amend 010421 (RES-2021-1 : Substantial Amendments to the 2020 Annual Action Plan for the Use of COVID-19

Amherst COVID 2 REVISED 2020 Community Development Block Grant & HOME Program Budget 12.21.2020

2020 CDBG Allocation Town of Amherst & Village of Williamsville		COVID $ 623,056	COVID $ 366,579	COVID 2 $ 1,159,433	
Village of Williamsville Farmers Market Staff/Senior Operations			$ 25,660		
Stabilization and Rehabilitation of the Historic Meeting House		$ 33,620			
Glenn Park Nature Center Roof Rehab/Conversion		$ 10,000			
PPE for Willamsville Fire Dept.				$ 20,160	
Village of Williamsville (7% Portion per Cooperation Agreement)		**$ 43,620**	**$ 25,660**	**$ 20,160**	
Town of Amherst Portion		**$ 579,436**	**$ 340,919**	**$ 1,139,273**	
	Rehab $ 62,611	CD Payroll $96,125			
					Expected CDPI $170,000**
HOUSING ACTIVITIES					
CDBG Homeowner Rehab (Includes 3/4 Bldg. Insp. & 9/10 Clerk Typist)*		$ 158,736			*$ 146,225*
Acquisition-Rehab-Resale		$ 30,000			
Emergency Rental Assistance (Sister Program to HOME TBRA)			$ 22,919		
Mortgage Assistance for LMI households affected by COVID				$ 265,273	
Lead Testing, Risk Assessments, Clearance Testing		$ 8,000			
Weatherization Services		$ 14,000			
Total Housing Activities		***$ 210,736***	***$ 22,919***	***$ 265,273***	***$ 146,225***
PUBLIC SERVICES					
Senior Van					$ 5,775
Community Policing		$ 8,000			
Family Justice Center Signage and Outreach		$ 3,000	$ 8,000	$ 30,000	
Boys and Girls Club (Eggertsville After School)		$ 37,000			
Housing Assistance Counseling Services (Belmont Shelter Corp.)		$ 16,500	$ 30,000	$ 40,000	
Legal Aid Bureau - LMI Legal Asst for Threat of Homelessness				$ 25,000	
Center for Elder Law and Justice				$ 62,500	
B.U.L.Foreclosure Prevention Counseling		$ 8,000	$ 8,000		
YWCA, Inc.		$ 25,000	$ 8,000		
Senior Services Programming (COVID)			$ 90,000	$ 30,000	
Meals on Wheels (stipend)				$ 40,000	
Senior Services Mental Health (contractual services)				$ 125,000	
Medical Director Position (support testing for LMI programming/vaccination & immunization advising)				$ 24,000	
Testing for Continuity of Operations (staff, critical functions, programs rec/senior etc.)				$ 95,000	
Senior Foundation Community Center (COVID)				$ 300,000	
WNYIL Special COVID Programming & Supplies			$ 12,450		
Small Business Assistance - Amherst Chamber				$ 20,000	
Community Vaccine Logistics				$ 30,000	
Amherst Youth and Recreation Summercamp (COVID)*			$ 90,250		
Total Public Services		***$ 97,500***	***$ 246,700***	***$ 821,500***	***$ 5,775***
PUBLIC FACILITES					
Neighborhood Youth Center Rehab		$ 30,000			$ 10,000
Public Infrastructure in LMI Areas		$ 100,000	$ -		
Sidewalk ADA Ramps		$ 20,000			$ -
Total Public Facilities		***$ 150,000***	***$ -***	***$ -***	***$ 10,000***
ADMINISTRATION / PLANNING					
Admin. Staff and Fringe Benefits		$ 108,000	$ 40,000	$ 50,000	*$ 8,000*
Small Business Outreach & Tech Assistance (COVID)			$ 26,800		
Office Expenses		$ 1,200	$ 1,500	$ 1,500	
Public Information (advertising)		$ 2,000	$ 3,000	$ 1,000	
Fair Housing Counseling-HOME		$ 10,000			
Total Administration/Planning		***$ 121,200***	***$ 71,300***	***$ 52,500***	***$ 8,000***
Activities Total		**$ 579,436**	**$ 340,919**	**$ 1,139,273**	***$ 170,000***
CDBG Allocation	$ 623,056	2020 PI Anticipated			
2019 Program Income	$ 173,313	$ 170,000			
Total CDBG	**$ 796,369**				

2020 HOME Allocation Amherst - Cheektowaga - Tonawanda HOME Consortium	$ 938,940	Est. PI** $ 800,000
Consortium Expenses		3 Town
3 Town Administration/Program Delivery (10% of total)	$ 93,894	
Remaining portion to be split by the 3 Towns	***$ 845,046***	
Town of Amherst Portion of Remainder of HOME Grant	**$ 281,496**	**$ 200,000**
Program Income Admin Portion		$ 50,000
Additional Admin Cap COVID Allocation Allowed (bringing to 25% total)	$ 140,842	
Remaining non-admin Allocation of HOME EN	**$ 140,685**	
Town of Amherst Projects		
Housing Rehabilitation Loans	$ 100,685	$ -
Acquisition/Rehabilitation or New Construction/Resale	$ 40,000	$60,000
HOME Rental Subsidy	$ -	$90,000
First-Time Homebuyer Assistance	$ -	
	$ 140,685	***$ 200,000***

**Denotes funding from the estimated program income receipts.
*Includes Boys & Girls club Support

Attachment: Draft_Budget_2nd_COVID_12.21.20 (RES-2021-1 : Substantial Amendments to the 2020 Annual Action Plan for the Use of COVID-

SUMMARY of SUBSTANTIAL AMENDMENTS to FY 2020 ANNUAL ACTION PLANS for AMHERST COMMUNITY DEVELOPMENT

Amherst Community Development is proposing the following Substantial Amendments to the FY's 2020 Annual Action Plan for Amherst's Community Development Block Grant (CDBG). The amendments establish programming for the special CDBG appropriation made by the CARES Act and revise programming in regular entitlement allocations to respond to the COVID-19 crisis.

1. Decrease the FY 2020 CDBG Homeowner Rehab Program by $100,000 in regular 2020 Entitlement funds, and increase the FY 2020 CDBG Public Infrastructure in LMI areas by $100,000 in regular 2020 Entitlement funds to support a Sewer Lining Project.

2. Increase the FY 2020 CDBG Budget to incorporate $1,159,433 in Supplemental COVID (award #2) funds awarded by the CARES Act and allocate according to the following program/budget lines:

Village of Williamsville - PPE for Williamsville Fire Dept.	$ 20,160
Emergency Mortgage Assistance for LMI Households	$ 265,273
Family Justice Center	$ 30,000
Housing Counseling/Admin. (Belmont Housing Resources for WNY)	$ 40,000
Legal Aid Bureau – LMI Asst. for Threat of Homelessness	$ 25,000
Center for Elder Law & Justice – LMI Elderly Legal Asst.	$ 62,500
Amherst Senior Services Programming	$ 30,000
Meals on Wheels	$ 40,000
Senior Services Mental Health Asst.	$ 125,000
Medical Director – Programming Support	$ 24,000
Testing – Programming Support	$ 95,000
Senior Foundation Community Center & Outreach	$ 300,000
Small Business Outreach & Technical Assistance (COVID)	$ 20,000
Community Vaccine Logistics	$ 30,000
Administration/Office Staff	$ 50,000
Office Expenses	$ 1,500
Public Information & Advertising	$ 1,000
TOTAL CDBG-CV 2 Budget	**$ 1,159,433**

*For a full outline of the FY 2020 Annual Action Plan amended Budget, see corresponding PDF budget form, provided on a separate document.

X:\Community Development\New Structure\ANNUAL PLAN\Data 2020\Amendments\COVID 2020 Subst Amend COVID 2 Summary - Dec 21 2020.doc

Attachment: Microsoft Word - COVID 2020 Subst Amend COVID 2 Summary - Dec 21 2020 (RES-2021-1 : Substantial Amendments to the 2020

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22653

RESOLUTION 2021-2

Re-Appointment of Deputy Supervisor 2021

BE IT RESOLVED that Jacqualine G. Berger be re-appointed as Deputy Supervisor.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22660

RESOLUTION 2021-3

Re-Appointment of Town Attorney, Sr. Deputy Town Attorney, and Town Prosecutor 2021

BE IT RESOLVED that Stanley J. Sliwa be re-appointed as Town Attorney; and

BE IT FURTHER RESOLVED that Joanne A. Schultz be re-appointed as Sr. Deputy Town Attorney; and

BE IT FURTHER RESOLVED that Ann Demopoulos be re-appointed as Town Prosecutor.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22666

RESOLUTION 2021-4

Re-Appointment of Parliamentarian 2021

BE IT RESOLVED that Stanley Sliwa be re-appointed to the position of Parliamentarian.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22685

RESOLUTION 2021-5

2021 Liaisons to Boards & Committees and Departments

BE IT RESOLVED that Town Board Liaisons to Boards & Committees and Departments be set for 2021 as shown on the attached.

FINANCIAL IMPACT:

None

2021 BOARD & COMMITTEE LIAISONS

Board / Committee	Brian Kulpa	Jacqualine Berger	Deborah Bruch Bucki	Shawn Lavin	Michael Szukala	Francina Spoth
9/11 Commemoration Committee			X			
Amherst Committee on Disabilities			X			
Amherst Community Diversity Commission			X			
Amherst Conservation Advisory Council		X				
Amherst Industrial Development Agency		X				
Amherst State Park Veterans Memorial				X		
Amherst Veterans Committee				X		
Amherst Youth Board		X				
Arts and Culture in Public Places Board						X
Board of Electrician Examiners					X	
Board of Ethics				X		
Board of Plumbing and Drainage Examiners					X	
Citizens Financial Advisory Committee					X	
Design Advisory Board	X					
Employee Suggestion Program Merit Award Board			X			
Employee Suggestion Review Committee			X			
Energy Conservation		X				
Erie County Industrial Development Agency ECIDA	X					
FOIL Board					X	X
Glen Park Joint Board					X	
Government Study Committee				X		
Historic Preservation Commission			X			
Information Technology Advisory Committee				X		
Library Board of Trustees			X			
Minority and Women Owned Business		X				
Nature View Park Advisory Committee		X				
Open Government Advisory Board			X		X	
Planning Board		X				
Plumbing and Drainage Board					X	
Recreation Commission		X				
Recycling and Waste Committee					X	
Senior Services Advisory Board			X			
Traffic Safety Board					X	
Tree Board				X		
Zoning Board of Appeals		X				

Attachment: 2021 Board and Committee Liaisons (RES-2021-5 : 2021 Liaisons to Boards & Committees and Departments)

2021 DEPARTMENT LIAISONS

Board / Committee	Brian Kulpa	Jacqualine Berger	Deborah Bruch Bucki	Shawn Lavin	Michael Szukala
Amherst Fire Chiefs' Association					X
Amherst Recreation Commission		X			
Amherst Youth Board		X			
Assessor			X		
Attorney				X	
Building				X	
Central Fire Alarm			X		
Comptroller	X				
Contract Compliance & Administration	X				
Economic Development	X				
Emergency Services & Safety				X	
Engineering		X			
Finance	X				X
Highway/Refuse					X
Human Resources		X			
Information Technology				X	
Library			X		
Planning		X			
Police				X	
Senior Services			X		
Town Clerk			X		
Town Court				X	

Attachment: 2021 Department Liaisons (RES-2021-5 : 2021 Liaisons to Boards & Committees and Departments)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22659

RESOLUTION 2021-6

Re-Appointment of Town Comptroller 2021

BE IT RESOLVED that Daryl Bramer be re-appointed as Town Comptroller.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22658

RESOLUTION 2021-7

Re-Appointment of Energy Manager 2021

BE IT RESOLVED that Michael Delamere be re-appointed as the Town's Energy Manager for 2021.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22656

RESOLUTION 2021-8

Re-Appointment of Affirmative Action Officer 2021

BE IT RESOLVED that Robert McCarthy be re-appointed as Affirmative Action Officer for 2021.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22657

RESOLUTION 2021-9

Re-Appointment of Fair Housing Officer 2021

BE IT RESOLVED that Laurie Stillwell be re-appointed as Fair Housing Officer and be directed to report annually for 2021.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22654

RESOLUTION 2021-10

Re-Appointment of Town Historian 2021

BE IT RESOLVED that David Sherman be re-appointed as Town Historian for 2021.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22662

RESOLUTION 2021-11

Representation of Town of Amherst at the Associate of Erie County Governments 2021

BE IT RESOLVED that Brian Kulpa be re-appointed to represent the Town of Amherst at the Association of Erie County Governments; and

BE IT FURTHER RESOLVED the Dennis M. Powers be appointed to serve as alternate to represent the Town of Amherst at the Association of Erie County Governments.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22663

RESOLUTION 2021-12

Representation of Town of Amherst at Annual Meeting of the Association of Towns 2021

BE IT RESOLVED that Brian Kulpa be reappointed as Delegate to represent the Town of Amherst at the virtual Annual Meeting of the Association of Towns; and

BE IT FURTHER RESOLVED that Jacqualine Berger be reappointed to serve as alternate to represent the Town of Amherst at the virtual Annual Meeting of the Association of Towns; and

BE IT FURTHER RESOLVED that Supervisor Brian Kulpa, Councilwoman Jacqualine Berger, Dennis Powers, Lynda Juul and Joe McMahon be authorized to virtually attend the Annual Meeting on February 14-17, 2021.

FINANCIAL IMPACT:

None for purposes of this resolution (if a virtual event is held in 2021, expenses will be submitted at a later date if required)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22665

RESOLUTION 2021-13

Designation of Official Town Newspaper 2021

BE IT RESOLVED that *The Amherst Bee* be designated as the official town newspaper.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22650

RESOLUTION 2021-14

Designation of Official Town Depositories 2021

BE IT RESOLVED that all commercial banks having offices and doing business in Erie County be designated as official Town depositories.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22652

RESOLUTION 2021-15

Check Signing 2021

BE IT RESOLVED that the Comptroller will counter sign all checks with the Supervisor, and that the Deputy Supervisor will sign for the Supervisor when he is unavailable, and

BE IT FURTHER RESOLVED that the Supervisor and/or the Comptroller be authorized to use facsimile signatures for signing checks.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22648

RESOLUTION 2021-16

Payment of Department Expense Accounts 2021

BE IT RESOLVED that the Comptroller be authorized to pay various expense accounts as set up in the annual budget when presented on approved vouchers and purchase cards.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22655

RESOLUTION 2021-17

Approve Town Officials' Blanket Bond 2021

BE IT RESOLVED that the blanket bond to provide surety protection for the Supervisor, Deputy Supervisor, Director of Finance, Comptroller, Town Clerk, Judges, and Highway Superintendent be approved.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22678

RESOLUTION 2021-18

2021 Office Hours and Standard Workday Hours

BE IT RESOLVED that the office hours and the standard workday hours be set as follows for 2021:

8:00 a.m. to 4:30 p.m., Monday to Friday, for Assessor's Office
8:30 a.m. to 4:30 p.m., Monday to Friday, for Attorney's Office
8:00 a.m. to 4:00 p.m., Monday to Friday, for Building
9:00 a.m. to 5:00 p.m., Monday to Friday, for Community Development
8:00 a.m. to 4:00 p.m., Monday to Friday, for Contract Compliance / Finance
8:00 a.m. to 4:00 p.m., Monday to Friday, for Economic Development
8:00 a.m. to 5:00 p.m., Monday to Friday, for Emergency Services (24-hour call)
8:00 a.m. to 4:00 p.m., Monday to Friday, for Engineering Main Office (North Forest Rd.)
7:00 a.m. to 3:30 p.m., Monday to Friday, for Engineering Sewer Maintenance Division
7:00 a.m. to 3:30 p.m., Monday to Friday, for Highway/Refuse/Parks
9:00 a.m. to 5:00 p.m., Monday to Friday, for Planning
8:30 a.m. to 4:30 p.m., Monday to Friday, for Police Department Records Requests
8:30 a.m. to 4:30 p.m., Monday to Friday, for Senior Center
8:00 a.m. to 4:30 p.m., Monday to Friday, for Supervisor's Office
8:00 a.m. to 4:00 p.m., Monday to Friday, for Town Clerk
7:30 a.m. to 3:30 p.m., Monday to Friday, for Wastewater Treatment Facility
8:30 a.m. to 5:30 p.m., Monday to Friday, for Youth & Recreation
9:00 a.m. to 5:00 p.m., Monday to Friday, for General Offices

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22680

RESOLUTION 2021-19

Set 2021 Holiday Schedule

BE IT RESOLVED that the 2021 holiday schedule be approved as shown on the attached list.

FINANCIAL IMPACT:

None

TOWN OF AMHERST
HOLIDAY SCHEDULE FOR 2021

Friday	January 1	New Years Day
Monday	January 18	M. L. King, Jr. Day
Friday	February 12	Lincoln's Birthday *
Monday	February 15	Washington's Birthday
Friday	April 2	Good Friday
Monday	May 31	Memorial Day
Friday	June 18	Juneteenth
Monday	July 5	Independence Day
Monday	September 6	Labor Day
Monday	October 11	Columbus Day
Tuesday	November 2	Election Day **
Thursday	November 11	Veterans Day
Thursday	November 25	Thanksgiving Day
Friday	November 26	Day after Thanksgiving ***
Friday	December 24	Christmas Day
Friday	December 31, 2021	New Years Day

* Applicable only to employees represented by Central Fire Alarm Office Assn., and the Amherst Police Club

** Applicable only to employees represented by Amherst Police Club

*** Applicable only to employees represented by CSEA, Amherst Highway Employees Assn., Amherst Employees Assn., and Exempt Employees

Attachment: 2021 Holiday Schedule (RES-2021-19 : Set 2021 Holiday Schedule)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22718

RESOLUTION 2021-20

Set Salaries for Town Employees and Civil Service Employees 2021

BE IT RESOLVED that 2021 salaries for Town employees and Civil Service employees be set pursuant to the approved 2021 budget and negotiated contracts.

FINANCIAL IMPACT:

Per 2021 budget and negotiated contracts

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22716

RESOLUTION 2021-21

Set Salaries for Exempt Employees 2021

BE IT RESOLVED that 2021 salaries for Exempt Employees be set as shown on the attached.

FINANCIAL IMPACT:

Per schedule

EXEMPT SALARIES 2021
Non - Department Heads

Class Title	2021 Salary
Asst Municipal Engineer - Plant	114,569.51
Asst. Municipal Engineer - Eng.	114,569.51
Sr. Deputy Town Attorney	114,569.51
Sewage Maintenance Engineer	101,988.68
Asst. WWTP Superintendent (Maintenance)	101,988.68
WWTP Process Supervisor	101,988.68
Laboratory Director - WWTP	Vacant
Director of Economic Development	84,767.38
Principal Planner	84,767.38
*Sr. Recreation Specialist	113,823.58
Deputy Town Attorney	77,908.02
Sr. Paralegal	74,521.04
Deputy Town Attorney - PT	38,377.98
Deputy Town Clerk	70,825.47
Deputy Town Clerk	63,857.48
Deputy Town Clerk	60,485.06
Principal Personnel Clerk	70,825.47
Paralegal	Vacant
Asst. to the Chief of Police	67,746.40
Contracts Technician	60,485.06
Asst. to the Supervisor	62,326.41
Sr. Secretary, HR	62,326.41
Sr. Secretary, HR	57,880.42
Court Analyst	59,616.83
Exec. Asst. to the Supervisor	51,802.29
Secretary, Council Office	48,750.00
Secretary, Attorney Office	48,750.00

* Includes $26,000 Stipend

Attachment: Non-DH Chart - EXEMPT SALARIES 2021 (RES-2021-21 : Set Salaries for Exempt Employees 2021)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22717

RESOLUTION 2021-22

Set Salaries for Department Heads and Assistant Department Heads 2021

BE IT RESOLVED that 2021 salaries for Department Heads and Assistant Department Heads be set as shown on the attached.

FINANCIAL IMPACT:

Per schedule

EXEMPT SALARIES 2021 Department Heads and Assistant Department Heads	
Class Title	**2021 Salary**
Town Attorney	127,404.21
Town Comptroller	127,404.21
Director of Human Resources	140,963.31
Director of Finance	130,907.83
*Town Assessor	145,492.79
Town Engineer	131,546.40
Commissioner of Buildings	107,708.05
Planning Director	114,860.95
Director of Contract Compliance	Vacant
Director of Youth & Recreation	119,233.66
Director of IT	115,760.83
CE & Planning Officer	Vacant
Director of Senior Services	94,185.98
Clerk to Town Justice	108,394.23
Deputy Town Comptroller	94,185.98
Chief of Staff	91,888.76
**Assistant Planning Director	104,659.80
Director of Emergency Services & Safety	96,267.63
Deputy Highway Superintendent	84,679.08
Senior Fire Dispatcher	92,082.48
Deputy Director of Senior Services	75,001.47
*Budgeted Salary includes $10,000 Stipend	
**Budgeted Salary includes $6,000 Stipend	

Attachment: DH Chart - EXEMPT SALARIES 2021 (RES-2021-22 : Set Salaries for Department Heads and Assistant Department Heads 2021)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22698

RESOLUTION 2021-23

2021 Town Board Meeting Dates

BE IT RESOLVED that the attached schedule of Town Board and Work Session meeting dates be adopted for 2021.

FINANCIAL IMPACT:

None

2021 Proposed Town Board Meeting Dates

Date	Work Session Time	Town Board Meeting Time
Tuesday, January 19	4:00pm	7:00pm
Monday, February 1	4:00pm	7:00pm
Monday, February 22	4:00pm	7:00pm
Monday, March 8	4:00pm	7:00pm
Monday, March 22	4:00pm	7:00pm
Monday, April 5	4:00pm	7:00pm
Monday, April 19	4:00pm	7:00pm
Monday, May 3	4:00pm	7:00pm
Monday, May 17	4:00pm	7:00pm
Monday, June 7	4:00pm	7:00pm
Monday, June 21	4:00pm	7:00pm
Monday, July 12	4:00pm	7:00pm
Monday, July 26	---	3:00pm
Monday, August 9	4:00pm	7:00pm
Monday, August 23	---	3:00pm
Monday, September 13	4:00pm	7:00pm
Monday, September 27	4:00pm	7:00pm
Monday, October 4	4:00pm	7:00pm - Budget Public Hearing & Board Meeting
Monday, October 18	4:00pm	7:00pm - Budget Public Hearing & Board Meeting
Monday, October 25	4:00pm	7:00pm - Budget Public Hearing & Board Meeting
Monday, November 8	4:00pm	7:00pm
Monday, November 22	4:00pm	7:00pm
Monday, December 20	4:00pm	7:00pm
Monday, January 3, 2022	---	7:00pm - Reorganization

Attachment: 2021 Proposed Town Board Meeting Dates (RES-2021-23 : 2021 Town Board Meeting Dates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22605

RESOLUTION 2021-24

2021 Planning Board Meeting Dates

BE IT RESOLVED that the attached schedule of 2021 Planning Board meeting dates be adopted.

FINANCIAL IMPACT:

None

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

Attachment: 2021 DRAFT Planning Board Calendar (RES-2021-24 : 2021 Planning Board Meeting Dates)

DRAFT
2021
Schedule of Planning Board Meetings

Note:

1. Please make an appointment with one of our planners before submittal day for a pre-submission review of your project.

2. **A submittal appointment is required.** When scheduling an appointment, please let the Planning Department know how many petitions you are intending to submit. At least one-half hour per submittal is required. Submittals made with scheduled appointments will be given priority for placement on the agenda.

3. On-time submission does not necessarily guarantee a place on the next month's agenda. You will be notified before the meeting if your project has been placed on the agenda.

Submittal Date **Monday – 4 pm**	**Reviewers' Meeting**	**Planning Board Meeting Thursday 6:30 pm**
11/16/2020	12/7/2020	01/21/2021
12/28/2020	1/11/2021	02/18/2021
1/25/2021	2/16/2021 *(Tuesday)*	03/18/2021
2/22/2021	3/15/2021	04/15/2021
3/22/2021	4/12/2021	05/20/2021
4/19/2021	5/10/2021	06/17/2021
	No July Meeting	
6/21/2021	7/12/2021	08/19/2021
7/19/2021	8/9/2021	09/23/2021
8/23/2021	9/13/2021	10/21/2021
9/20/2021	10/12/2021 *(Tuesday)*	11/18/2021
	No December Meeting	
11/15/2021	12/6/2021	01/20/2022

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22679

RESOLUTION 2021-25

2021 Zoning Board of Appeals Meeting Dates

BE IT RESOLVED that the attached schedule of 2021 Zoning Board of Appeals meeting dates be adopted.

FINANCIAL IMPACT:

None

TOWN OF AMHERST

TOWN CLERK'S OFFICE

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

Francina J. Spoth
Town Clerk

Kathleen Cooper
Deputy Town Clerk

Timothy Koller
Asst. Deputy Town Clerk

2021 ZONING BOARD OF APPEALS MEETING SCHEDULE
-Virtual Meetings Start at 6:00 PM/Regular Meetings Start at 6:30 PM

FILING DEADLINE	MEETING DATE
December 21, 2020	January 26, 2021
January 25, 2021	February 23, 2021
February 16, 2021	March 16, 2021
March 22, 2021	April 20, 2021
April 19, 2021	May 18, 2021
May 17, 2021	June 15, 2021
June 14, 2021	July 20, 2021
July 19, 2021	August 17, 2021
August 23, 2021	September 21, 2021
September 20, 2021	October 19, 2021
October 18, 2021	November 16, 2021
November 22, 2021	December 21, 2021

Please note: That on-time filing does not necessarily guarantee a place on the next month's agenda. You will be notified before the meeting if your application has been placed on the agenda.

Attachment: 2021 ZBA Meeting Schedule B (RES-2021-25 : 2021 Zoning Board of Appeals Meeting Dates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22647

RESOLUTION 2021-26

2021 Amherst Traffic Safety Board Meeting Dates

BE IT RESOLVED that the attached schedule of 2021 Amherst Traffic Safety Board meeting dates be adopted.

FINANCIAL IMPACT:

None

TOWN OF AMHERST

TRAFFIC-SAFETY BOARD

MUNICIPAL BUILDING – 5583 MAIN STREET, WILLIAMSVILLE, NEW YORK 14221
TRAFFIC SAFETY COORDINATOR - TELEPHONE 631-7154 - FAX 631-7222

MICHAEL SZUKALA
Councilmember & Liaison Officer

ERIC FRAAS
Chairman

DANIEL J. RIDER, P.E.
Vice Chairman

CHRISTOPHER P. SCHREGEL
Traffic Safety Coordinator

MEMBERS
MICHELLE NAGEL
KENNETH A. SMITH
J. MICHNIEWICZ, P.E., P.T.O.E.
MARK STORCH
MAXWELL KAHN
KEVIN CANTWELL
KRISTIN GOSS
GREGORY DIONNE

DEPT. LIAISONS

ROBERTA RAPPOCCIO
Planning

CAPT. KEVIN BROWN
Police

JOE FRESE
Building

AL SPOTH
Highway

2021 MEETING DATES
AMHERST TRAFFIC SAFETY BOARD

All meetings begin at 7:00 p.m. at the Town Hall Council Chambers, unless otherwise noted below

January 6, 2021

February 3, 2021

March 3, 2021

April 7, 2021

May 5, 2021

June 16, 2021

July - No meeting

August 4, 2021

September 1, 2021

October 6, 2021

November 3, 2021

December 1, 2021

January 5, 2021

Attachment: 16487 (RES-2021-26 : 2021 Amherst Traffic Safety Board Meeting Dates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22632

RESOLUTION 2021-27

2021 Amherst Historic Preservation Commission Meeting Dates

BE IT RESOLVED that the attached schedule of 2021 Amherst Historic Preservation Commission meeting dates be adopted.

FINANCIAL IMPACT:

None

HISTORIC PRESERVATION COMMISSION

MEETING SCHEDULE – 2021

All meetings to begin at 7:00 p.m.

January 12

February 9

March 9

April 13

May 11

June 8

August 10

September 14

October 12

November 9

December 14

Attachment: 2021 HPC Meeting Dates (RES-2021-27 : 2021 Amherst Historic Preservation Commission Meeting Dates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22606

RESOLUTION 2021-28

2021 Design Advisory Board Meeting Dates

BE IT RESOLVED that the attached schedule of 2021 Design Advisory Board meeting dates be adopted.

FINANCIAL IMPACT:

None

Amherst

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

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

DRAFT
2021
Schedule of Design Advisory Board Meetings

Submittal Date Monday	DAB Report Delivered	DAB Meeting	Planning Board Meeting of
11/16/2020	12/4/2020	12/17/2020	01/21/2021
12/28/2020	1/15/2021	1/28/2021	02/18/2021
1/25/2021	2/12/2021	2/25/2021	03/18/2021
2/22/2021	3/12/2021	3/25/2021	04/15/2021
3/22/2021	4/9/2021	4/22/2021	05/20/2021
4/19/2021	5/14/2021	5/27/2021	06/17/2021
6/21/2021	7/9/2021	7/22/2021	08/19/2021
7/19/2021	8/13/2021	8/26/2021	09/23/2021
8/23/2021	9/17/2021	9/30/2021	10/21/2021
9/20/2021	10/15/2021	10/28/2021	11/18/2021
11/15/2021	12/3/2021	12/16/2021	01/20/2022

Attachment: 2021 DRAFT Design Advisory Board Calendar (RES-2021-28 : 2021 Design Advisory Board Meeting Dates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 22728

RESOLUTION 2021-29

2021 Budget Calendar

BE IT RESOLVED that the 2022 Budget Calendar be approved as shown on the attached document.

FINANCIAL IMPACT:

None

Town of Amherst
2022 Proposed Budget Calendar
January 4, 2021

DESCRIPTION	Comptroller's Office to send to Departments by:	Departments to return to Comptroller's Office by:	Other Dates/Comments
Town Board adopts Budget Calendar (Annual Reorganization Meeting in January)			January 4
Budget Worksheets for Lighting, Drainage, Sewer, Fire and Water Districts sent via inter-office mail to Engineering and Highway (Benefit Basis Budgets)	April 15	May 15	
Budget Worksheets for General, Part Town, Community Environment & Highway sent via inter-office mail to Department Heads (Operating Funds)	May 1	May 31	
Payroll sheets completed by Comptroller's Office and submitted to HR for review	May 1	May 21	
Payroll sheets emailed by Comptroller's Office to departments for review	May 21	May 31	
Appointments with Department Heads to discuss Benefit Basis Budget & Operating Budget Requests			June 1-30
Review of Benefit Basis Budgets and Operating Budgets by Budget Officer (Supervisor), Director of Finance, and Comptroller			July 1-31
Setting of Elected Officers' Salaries by Town Board Resolution (First September TB Meeting)			September 7 (Tuesday)
Budget Officer files Benefit Basis (Special District) Budgets with Town Clerk *(No later than September 15)*			September 15

NOTE: ***Italics indicates legal requirement.*** **Any date that falls on a weekend or holiday reverts to the prior workday.**

Attachment: 2022 BUDGET CALENDAR - FINAL FOR REORG AGENDA (RES-2021-29 : 2022 Budget Calendar)

DESCRIPTION	Comptroller's Office to send to Departments by:	Departments to return to Comptroller's Office by:	Other Dates/Comments
Files for added tax bill items given to Assessor/IT ✓ Sidewalks ✓ Delinquent ECWA ✓ Delinquent Village water ✓ Code violations ✓ Omitted tax			September 30
Budget Officer files Operating Budgets with Town Clerk (Tentative Budget), including Proposed Capital Improvement Plan (CIP) *(No later than September 30)*			September 30
Tentative Budget submitted to Town Board; Copies placed on file in Town Libraries *(At regular or special meeting of the Town Board, No later than October 5)*			October 4
Review of Tentative Budget by Town Board; Preliminary Budget filed with Town Clerk (if TB makes changes to Tentative Budget; otherwise Tentative budget becomes Preliminary Budget) *(Prior to publication of legal notice for PH)*			October 4-12
Town Clerk to publish Notice of Public Hearing on Preliminary Budget including Elected Officials' Salaries *(Must be published 5 days prior to PH)*			October 13
Hearing on Preliminary Budget (*PH to be held on or before the Thursday following the general election, and may not be adjourned beyond November 15)*			October 18 October 25
Budget to be Adopted *(No later than November 20)*			October 25
Fire District Budgets to be submitted to Budget Officer *(No later than November 7)*			November 7

NOTE: ***Italics indicates legal requirement.*** **Any date that falls on a weekend or holiday reverts to the prior workday.**

Attachment: 2022 BUDGET CALENDAR - FINAL FOR REORG AGENDA (RES-2021-29 : 2022 Budget Calendar)

DESCRIPTION	Comptroller's Office to send to Departments by:	Departments to return to Comptroller's Office by:	Other Dates/Comments
Summary Pages for Sewer, Drainage and Water given to Assessor to calculate rates (Assessor)			ASAP
Assessment files for the 2022 County/Town Tax Extension must be ready for transmission to Real Property These files must include the unpaid Town charges. Signed letter of authorization must be sent to have amounts included.			Week of Nov 1
Town budgets shall be certified to the County at least one week prior to the last Tuesday in November. (This includes special district rates calculated by Assessor)			No later than November 23
Budget Officer/Comptroller assists IT in making adopted budget available on Town web site			December 15
County sends reports for final approval. Town to reconcile and approve (See levy reconciliation worksheet for codes to exclude from totals to reconcile to Town amount to raise)			Mid-Late December
Budget Officer/Comptroller to approve and confirm to County			2 days after receipt
County to print tax bills			Approx. 3 days after final approval received by County (Town errors or failure to meet deadlines will cause delays)
Town Clerk to receive tax bills & process for mailing.			As soon as available

NOTE: ***Italics indicates legal requirement.*** **Any date that falls on a weekend or holiday reverts to the prior workday.**

Attachment: 2022 BUDGET CALENDAR - FINAL FOR REORG AGENDA (RES-2021-29 : 2022 Budget Calendar)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22735

RESOLUTION 2021-30

Appointment to Amherst Industrial Development Agency

WHEREAS, The Amherst Town Board is appointing Frank LoTempio III to the Amherst Industrial Development Agency; now, therefore

BE IT RESOLVED that Frank LoTempio III be appointed to a term of seven years on the Amherst Industrial Development Agency ending 12/31/27.

FINANCIAL IMPACT:

None for resolution

Frank LoTempio III

1 Four Seasons Cir
Amherst NY 14226
Flotempio@lotempiopc.com

Education

- University at Buffalo Law School, Buffalo, New York , Juris Doctor
- Clerk, United Steelworkers of America Office of General Counsel in Pittsburgh, Pennsylvania
- University of Rochester, Rochester B.A. cum laude - 1994
- Management Certificates of Business, Simon School of Business
- Major: Political Science Minor: Business

Professional Associations And Memberships

- Board of directors of the Ashford Hollow Foundation.
- America's Top 100 Criminal Defense Attorneys
- Erie County Bar Association, Member
- New York State Bar Association, Member
- New York State Defenders Association,
- Member Erie County Bar Association Board
- Former Director American Bar Association, Member

LoTempio P.C. law group
181 Franklin St
President
Areas Of Practice

- Criminal Law
- Personal Injury
- Business, Corporate and Employment Law

Bar Admissions

- New York, 1998
- Florida, 1999
- U.S. District Court Western District of New York, 1998

Attachment: Frank LoTempio III (RES-2021-30 : Appointment to Amherst Industrial Development)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Supervisor
Initiated by: **Brian J. Kulpa**
Co-Sponsored by:

DOC ID: 22661

RESOLUTION 2021-31

Re-Appointment of A.D.A. (Americans with Disabilities Act) Coordinators 2021

BE IT RESOLVED that Robert McCarthy is re-appointed as A.D.A. Coordinator, and Mark Berke is re-appointed as A.D.A. Coordinator for 2021.

FINANCIAL IMPACT:

None

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by: **Supervisor Brian J. Kulpa**

DOC ID: 22721

RESOLUTION 2021-32

Approve Financing of Apparatus by Getzville Fire Company, Inc.

WHEREAS, the Getzville Fire Company would like to purchase three (3) fire apparatus in the combined financing amount of $2,659,069 principal, financed over three (3) years; and

WHEREAS, the financing company requires municipal approval via resolution for such financing;

NOW, THEREFORE, BE IT RESOLVED, the Town of Amherst, Erie County, New York hereby approves of the financing by the Getzville Fire Company, Inc.; and

BE IT FURTHER RESOLVED, the Town in no way guarantees the obligation through this approval.

FINANCIAL IMPACT:

N/A

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 22741

RESOLUTION 2021-33

Authorization to Spend T-Account Funds

WHEREAS, the Town of Amherst had an agreement with a private vendor to maintain and operate the Audubon, Par 3 and Oakwood Golf Courses from 2015 through 2020, and

WHEREAS, that agreement has expired and a new operator is being sought, and

WHEREAS, there are various repairs and improvements that need to be made to all three properties prior to a new vendor beginning in 2021, and

WHEREAS, there are funds available in accounts T3062 and T3063, accumulated from annual season pass surcharges in those years,

NOW THEREFORE BE IT RESOLVED, that the Amherst Town Board authorizes the use of funds in T3062 and T3063 to make necessary repairs and improvements to the town's existing golf course facilities, not to exceed the amount in those accounts as of January 1, 2021 and following all Town of Amherst purchasing and contracting procedures.

FINANCIAL IMPACT:

T 3062 & T 3063 - TBD

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 22691

RESOLUTION 2021-34

Planning Board Appointment

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

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

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

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

WHEREAS, Brittany Lee Penberthy has served on the Planning Board and has expressed interest in continuing to serving.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Brittany Lee Penberthy to her first full term to conclude December 31, 2027.

FINANCIAL IMPACT:

none

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 22692

RESOLUTION 2021-35

Amherst Conservation Advisory Committee Appointments

WHEREAS, the Amherst Conservation Advisory Council (ACAC) provides advice to the Amherst Town Board and Planning Board regarding land use concerns such as environmental, open space and conservation issues. It is responsible, with the assistance of the Town Planning Department, for creating and maintaining the Open space Index, including a map showing environmental quality and conservation issues related to rezoning and development proposals submitted for Town approval; and

WHEREAS, the ACAC meets monthly in public session, has a roster maximum of nine (9), and currently has five (5) members; and

WHEREAS, Elizabeth Graczyk Dagostino, whose term expires December 31, 2021, serves as a member and would like to continue as a resource person; and

WHEREAS, Allison Chertack has expressed interest in serving on the ACAC.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Allison Chertack to the Amherst Conservation Advisory Council for a term to conclude December 31, 2023; and

BE IT FURTHER RESOLVED that the Amherst Town Board appoints Elizabeth Graczyk Dagostino as a resource person, which term does not expire.

FINANCIAL IMPACT:

none

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Jacqualine Berger**
Co-Sponsored by:

DOC ID: 22744

RESOLUTION 2021-36

Amherst Youth Board Reappointments

WHEREAS, the Amherst Youth Board (Youth Board) 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 and participate in decisions affecting programming, policies, funding and public relations for youth programs and services.

WHEREAS, the Youth Board also relies on the efforts and contributions of citizen volunteers in its programs. Many different volunteer opportunities are available, and may be tailored to individual needs; and

WHEREAS, there are several members whose terms end December 31, 2020 and have expressed interest to continue serving.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board reappoint adult members, Dean Carroll, Mark Forden, and Ann Nichols for terms to conclude December 31, 2023; and

BE IT FURTHER RESOLVED that youth members Priya Chadhuri, Mia Hutchins, Iris Izydorczyk, and Sid Suresh be reappointed to terms to end December 31, 2023.

FINANCIAL IMPACT:

None.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by:

DOC ID: 22719

RESOLUTION 2021-37

Appointments to 9/11 Commemoration Committee

WHEREAS, after the tragic events of September 11, 2001, the Town of Amherst created a 9/11 Commemoration Committee to plan, organize and conduct an annual ceremony to remember those lost; and

WHEREAS, the membership for this committee is unlimited; and

WHEREAS, there are residents that have served and would like to continue to serve on the 9/11 Commemoration Committee.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board re-appoints Leonard Castrianno, Karen Eckert, John Kasmer and Sibu Nair to the 9-11 Commemoration Committee, all for a term to conclude December 31, 2021.

FINANCIAL IMPACT:

None.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by:

DOC ID: 22720

RESOLUTION 2021-38

Appointments to Historic Preservation Commission

WHEREAS, the Town of Amherst created a Historic Preservation Commission to address and tend to matters related to preservation of the historic, architectural, and cultural landmarks, sites and districts within the Town of Amherst while working with the Building Commissioner, Planning Board and Zoning Board of Appeals; and

WHEREAS, appointments to this committee are voted on by the Amherst Town Board after resumes are reviewed by the committee chairperson and Commission liaison to the Amherst Town Board; and

WHEREAS, Brian Swartz and Robert Marcus have expressed interest in serving as members of the Historic Preservation Commission; and

WHEREAS, their resumes have been review and deemed qualified to serve this committee.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Brian Swartz to serve as a member of the Amherst Historic Preservation Commission, for a term ending December 31, 2024; and

BE IT FURTHER RESOLVED that Robert Marcus be appointed to serve as a Resource Person on the Amherst Historic Preservation Commission.

FINANCIAL IMPACT:

None.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by:

DOC ID: 22722

RESOLUTION 2021-39

Employee Suggestion Program Merit Award Board Appointments

WHEREAS, Chapter 12 of the Code of the Town of Amherst with respect to the Employee Suggestion Program designated that the Merit Award Board membership consist of the Town Board and two private citizens with business backgrounds, who are to be appointed usually by a majority vote of the Town Board at the Town Reorganization Meeting.

NOW THEREFORE BE IT RESOLVED that Supervisor Brian Kulpa, Deputy Supervisor Jacqualine Berger, Councilmember Deborah Bruch Bucki, Councilmember Shawn Lavin and Councilmember Michael Szukala serve as the Amherst Town Board designees, all with Merit Award Board terms ending on December 31, 2021; and

BE IT FURTHER RESOLVED that the Amherst Town Board re-appoints Oliver Young, Esq., and Robert C. Freeman, Esq., to serve as the private citizen members, both for terms ending on December 31, 2021.

FINANCIAL IMPACT:

To be determined if an award is made.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Deborah Bruch Bucki**
Co-Sponsored by:

DOC ID: 22743

RESOLUTION 2021-40

Re-Appointment to the Employee Suggestion Review Committee

BE IT RESOLVED that the Amherst Town Board re-appoints Jonathan A. Fuzak to the Employee Suggestion Review Committee for a term ending December 31, 2022.

FINANCIAL IMPACT:

None.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Shawn Lavin**
Co-Sponsored by:

DOC ID: 22694

RESOLUTION 2021-41

Board of Ethics Appointments

WHEREAS, the Amherst Board of Ethics, also known as Board of Ethics, seeks to foster an environment where Town officers, Town employees, Town agencies and citizens work together in good faith, with integrity and honesty; and

WHEREAS, the Board of Ethics has a roster maximum of five (5) members, which currently has one vacancy; and

WHEREAS, Pierre Islam and Mark Carney have expressed interest in becoming members of the Board of Ethics; and

WHEREAS, Michael Littman recently served on the Board of Ethics and would like to continue to serve.

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Board appoints Pierre Islam and Mark Carney to the Amherst Board of Ethics for their first term to conclude December 31, 2024 and re-appoints Michael Littman for a term to expire December 31, 2025.

FINANCIAL IMPACT:

none

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
Initiated by: **Michael Szukala**
Co-Sponsored by:

DOC ID: 22620

RESOLUTION 2021-42

Re-Appointments to Amherst Traffic Safety Board

WHEREAS, the Amherst Traffic Safety Board, also known as ATSB, advises the Town Board on matters affecting traffic safety on all existing and proposed roadways, subdivisions, commercial areas, and wherever cars, bicycles, recreational vehicles and pedestrians are involved; and

WHEREAS, the ATSB currently has a full roster with two members' terms to conclude December 31, 2020; and

WHEREAS, Daniel J. Rider and Mark Storch have expressed interest in continuing on the ATSB for another term.

NOW, THERERFORE, BE IT RESOLVED that the Amherst Town Board re-appoints Daniel J. Rider and Mark Storch for a term to expire December 31, 2023.

FINANCIAL IMPACT:

None.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 22729 **RESOLUTION 2021-43**

Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000)

AGENDA ITEM - JANUARY 4TH, 2021

TO: **Town Board**

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

DATE: **December 28, 2020**

RE: **Police Training Center Improvements**
2021-2026 C.I.P. - Project PO-2
Bond Resolution - $150,000.00

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

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department; and

(2) Adopt the attached bond resolution authorizing the issuance of $150,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachments, **Agenda Item - January 4th, 2021**)
Brian J. Armstrong, EIT, Assistant Municipal Engineer (*w/attachments)*
Jeffrey S. Burroughs, PE, Town Engineer *(w/attachments)*
Dan Howard, Director of Planning *(w/attachments)*
Ellen M. Kost, Assistant Director of Planning *(w/attachments)*

FINANCIAL IMPACT:

Bond Resolution - $150,000

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

January 4, 2021

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on January 4, 2021.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board members:	Jacqualine Berger, Councilwoman Deborah Bruch Bucki Councilwoman Shawn Lavin, Councilman Michael R. Szukala, Councilman
There were absent:	
Also present:	Francina J. Spoth, Town Clerk

* * *

_____ offered the following resolution and moved its adoption:

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED JANUARY 4, 2021, AUTHORIZING PHASE 1 POLICE TRAINING CENTER IMPROVEMENTS, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $150,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $150,000 TO FINANCE SAID APPROPRIATION

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to construct Phase 1 improvements for the Police Training Center at 4220 Bailey Avenue, as described in the map, plan and report dated December 2020 and prepared by the Town of Amherst Police Department (2021-2026 Capital Improvement Program, Project PO-02). The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $150,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the principal amount of $150,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $150,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

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

(a) The period of probable usefulness applicable to the specific object or purpose for which said bonds are authorized to be issued, within the limitations of Section Sections 11.00 a. 12 (a)(2) of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

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

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within ten (10) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on January 4, 2021, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "Bond Resolution of the Town of Amherst, New York, adopted January 4, 2021, authorizing Phase 1 Police Training Center improvements, stating the estimated maximum cost thereof is $150,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of $150,000 to finance said appropriation,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to construct Phase 1 improvements for the Police Training Center at 4220 Bailey Avenue, as described in the map, plan and report dated December 2020 and prepared by the Town of Amherst Police Department (2021-2026 Capital Improvement Program, Project PO-02); STATING the estimated maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $150,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $150,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $150,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: January 4, 2021

FRANCINA J. SPOTH
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on January 4, 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _day of January, 2021.

(SEAL)

_____
Town Clerk

AFFIDAVIT OF POSTING

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

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned he was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2021, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on January 4, 2021, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____

Town Clerk

Subscribed and sworn to before me

this _____ day of January, 2021.

_____

Notary Public, State of New York

Attachment: CertBondReso (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

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 December 8, 2020

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer

FROM: Ellen M. Kost, AICP, Assistant Planning Director

RE: SEQR Determination – Police Training Center Improvements
TOA Project No. 2018.036 B / C

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/Type II Projects/Police Training Center Imp

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

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

Attachment: SEQR (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond

Town of Amherst
Police Department

Police Training Center Improvements
2021 - 2026 Capital Improvement Program Project PO-2
Town of Amherst Job # 2018.036B / C

Map, Plan & Report
December 2020

CONTENTS:

- 2021 – 2026 Capital Improvement Program – Project PO-2
- Introductions / Existing Conditions
- Proposed Scope of Improvements
- Financial Summary / Taxation Summary
- SEQR Determination – Type II Action
- Proposed Final Schematic Option 1 Improvement Plans

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

TOWN OF AMHERST POLICE DEPARTMENT

Police Training Center Improvements

Summary of Approved 2021-2026 Capital Improvement Program

Police Department — *Recommended Schedule (X $1,000)*

Project ID	Project Title/Description	2021	2022	2023	2024	2025	2026	Total Cost
PO-1	**Police Vehicles:** Funding for four additional police vehicles to replace older ones with maintenance issues. *(2019)*	155 LA	155 LA	155 LA	155 LA	155 LA	155 LA	$930,000
PO-2	**Bailey Ave Police Training Center Improvements:** Phase 1 – upgrade the bathroom facilities and install a backup generator. Phase 2 - creation of a live fire training house. *(2019)*	150 LA			800 LA			$950,000
PO-3	**Police Garage and Court Building Roof Improvements:** Replace and improve the existing roof systems at the Police Maintenance Garage, and Court Building. *(2019)*			216.5 LA				$216,500
PO-4	**Radio Infrastructure Replacement/ Upgrade:** Replace portable UHF police radios including GPS location server and associated programming equipment. *(2019)*	300 LA						$300,000
PO-5	**Town-wide Centralized Security Improvements:** Security and building improvements to Town buildings such as security camera upgrades, access control system improvements, physical barriers/fencing, and fixtures. *(2018)*	100 LA	100 LA	100 LA	100 LA	100 LA	100 LA	$600,000
PO-6	**Police HVAC System Improvements – Phase 5:** Last phase to replace the police firing range HVAC controls. *(2019)*		350 LA					$350,000
PO-7	**APD/Court Building Improvements:** Installation of awnings and a gradual replacement of the crawl space piping, building windows and window sills. *(2019)*			100 LA				$100,000
PO-8	**Police & Fire Emergency Communications Tower:** Co-locate up to 3 cellular carriers and police/fire antennas on a 300 ft. tower in North Amherst. *(2021)*				500 LA			$500,000

Key:

Funding Source
T - Tax
L – Bond
S – Surplus
RF – Recreation Fund
OF – Open Space Fund
F/S – Federal or State Aid
X – Private or Other Source

Funding Account
A – General Account
B – Part Town
C – Community Environment
D – Highway
E – Lighting
G – Sanitary Sewer District
H – Storm Drainage District
I – Water District
W – Water Pollution Control Facility
- Special District Number
NS – None Submitted

INTRODUCTION / EXISTING CONDITIONS:

The existing Town of Amherst Community Policing and Training Center is located at 4220 Bailey Avenue, Eggertsville, 14226. The site is a formerly a Harley Davidson dealership, maintenance and storage facility. The single building on the site is single-story structure that is approximately 46,760 square foot in size. The building was constructed in phases, with an original bowling alley being built at the south end of the site in 1949. Subsequent additions were added in 1967 and again in 1974 when the building was repurposed into a furniture store. Lastly, a fourth addition was constructed at the north end of the site during the 1980's.

This facility was purchased by the Town of Amherst in 2018 for the purpose of creating a community outreach location where the Amherst Police can create a greater presence through enhanced exposure within the immediate area of this facility. Due to the availability of space within this facility, the Town has designated this facility as a central emergency management coordination site where all aspects of numerous emergent situations may be coordinated from a safe and secure environment.

Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond

TOWN OF AMHERST POLICE DEPARTMENT

Police Training Center Improvements

PROPOSED SCOPE OF IMPROVEMENTS:

Restroom Improvements:

In an effort to fully realize the size potential of this facility, the existing two (2) unisex restroom areas must be expanded and improved. As current building codes limit the current occupancy and therefore use of the facility, this project seeks to increase the number of restroom facilities. Through numerous collaborative meetings with many user groups of the facility, DiDonato Associates developed the enclosed Final Schematic Option Improvement Plans within this report. These interior modifications will all be ADA compliant and include interior wall, electrical, mechanical and plumbing modifications. One (1) of the current unisex toilet rooms will be reallocated and expanded to become a male toilet room, consisting of two (2) toilets, one (1) urinal, associated partitions and a single sink. The remaining unisex toilet room will be modified to meet ADA code compliance standards and include one (1) toilet and a single sink. An adjacent storage space will be expanded and divided into two (2) spaces. A utility closet will be located within the first space and a second unisex restroom will occupy the second space to include a single toilet and sink. Lastly, a portion of the former retail space will be reallocated as a female toilet room to include three (3) toilets, associated partitions and a single sink.

Emergency Generator Improvement:

In an effort to provide safe, redundant, reliable emergency operations and communications, a new emergency electric power generator will be installed at the subject facility. Installation of an exterior diesel 200kVA emergency generator, automatic transfer switch and also a twist-lock bypass connection will all serve to ensure continuous emergency functionality within this facility as it is designated as a 24/7/365 emergency management location for the Town.

As per the above, the scope of this project will include many types of construction to include; demolition, plumbing, mechanical and HVAC, electrical and fire alarm, drywall, furnishings and finishing improvements. The project scope described above will be bid and constructed during 2021. The above project will be bonded against the Town of Amherst General Fund at a *total project cost* of $150,000.00, financed entirely with serial bonds. The above project is characterized as the internal reconstruction of a "Class A" building to also include the installation of an exterior generator to be located adjacent to the facility. The improvements provided within the scope of this project will have a minimum life cycle of 10 years.

FINANCIAL SUMMARY:

Estimated Construction Costs	$	135,000
Engineering / Professional Services		14,250
Legal / Administrative		750
Total Amount to be Bonded	**$**	**150,000**

TAXATION SUMMARY:

Total Bond Amount:	$ 150,000
Bond Term:	20 Years
Annual Tax Impacts:	$0.0017 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$0.174 per $100,000 property

Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond

Amherst

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

Brian J. Kulpa
Supervisor

Daniel C. Howard, Al
Planning Director

Ellen M. Kost, AICP
Assistant Planning Dire

MEMORANDUM December 8, 2020

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer

FROM: Ellen M. Kost, AICP, Assistant Planning Director

RE: SEQR Determination – Police Training Center Improvements
TOA Project No. 2018.036 B / C

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.

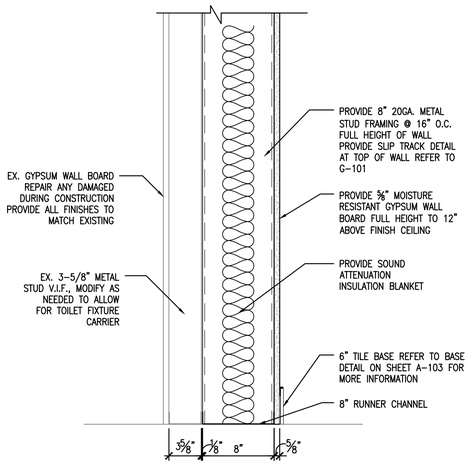
X/Special Projects/SEQR Engineering/Type II Projects/Police Training Center Imp

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

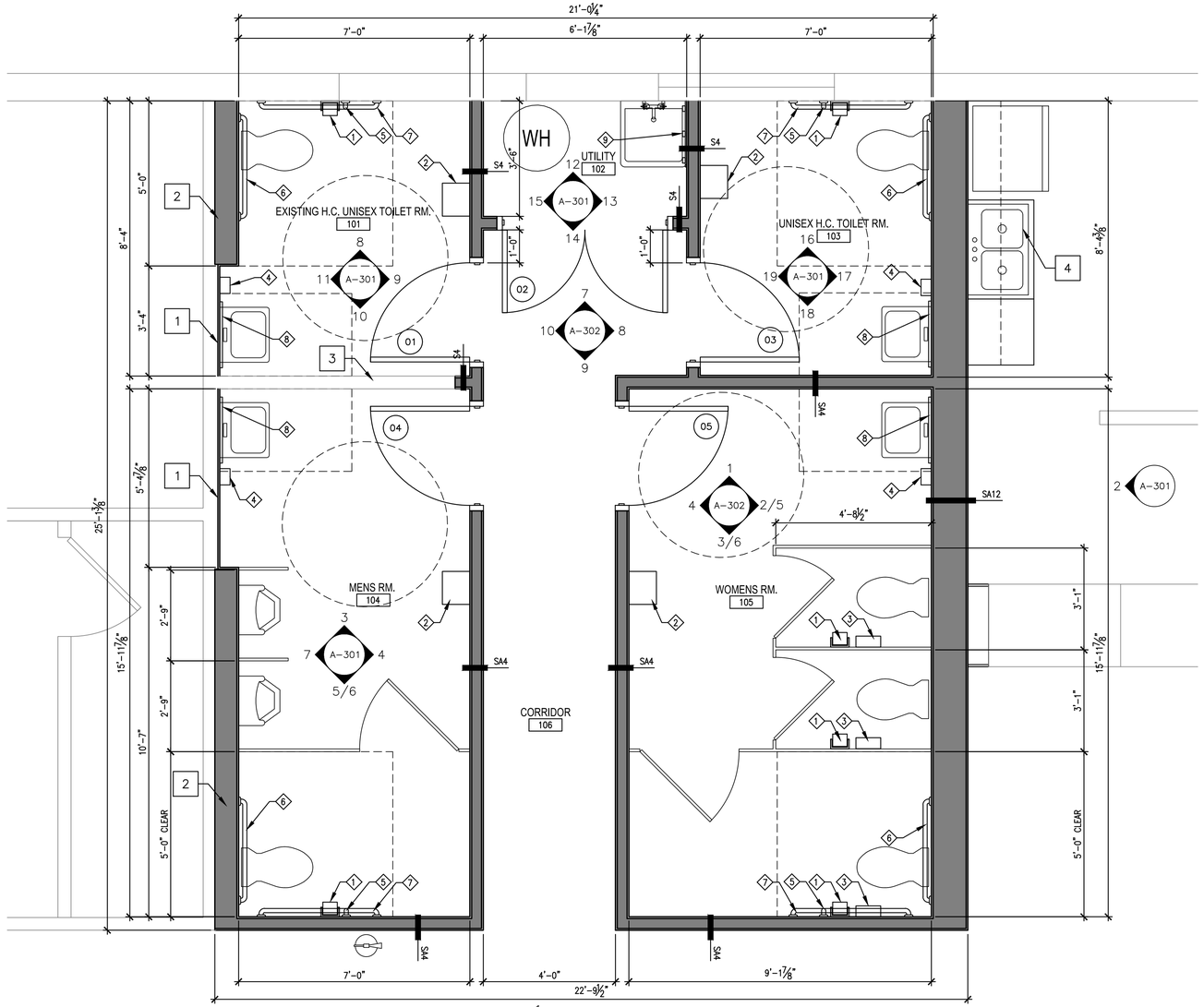
Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond

Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond

PROPOSED FINAL SCHEMATIC OPTION IMPROVEMENT PLANS



2 DETAIL
SCALE: 1 1/2"=1'-0"



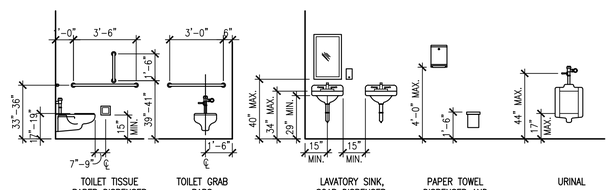
1 FIRST FLOOR PLAN
SCALE: 1/2"=1'-0"

TOILET RM. ACCESSORIES SCHEDULE

#	ITEM	MODEL #
1	TOILET PAPER DISPENSER	OWNER SUPPLIED
2	PAPER TOWEL DISPENSER	OWNER SUPPLIED
3	SANITARY NAPKIN DISPENSER	OWNER SUPPLIED
4	SOAP DISPENSER	OWNER SUPPLIED
5	GRAB BAR (18")	BOBRICK 5806.99
6	GRAB BAR (36")	BOBRICK 5806.99
7	GRAB BAR (42")	BOBRICK 5806.99
8	MIRROR	BOBRICK B-290-2436
9	MOP HOLDER	BOBRICK B-223

NOTE: -TOILET ROOM ACCESSORIES SHALL BE BOBRICK MODELS AS INDICATED OR APPROVED EQUAL.
-ALL ITEMS SHOWN AS OWNER ARE CONSIDERED OWNER PROVIDED, CONTRACTOR INSTALLED.
-REFER TO PLANS AND ELEVATIONS FOR DETAILS

PLUMBING FIXTURE MOUNTING HEIGHTS



KEY NOTES - FLOOR PLAN

#	
1	EXISTING METAL STUD FRAMING TO REMAIN. APPLY ⅝" MOISTURE RESISTANT GYPSUM WALL BOARD TO EXISTING FRAMING.
2	EXISTING METAL STUD FRAMING TO REMAIN. PROVIDE 8" 20 GAUGE METAL STUD FRAMING TO FUR OUT WALL TO ALLOW FOR PLUMBING FIXTURE FLOOR MOUNTED CARRIERS TO BE INSTALLED. SEE DETAIL 2 THIS SHHET
3	EXISTING WALL TO REMAIN REPLACE ⅝" GYPSUM BOARD AS NEEDED.
4	KITCHEN TO BE PROVIDED AND INSTALLED BY OWNER. CONTRACTOR SHALL PROVIDE PLUMING STUB FOR WATER SUPPLY AND DRAIN LINES.

DIDONATO
ENGINEERING & ARCHITECTURAL PROFESSIONALS
689 Main Street Buffalo, NY 14203
P 716 656-1900 F 716 656-1987
www.didonato.cc

NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO THIS DOCUMENT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.

Project No.
2020.092
BATHROOM RENOVATION

AMHERST POLICE

4220 BAILEY AVE
AMHERST, NY 14226

MARK	DATE	DESCRIPTION
ISSUE:		
PROJECT No:		2020-092
DESIGNER PROJECT NO:		20-3092
CAD DWG FILE:		
DRAWN BY:		DJM
CHECKED BY:		MJH
SCALE:		AS NOTED
COPYRIGHT:		

SHEET TITLE

FLOOR PLAN

DRAWING#

A-101

Attachment: Final MPR - Generator & Restrooms (RES-2021-43 : Town of Amherst Police Department Training Center Improvements (Bond Resolution - $150,000))

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 22730 **RESOLUTION 2021-44**

Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $750,000)

AGENDA ITEM - JANUARY 4TH, 2021

TO: **Town Board**

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

DATE: **December 28, 2020**

RE: **Northtown Center Parking Lot Expansion**
2021-2026 C.I.P. - Project YR-2B
Bond Resolution - $750,000.00

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

(1) Adopt the attached SEQR determination for the above project as determined by the Town of Amherst Planning Department and issue a Negative Declaration; and

(2) Adopt the attached bond resolution authorizing the issuance of $750,000.00 in serial bonds for the above-referenced Town improvement.

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

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

Thank you.

SJS:nmb
Attachments
c: Kathy Cooper, Deputy Town Clerk
(w/attachments, **Agenda Item - January 4th, 2021**)
Brian J. Armstrong, EIT, Assistant Municipal Engineer (*w/attachments)*
Dan Howard, Director of Planning *(w/attachments)*
Ellen M. Kost, Assistant Director of Planning *(w/attachments)*
Mary-Diana Pouli, Executive Director, Youth & Recreation *(w/attachments)*
Eric Guzdek, Recreation Specialist *(w/attachments)*

FINANCIAL IMPACT:

Bond Resolution - $750,000

D R A F T

SEQR

NEGATIVE DECLARATION

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Town Board

Project: Northtown Center Parking Lot Expansion (TOA Project No. 930094V)

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: Northtown Center Parking Lot Expansion

SEQR Status: Unlisted action

Description of Action: Approval of funding for the survey, design and construction of a 200-space asphalt-paved parking lot to include lighting and drainage. The 1.8± parcel is owned by the State University of New York at Buffalo. It is adjacent to the Town's Northtown Recreation Center and will provide needed additional parking for the Center. The project will be undertaken by the Town through a License Agreement and Site Access Agreement with the university.

Location: 1615 Amherst Manor Drive, Town of Amherst, Erie County, New York

Petitioner: Amherst Engineering Department

Attachment: DraftSEQRNegDec (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

Reasons Supporting This Determination

Based on information submitted by the applicant, including a Short Environmental Assessment Form (EAF) - Part 1 and a Map, Plan and Report, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that the proposed project will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The subject site is not within the floodplain but does contain soils that may be hydric. A wetland delineation will be performed, and any required permit(s) will need to be obtained prior to construction.

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. Existing trees/vegetation will be preserved to the greatest extent possible.

3. The project is not expected to create any material conflict with the Town Comprehensive Plan or the regulations of the Town Zoning Ordinance. The project is consistent with Policy 9-7 in the Comprehensive Plan which promotes partnerships with other entities to provide community facilities and services.

4. The project is within an area identified by the State as potentially containing significant cultural or archeological resources. An archaeological assessment will be completed prior to construction to ensure the action will not impair the character or quality of important historical resources.

5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character.

6. The proposed project will not cause a major change in the use of either the quantity or type of energy.

7. The proposed project will not create any hazard to human health.

8. The proposed project will not cause a change in land use and will be consistent with the scale of surrounding land uses.

Attachment: DraftSEQRNegDec (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

9. The project will increase the number of people using this site over its previous level of use as a vacant parcel. The new parking lot is necessary to provide needed accommodation for the Northtown Center which is utilized year-round for a variety of recreation and sports activities. It will also address the loss of parking spaces that occurred with the recent construction of a skate park.

10. Significant negative traffic impacts are not expected to result from the proposed project.

11. Coordinated reviews of the project have been undertaken by Town Departments including Engineering, Planning and Attorney. These reviews have not identified any significant environmental issues and indicate that the proposal will not have a significant damaging impact on the environment.

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

_____ _____
Signature & title of preparer date

_____ _____
Brian J. Kulpa, Supervisor date

X/Special Projects/SEQR Engineering/Type I & Unlisted Actions/Neg Dec – Northtown Ctr Parking Lot

cc: Amherst Engineering Department
Amherst Building Department
ECDEP
NYSDOT
SUNY Buffalo

Attachment: DraftSEQRNegDec (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

EXTRACT OF MINUTES

Meeting of the Town Board of the

Town of Amherst, in the

County of Erie, New York

January 4, 2021

* * *

A regular meeting of the Town Board of the Town of Amherst, in the County of Erie, New York, was held at the Town Hall, 5583 Main Street, Williamsville, New York, on January 4, 2021.

There were present:	Hon. Brian J. Kulpa, Supervisor; and
Board members:	Jacqualine Berger, Councilwoman Deborah Bruch Bucki Councilwoman Shawn Lavin, Councilman Michael R. Szukala, Councilman
There were absent:	
Also present:	Francina J. Spoth, Town Clerk

* * *

_____ offered the following resolution and moved its adoption:

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

BOND RESOLUTION OF THE TOWN OF AMHERST, NEW YORK, ADOPTED JANUARY 4, 2021, AUTHORIZING NORTHTOWN CENTER PARKING LOT EXPANSION, STATING THE ESTIMATED MAXIMUM COST THEREOF IS $750,000, APPROPRIATING SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF $750,000 TO FINANCE SAID APPROPRIATION

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

Section 1. The Town of Amherst, in the County of Erie, New York (herein called the "Town"), is hereby authorized to undertake the Northtown Center Parking Lot expansion at 1615 Amherst Manor Road, as described in the map, plan and report dated January 2021 and prepared by the Town of Amherst Police Department (2021-2026 Capital Improvement Program, Project YR-2B). The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is $750,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the principal amount of $750,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the Town in the principal amount of $750,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

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

(a) The period of probable usefulness applicable to the specific object or purpose for which said bonds are authorized to be issued, within the limitations of Section Sections 11.00 a. 20 of the Law, is fifteen (15) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Town for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

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

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

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Town Board relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Supervisor, the chief fiscal officer of the Town.

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

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

(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

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

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

Section 7. This bond resolution is subject to a permissive referendum and the Town Clerk is hereby authorized and directed, within ten (10) days after the adoption of this resolution, to cause to be published, in full, in "The Amherst Bee," a newspaper having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law, a Notice in substantially the following form:

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

TOWN OF AMHERST. NEW YORK

PLEASE TAKE NOTICE that on January 4, 2021, the Town Board of the Town of Amherst, in the County of Erie, New York, adopted a bond resolution entitled:

> "Bond Resolution of the Town of Amherst, New York, adopted January 4, 2021, authorizing Northtown Center Parking Lot Expansion, stating the estimated maximum cost thereof is $750,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of $750,000 to finance said appropriation,"

an abstract of which bond resolution concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Town to undertake the Northtown Center Parking Lot expansion at 1615 Amherst Manor Road, as described in the map, plan and report dated January 2021 and prepared by the Town of Amherst Police Department (2021-2026 Capital Improvement Program, Project YR-2B); STATING the estimated maximum cost thereof, including preliminary costs, and costs incidental thereto and the financing thereof, is $750,000; APPROPRIATING said amount for such purpose; and STATING the plan of financing includes the issuance of bonds in the principal amount of $750,000 to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon;

SECOND: AUTHORIZING the issuance of bonds in the principal amount of $750,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness applicable to the purpose for which said bonds are authorized to be issued is fifteen (15) years; the proceeds of said bonds and any bond anticipation notes issued in anticipation thereof may be applied to reimburse the Town for expenditures made after the effective date of this bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of said bonds will exceed five (5) years;

FOURTH: DETERMINING that said bonds, and any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes shall be general obligations of the Town; and PLEDGING to their payment the faith and credit of the Town;

FIFTH: DELEGATING to the Supervisor the powers and duties as to the issuance of said bonds, and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: January 4, 2021

FRANCINA J. SPOTH
Town Clerk

Section 8. The Town Clerk is hereby authorized and directed to cause said bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York.

* * *

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

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

AYES:

NOES:

The resolution was declared adopted.

****

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

CERTIFICATE

I, FRANCINA J. SPOTH, Town Clerk of the Town of Amherst, in the County of Erie, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Town Board of said Town of Amherst duly called and held on January 4, 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Town Board and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Town of Amherst this _day of January, 2021.

(SEAL)

_____
Town Clerk

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

AFFIDAVIT OF POSTING

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

FRANCINA J. SPOTH, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned he was the duly elected, qualified and acting Town Clerk of the Town of Amherst, State of New York;

That on _____, 2021, she has caused to be conspicuously posted and fastened up a Notice setting forth an abstract of the bond resolution duly adopted by the Town Board on January 4, 2021, a copy of which is annexed hereto and made a part hereof, on the sign board of the Town maintained pursuant to the Town Law.

_____
Town Clerk

Subscribed and sworn to before me
this _____ day of January, 2021.

_____
Notary Public, State of New York

Attachment: CertBondReso (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

Town of Amherst
Youth & Recreation Department

Northtown Center Parking Lot Expansion

2021 - 2026 C.I.P. Project YR-2B

Town of Amherst Job # 930094V

Map, Plan & Report

January 2021

CONTENTS:

- Approved 2021 - 2026 CIP Project YR-2B
- Introductions / Existing Conditions
- Proposed Scope of Improvements
- Financial / Taxation Summary
- SEQR Determination – Unlisted Action

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

Attachment: MPR - Final (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

TOWN OF AMHERST YOUTH & RECREATION DEPARTMENT
Northtown Center Parking Lot Expansion

Summary of Approved 2021-2026 Capital Improvement Program

Youth & Recreation (cont'd) — *Recommended Schedule (X $1,000)*

Project ID	Project Title/Description	2021	2022	2023	2024	2025	2026	Total Cost
YR-4A	**Northtown Center Sound System and Scoreboard Replacement:** Replacement of the old sound system and scoreboards at the Northtown Center. *(2020)*			75 LA	125 LA			$200,000
YR-5A	**Ice Resurfacer Replacement:** Replace two of the oldest ice resurfacers with battery operated resurfacers. *(2020)*			300 LA				$300,000
YR-6A	**Clearfield HVAC Replacement:** Replace the two RTUs that feed the large and small gyms at the Clearfield Community Center. *(2020)*		234 LA					$234,000
YR-7A	**Northwest Amherst Community Center:** To design and construct a community center in the Northwest quadrant of Town, in cooperation with the Sweet Home Central School District. *(2017)*			240 LA	2,400 LA			$2,640,000
YR-8A	**North Amherst Recreation Center Field Expansion:** Expand the outdoor field to meet the needs of the growing soccer and lacrosse populations. Relocate Williamsville Junior Football? *(2019)*	150 LA						$150,000
	AMHERST CENTRAL PARK RELATED PROJECTS							
YR-1B	**Amherst Central Park Development:** Planning and implementation of projects related to the development of Amherst Central Park. *(2020)*		800 F/S 800 LA 500 X	800 F/S 800 LA		800 F/S 800 LA		$7,375,000
YR-2B	**Northtown Center Parking Expansion:** Construct a new 135 space parking lot on the UB parcel adjacent to the Northtown Center via a license agreement with UB. *(2017)*	750 LA						$750,000

Key:

Funding Source
T - Tax
L – Bond
S – Surplus
RF – Recreation Fund
OF – Open Space Fund
F/S – Federal or State Aid
X – Private or Other Source

Funding Account
A – General Account
B – Part Town
C – Community Environment
D – Highway
E – Lighting
G – Sanitary Sewer District
H – Storm Drainage District
I – Water District
W – Water Pollution Control Facility
- Special District Number
NS – None Submitted

Figure 1: Area of proposed parking expansion

Attachment: MPR - Final (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

TOWN OF AMHERST YOUTH & RECREATION DEPARTMENT
Northtown Center Parking Lot Expansion

INTRODUCTION / EXISTING CONDITIONS:

The Town of Amherst owns and maintains the Northtown Center at Amherst, a recreation complex, located at 1615 Amherst Manor Road in the Town of Amherst, NY. The facility is utilized year-round for a variety of recreation and sports activities, including hockey, football, soccer, baseball, softball, golf and a skate park was recently constructed within the complex. Currently and with the loss of numerous parking spots to the footprint of the new skate park, the complex parking is over-capacity when simultaneous sporting events are being conducted within the complex or at the University at Buffalo, which is located adjacent the Northtown complex.

PROPOSED SCOPE OF IMPROVEMENTS:

In an effort for the Town to provide additional parking, the Town has come to an Agreement with the University at Buffalo to utilize a parcel of land that the State owns that is immediately adjacent to the Town-owned Northtown complex. As per Figure 1 and 2, a new parking lot will be constructed by the Town in accordance with that agreement. This full-depth construction, asphalt-paved parking lot will accommodate up to 140 cars and will include the required lighting, drainage and landscaping provisions. The subject bond action of this map, plan & report will provide the required funds for construction and the associated professional services during construction.

This parking lot will be bid and constructed in 2021. The above project will be bonded against the Town of Amherst General Fund at a *total project cost* of $750,000.00, financed entirely with serial bonds. The above project design provided within the scope of this project will have a period of probable usefulness of over 20 years.

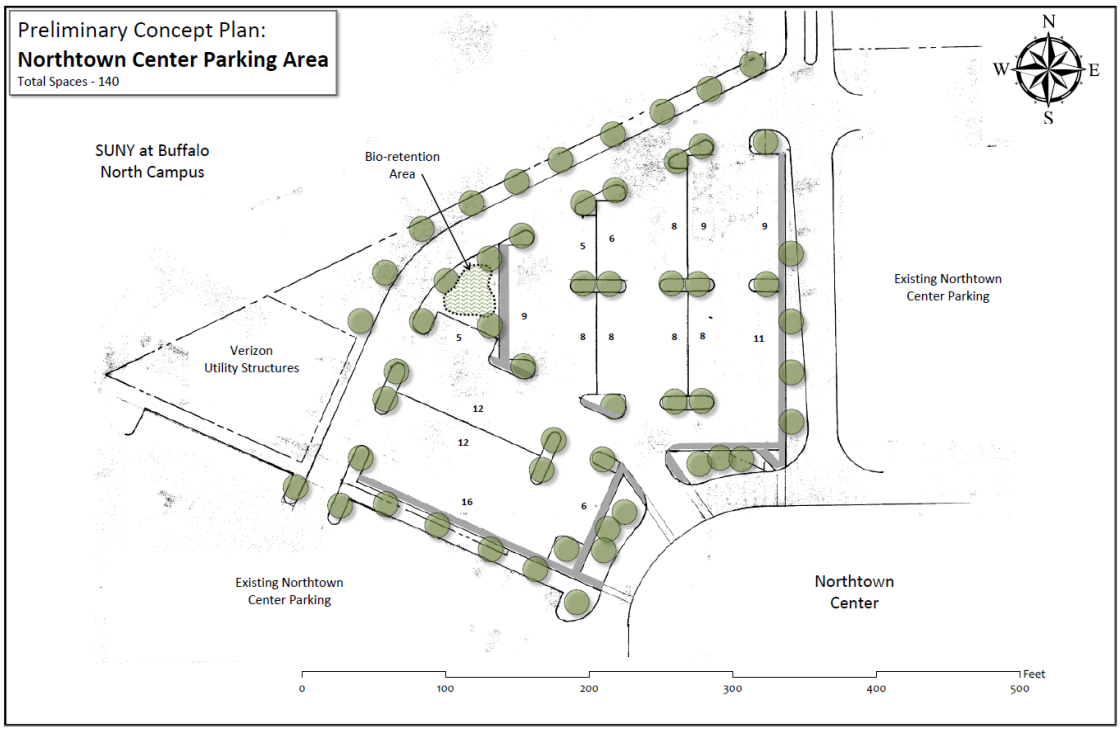


Figure 2: Parking Area Expansion Concept Plan

Attachment: MPR - Final (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

TOWN OF AMHERST YOUTH & RECREATION DEPARTMENT
Northtown Center Parking Lot Expansion

FINANCIAL SUMMARY:

Estimated Construction Costs	$ 710,000
Engineering / Professional Services	$ 36,250
Legal / Administrative	$ 3,750
Total Amount to be Bonded	**$ 750,000**

TAXATION SUMMARY:

Total Bond Amount:	$750,000
Bond Term:	15 Years
Annual Tax Impacts:	$0.0063 per $1,000 AV (General Fund)
Typical Property Taxation Impact:	$1.27 per $200,000 property

Attachment: MPR - Final (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

Amherst
Town of Amherst Planning Department
Erie County, New York

Brian J. Kulpa
Supervisor

Daniel C. Howard, AICP
Planning Director

Ellen M. Kost,
Assistant Planning Director

MEMORANDUM December 23, 2020

TO: Brian J. Armstrong, EIT, Assistant Municipal Engineer

FROM: Ellen M. Kost, AICP, Assistant Planning Director

RE: SEQR Determination – Northtown Center Parking Lot Expansion
2021-2026 C.I.P Project YR-2B
TOA Project No. 930094V

The Planning Department has reviewed the Map, Plan & Report for the subject project and has determined it to be an Unlisted action under the provisions of SEQR according to Part 617.5. A Negative Declaration is required to be issued prior to final approval of a site plan for this project.

Please contact our office if you have any questions.

EK/ac
X/Special Projects/SEQR Engineering/Type I & Unlisted Projects/Northtown Center Parking Lot Expansion
cc: Jeffrey Burroughs, PE, Town Engineer
Stanley J. Sliwa, Esq., Town Attorney
Daryl Bramer, Comptroller
Daniel Howard, Planning Director

Attachment: MPR - Final (RES-2021-44 : Town of Amherst Northtown Center Parking Lot Expansion (Bond Resolution - $)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Attorney
Initiated by: **Joanne A. Schultz**
Co-Sponsored by:

DOC ID: 22731 **RESOLUTION 2021-45**

Automatic Granting of Senior and Disability Real Property Tax Exemptions For 2021 Assessment Roll

AGENDA ITEM - JANUARY 4TH, 2021

TO: **Town Board**

FROM: **Joanne A. Schultz, Esq., Senior Deputy Town Attorney**

DATE: **December 29, 2020**

RE: **Automatic Granting of Senior and Disability Real Property Tax Exemptions for 2021 Assessment Roll**

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

RESOLUTION DIRECTING THE TOWN ASSESSOR TO AUTOMATICALLY GRANT SENIOR AND DISABILITY REAL PROPERTY TAX EXEMPTIONS FOR THE 2021 ASSESSMENT ROLL FOR ALL PROPERTY OWNERS WHO RECEIVED THE EXEMPTION IN 2020 WITHOUT THE NEED FOR RENEWAL APPLICATIONS PURSUANT TO EXECUTIVE ORDER 202.83 ISSUED BY GOVERNOR CUOMO ON MARCH 7, 2020

WHEREAS, on March 7, 2020, Andrew M. Cuomo, Governor of the State of New York, issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, on December 18, 2020, the Governor issued Executive Order 202.83, a portion of which includes a local option pertaining to Senior Citizens' and Persons with Disabilities' partial property tax exemption, Subdivisions 7, 7-a and 8 of Section 459-c of the Real Property Tax Law (Partial Tax Exemption for Persons with Disabilities), and Subdivisions 5, 5-a, 5-b, 5-c and 6 of Section 467 of the Real Property Tax Law (Partial Tax Exemption for Low Income Senior Citizens), to the extent necessary to permit the governing body of an assessing unit to adopt a resolution directing the assessor to grant exemptions pursuant to such section on the 2021 assessment roll to all property owners who received either of those exemption on the 2020 assessment roll, unless there has been a change in status that would no longer qualify the homeowner, dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for assessors to mail renewal applications to such persons; and

WHEREAS, the Town wishes to adopt such resolution while also allowing the assessor to require a renewal application to be filed when the assessor has reason to believe that an owner who qualified for the exemption on the 2020 assessment roll may have since

changed primary residence, added another owner to the deed, transferred the property to a new owner, or died;

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Amherst directs the Town Assessor, pursuant to the NYS Governor's Executive Order 202.83 Continuing Temporary Suspension and Modification of Laws relating to the pandemic disaster emergency, specifically as it pertains to Senior and Disability Exemptions, Section 467 and 459c of the Real Property Tax Law, to grant exemptions on the 2021 Assessment Roll to all property owners who received that exemption on the 2020 Assessment Roll, except in the case that there is a change of status that would no longer qualify the homeowner, thereby dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for assessors to mail renewal applications to such persons.

c: Kathy Cooper, Deputy Town Clerk (**Agenda Item - January 4th, 2021**)
David Marrano, Town Assessor

FINANCIAL IMPACT:

None for the purposes of this resolution.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Attorney
Initiated by: **Stanley J. Sliwa**
Co-Sponsored by:

DOC ID: 22742 **RESOLUTION 2021-46**

Hancock Estabrook Engagement Letter and Retainer Agreement (CRS #2325)

AGENDA ITEM - JANUARY 4TH, 2021

TO: **Town Board**

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

DATE: **December 30, 2020**

RE: **Engagement Letter and Agreement - Hancock Estabrook Land Use Relative to Audubon Golf Course and Westwood Country Club (CRS #2325) Term 1.4.21-12.31.22**

Kindly adopt a resolution authorizing the Supervisor to execute the attached Engagement Letter and Agreement with Hancock Estabrook for land use matters involving the Audubon Golf Course and Westwood Country Club from January 4th, 2021 through and including December 31st, 2022 pending successful completion of the Contract Routing System (CRS).

Thank you.

SJS:nmb
Attachment
c: Kathy Cooper, Deputy Town Clerk (Agenda Item - January 4th, 2021)

FINANCIAL IMPACT:

Partner - $275.00/hour

Associate - $225.00/hour

Paralegal - $90.00/hour

A1420.4090 (2021 Budget)

HANCOCK ESTABROOK LLP

DOREEN A. SIMMONS
dsimmons@hancocklaw.com

RECEIVED
DEC 14 2020
TOWN ATTORNEY

December 9, 2020

ENGAGEMENT LETTER & AGREEMENT

VIA E-MAIL: ssliwa@amherst.ny.us
AND U.S. MAIL

Stanley J. Sliwa, Esq.
Town Attorney
Town of Amherst
Amherst Municipal Building
5583 Main Street
Williamsville, NY 14211

Re: Engagement Letter and Agreement

Dear Mr. Sliwa:

Please accept this Engagement Letter and Agreement to confirm Hancock Estabrook, LLP's representation of the Town of Amherst (the "Town") relative to providing environmental and land use legal services associated with the Audubon Golf Course and the Westwood Country Club. This Engagement Letter and Agreement sets forth the terms of our engagement and the terms of our representation of the Town in these matters.

1. **SERVICES PROVIDED.** Hancock Estabrook, LLP will provide legal services to the Town in the above-referenced matter ("Legal services"). By signing this retainer, the Town of Amherst authorizes Hancock Estabrook, LLP to represent the Town in this matter. "Legal services" as used in this agreement include consultation, advice and negotiations where appropriate to assist the Town in the above-referenced matter.

2. **FEES AND COSTS.** The Town of Amherst will pay us fees for legal services as provided in this agreement. I will be supervising attorney handling this matter. Partner hourly rates are $275.00, associate hourly rates are $225.00 and paralegal hourly rates are $90.00. Rates are reviewed each January and will be adjusted at that time. While I will be primarily responsible for the conduct of this matter, other attorneys or paralegals may be given assignments relating to the matter where appropriate.

Attachment: HancockEstabrookAudWest-12302020110530 (RES-2021-46 : Hancock Estabrook Engagement Letter and Retainer Agreement

3. BILLING. We will bill in quarters of an hour increments. All expenses we incur in connection with the matter, including but not limited to long distance telephone, fax charges, travel expenses, photocopying, postage, computerized legal research and express delivery expenses, will be itemized and included on the monthly billings. Vehicle mileage expenses will be billed at current Internal Revenue Service rates. We may ask the Town of Amherst to advance certain large expenses, such as retention of expert witnesses or consultants.

4. RETAINER. We will waive the requirement to provide a retainer in this matter.

5. INVOICES. We will send the legal bills to the Town each month for the prior month's time. All balances billed are due within thirty (30) days of the date of the billing statement. In the event a bill remains unpaid beyond thirty (30) days, we may, in our sole discretion, suspend or cease any work or services with respect to the matter until the balance is brought current.

6. DISCHARGING US. The Town may discharge us at any time by written notice effective when we receive it. Unless specifically agreed otherwise, we will provide no further services and advance no further costs to the Town after receiving the notice. If we are the Town's attorneys of record in any proceeding, we will send the Town a substitution of attorney form, which the Town agrees to execute and return immediately. The Town will remain obligated to pay us at the agreed rates for all services provided up to the date of discharge, and to reimburse us for all costs advanced up to the date of discharge.

7. OUR WITHDRAWAL. If we decide there has been an irretrievable breakdown in the attorney/client relationship or a material breach of this agreement or if a bill remains unpaid beyond thirty (30) days, we may, if no lawsuit has yet been commenced on the Town's behalf, withdraw from representation. If a lawsuit is pending, we may apply to the court to withdraw as the Town's attorneys. If that happens, the Town will be provided with notice and an opportunity to be heard in court.

8. FEE DISPUTES. In the event of a dispute involving a fee, the Town may have the right to elect to resolve that dispute by arbitration in Onondaga County, under Part 137 of the Rules of the Chief Administrator of the Courts and the arbitration rules promulgated by the Onondaga County Bar Association.

9. FILE RETENTION AND DESTRUCTION: At the conclusion of this matter, we will retain the Town's legal files for a period of ten (10) years after we close our file. At the expiration of the ten-year period, we will destroy these files unless you notify us in writing prior to that time that you wish to take possession of them. We reserve the right to charge administrative fees and costs associated with researching, retrieving, copying and delivering such files.

Attachment: HancockEstabrookAudWest-12302020110530 (RES-2021-46 : Hancock Estabrook Engagement Letter and Retainer Agreement

HANCOCK ESTABROOK LLP

This Engagement Letter and Agreement may be executed in counterparts, and signatures on counterparts of this Agreement that are delivered via email or other electronic means shall be acknowledge as if such were an original execution. Your execution of the retainer confirms your authorization to enter this retainer. If the terms of this retainer agreement are acceptable, please execute and return to me.

Thank you for retaining Hancock Estabrook, LLP to represent the Town of Amherst.

Very truly yours,

HANCOCK ESTABROOK, LLP

Doreen A. Simmons

DAS/ks

I HAVE READ AND UNDERSTAND THE WITHIN ENGAGEMENT LETTER AND AGREEMENT, HAVE RECEIVED A COPY, AND ACCEPT ITS TERMS.

TOWN OF AMHERST

DATED: December ____, 2020 **BY:** _____

Attachment: HancockEstabrookAudWest-12302020110530 (RES-2021-46 : Hancock Estabrook Engagement Letter and Retainer Agreement

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22683 **RESOLUTION 2021-47**

Snow Plow Permits

All Pro Property Management Services LLC #0244
Parthipan Thangarasa
4 Margaret Road, #A1
Amherst, NY 14226

6580 Main St, LLC #0245
William Capicotto
6580 Main Street
Williamsville, NY 14221

A-Z Snowplowing #0246-#0247
Sumeet Bhargava
253 Woodcrest Drive
Amherst, NY 14226

Mata Snowplowing & Lawn Services, LLC #0248-#0249
Ross Matta
437 Seabrook Drive
Williamsville, NY 14221

Harlach Enterprise #0250
Douglas Harlach
2069 Parker Blvd
Tonawanda, NY 14150

JPV Landscaping & Lawn Care #0251-#0252
John Valencourt
26 Shirley Avenue
Buffalo, NY 14215

Milherst Construction Inc. #0253-#0254
10025 County Road
P.O. Box 430
Clarence Center, NY 14032
Anthony Casey #0255
225 New Road
East Amherst, NY 14051

Nicholas Sparks #0256
6715 Lindbergh Avenue
Niagara Falls, NY 14304

Deering Landscape Contractors Inc. #0257-#0261

Pat Deering
8375 Wolcott
E Amherst, NY 14051

Dan Demeester #0262
29 Red Maple Court
Amherst, NY 14228

TCB Lawn & Snow LLC #0263
Timothy Brown
415 Dodge Road
Getzville, NY 14068

Exclusive Landscaping #0264-#0265
Sal Ferreri
87 Margaret Road
Amherst, NY 14226

Regan Landscape, Inc #0266-#0269
Matthew Regan
1517 Kenmore Ave, Suite #2
Kenmore, NY 14217

Jeff Sobaszek #0270
8229 Boston Street Rd, Lot 45
Hamburg, NY 14075

FINANCIAL IMPACT:

Income to the Town.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22674

RESOLUTION 2021-48

New Firefighter for Getzville Fire Company

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

Dr. Michael O'Brien
254 Wyeth Dr.
Getzville, NY 14068

TOWN OF AMHERST
VOLUNTEER FIRE DEPARTMENT MEMBERSHIP
RESIDENCY VERIFICATION FORM

Applicant Name: Michael O'Brien

Applicant Home Address: 254 Wyeth Dr., Getzville, NY 14068

Under penalty of perjury I, Michael O'Brien affirm I am an applicant to be a member of the, Getzville (fire dept.) and my address of residence is listed above.

- [X] My address is in the fire distract I've applied to or territory which is afforded protection by the fire department of the fire district or fire company pursuant to contract.
- [ ] My address is outside the district or territory that provides protection by the fire district or company, but is in the vicinity of my occupation, in which I will be able to render active service as a volunteer. My occupation address is:

Signature of Applicant: Michael O'Brien

I have verified the applicant's address or employment, where applicable, by examining their driver's license or other suitable document such as a utility bill, lease or pay stub.

Signature: Jon R 85

Title: ASST CHIEF

Date: 9-1-20

Submit this completed form to:
Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

Attachment: O'Brien_Getzville (RES-2021-48 : New Firefighter for Getzville Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
Initiated by: **Kathleen Cooper**
Co-Sponsored by:

DOC ID: 22697

RESOLUTION 2021-49

New Firefighter for Swormville Fire Company

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

Mike Nadrich
56 Honeysuckle Way
E. Amherst, NY 14051

SWORMVILLE FIRE COMPANY, INC.

POST OFFICE BOX 707
6971 TRANSIT ROAD
SWORMVILLE, NEW YORK 14051
EMERGENCIES - 911 • FIREHALL - 688-7055 • FAX - 688-4736

Clerk - Francina J SPOTH
Town of Amherst
5583 Main St.
Williamsville, NY 14221

12/11/20

Dear Francina Spoth

Please allow this letter to serve as notification that the following individual has joined the Swormville Fire Company as an active member. Please add his information to your records.

MIKE NADRICH
56 Honeysuckle WAY
East Amherst NY
14051

The residency verification forms are enclosed. I can be reached at (716) 206-2540 with any questions.

Thank you for your assistance in this matter.

Sincerely,

Craig L. Swanson
Membership Committee

Serving Amherst & Clarence Since 1918

Attachment: Swormville Nadrich-12182020084027 (RES-2021-49 : New Firefighter for Swormville Fire Company)

SWORMVILLE FIRE COMPANY, INC.
POST OFFICE BOX 707
6971 TRANSIT ROAD
SWORMVILLE, NEW YORK 14051
EMERGENCIES - 911 FIREHALL - 688-7055

STATEMENT OF VOLUNTEER FIRE COMPANY OFFICAL

Mike Nadrich
56 Honeysuckle Way
East Amherst NY
14051

The address of the applicant listed above is within the Fire Protection District or territory protected by such Fire Protection District to which he / she is applying, namely **Swormville Fire Company**. We have verified the applicant's residence address were applicable by examining their driver's license or other document such as a lease, utility bill, paystub or other suitable document.

(Craig Swanson, Membership Committee)

DATE: 12 / 11 / 20

Attachment: Swormville Nadrich-12182020084027 (RES-2021-49 : New Firefighter for Swormville Fire Company)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 22710

RESOLUTION 2021-50

2021 Standard Mileage Rate

The IRS has announced the 2021 standard mileage rate for business miles driven to be $0.56 per mile.

Please set this as the Town's mileage rates for 2021.

FINANCIAL IMPACT:

Funding in various department budgets.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Comptroller
Initiated by: **Daryl Bramer**
Co-Sponsored by:

DOC ID: 22724 **RESOLUTION 2021-51**

Budget Transfers and Amendments

For January 4, 2020 Town Board Agenda

To: Town Board
From: Office of Town Comptroller
Date: 12/30/2020
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 - 2020

From:	***To:***
A1223.4110 Amherst Central Park - Contractual $30,000	A1223.9000 Interfund Transfers $30,000
To transfer Erie County Grant for Amherst Central Park into KP2016 Comprehensive Planning.	
A1990.4000 Contingency $360,000	A1110.8050 Court $80,000 A3020.8050 Central Alarm $20,000 A3120.8050 Police Office $40,000 A5010.8050 Highway Office $40,000 A5132.8050 Highway $40,000 A6772.8050 Senior Center $40,000 A7110.8050 Parks $20,000 A7145.8050 Recreation $80,000
B1990.4000 Contingency $20,000	B3620.8050 Building $20,000
D1900.4000 Contingency $40,000	D5110.8050 Highway $20,000 D5130.8050 Highway $20,000
G1990.4000 Contingency $240,000	G9000.8050 Sewer $100,000 G9916.8050 Plant 16 $140,000
H1990.4000 Contingency $20,000	H8000.8050 Drainage $20,000
To transfer funds from Contingency budgeted for VSI (Voluntary Separation Incentive) into Health Insurance.	

BUDGET AMENDMENTS - 2020

INCREASE:	***INCREASE:***
N2023.02785 CDBG & Vg. PI Rehab $170.00	N2023.4000 Contractual $170.00
To recognize Community Development program income from 169 Hillcrest Drive, Amherst.	
KP2016.05031 Planning - Interfund Transfers $30,000	KP2016.4971 Design Expenses $30,000
To set up budget for KP2016 Comprehensive Planning for transfer from A1223 Amherst Central Park for County Grant.	
KP2016.03089 Comp. Planning - State Aid Grant $75,000	KP2016.4971 Design Expenses $75,000

To set up budget for KP2016 Comprehensive Planning for transfer from 1223 Amherst Central Park State Aid Grant.

N0001.20064 CDBG Income $2,589.62 N1621.4000 Contractual $2,589.62
N0001.20065 CDBG Income $11,210.38 N1721.4000 Contractual $11,210.38
To recognize Community Development drawdowns for PO 22023663.

N1923.02785 CDBG & Vg. Program Income $150.00 N1923.4000 Contractual $150.00
To recognize Community Development program income for 299 Harding Rd., Williamsville.

N1042.05002 Amherst Home - PI $3,537.48 N1042.8050 Hospital Ins. $3,537.48
To recognize Community Development 4th quarter employee health insurance contributions.

N2048.02785 Cheektowaga CHODO - PI $113,363.60 N2048.4000 Contractual $113,363.60
N2049.02785 Cheektowaga Home Admin - PI $12,595.96 N2049.4003 Admin Fee %12,595.96
To recognize Community Development program income from 25 Lordan Dr., 160 Nadine Dr., 79 Applewood, and 125 Leonard Post, Cheektowaga.

N2023.02785 CDBG & Vg Rehab - PI $2,453.90 N2023.4000 Contractual $2,453.90
N2025.02785 CDBG Admin - PI $613.48 N2025.1000 Personal Services $569.88
N2025.8030 FICA $43.60
To recognize Community Development program income from 167 Huxley Dr., Amherst.

DECREASE: **DECREASE:**

A1223.03089 Amherst Central Park $75,000 A1223.4110 Contractual $75,000
To decrease budget for A1223 Amherst Central Park State Aid Grant for transfer into KP2016 Comprehensive Planning.

FINANCIAL IMPACT:

See descriptions.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22618

RESOLUTION 2021-52

Town Wide Paint Contract - Sherwin Williams - CRS #2312

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for the purchase of Paint - Erie County Bid #220198-0902 with Sherwin Williams Co.; and

WHEREAS, the contract term will be through October 31, 2021;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the Supervisor to sign the contract with Sherwin-Williams Co.

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Jacqualine Berger

COUNCILMEMBERS
Deborah Bruch Bucki, RN, PhD
Shawn Lavin
Michael Szukala

AGREEMENT

Let this document stand as an Agreement between Sherwin Williams Co. and the Town of Amherst permitting the Town of Amherst to participate in the Erie County Paint contract Bid #220198-0902 for the contract term through October 31, 2021.

Agreed to and Accepted by:

Sherwin Williams Co. .

By: _____
Signature

CRAIG MACKAY
Printed Name

NATIONAL SALES MGR - TAG
Title

Date: Dec 8, 2020

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

To: All Using Departments

From: Jamie Kucewicz, Buyer

Date: November 30, 2020

Subject: PAINT – SHERWIN WILLIAMS

Bid No.: 220198-0902

Effective Dates: November 1, 2020 through October 31, 2021

SHERWIN-WILLIAMS CO. (vendor #112356):
1470 Main Street
Buffalo, NY 14209
Contact: Christina Sobczynski
Phone: 716-884-2346

Brand - Sherwin-Williams
% off attached price sheet - 66%
*25% off paint supplies

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

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 Sherwin-Williams Co

Signature: [signature]

Print Name: Craig Mackay

Title: National Sales Mgr. - TAG

Date: Dec 8, 2020

Sworn To Before Me This

8th Day of December, 2020

[signature]

Notary Public

MICHELLE L. EDWARDS NOTARY PUBLIC MY COMMISSION EXPIRES JUNE 28, 2022 ANNE ARUNDEL CO.

Revised 4.2017

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

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: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

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 Sherwin-Williams Co

Print Name of Company

By: _____

Signature

Craig Mackay

Printed name

Date: Dec 8, 2020

Agreed to and Accepted by:

Town of Amherst

By: _____

Brian J. Kulpa, Supervisor

Date: _____

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

CERTIFICATE OF LIABILITY INSURANCE

DATE (M) 4/29/2020

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 Hylant Group, Inc. - Cleveland 6000 Freedom Sq Dr, Ste 400 Independence OH 44131	**CONTACT NAME:** Sally Harper **PHONE (A/C, No, Ext):** 216-447-1050 **FAX (A/C, No):** 216-447-4088 **E-MAIL ADDRESS:** sally.harper@hylant.com
INSURED SHERCOM-01 The Sherwin-Williams Company 101 W. Prospect Avenue Cleveland OH 44115	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** ACE American Insurance Co — 22667 **INSURER B :** Indemnity Ins Co of N America — 43575 **INSURER C :** ACE Fire Underwriters Ins Co — 20702 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 912442170 **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 A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:			HDOG71235956 HDOG71235919	5/1/2020 5/1/2020	5/1/2021 5/1/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Prod/Comp Ops Ea Occ	$ 2,000,000 $ 2,000,000 $ $ 2,000,000 $ 10,000,000 $ 10,000,000 $ 5,000,000
A	**AUTOMOBILE LIABILITY** X ANY AUTO X OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			ISAH25294786	5/1/2020	5/1/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 5,000,000 $ $ $
	UMBRELLA LIAB OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
B C 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		WLRC66926928 SCFC66927003 WLRC66926965	5/1/2020 5/1/2020 5/1/2020	5/1/2021 5/1/2021 5/1/2021	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 2,000,000 $ 2,000,000 $ 2,000,000
A	Excess Workers' Comp and Employers Liab			WCUC66927040	5/1/2020	5/1/2021	Workers' Comp Employers Liab	Statutory $2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

ALL LOCATIONS AND OPERATIONS OF THE NAMED INSURED AND ITS DIVISIONS IN ALL STATES. WC SELF-INSURED STATES: AL,AR,CA,FL,GA,IL,IN,KS,KY,LA,MD,MA,MI,MO,NJ,NY,NV,NC,OH,OK,PA,SC,TN,TX,VA

The Town of Amherst is included as an Additional Insured, where required by written contract. Insurance provided by the Named Insured, where required by written contract, will be considered primary and the insurance provided by the certificate holder will be considered non-contributory for purposes of responding to claims which arise due to the fault or negligence of the Named Insured. Workers' Compensation includes owners.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

The Sherwin-Williams Company Subsidiary Listing

165 Kirkwood Road Corp.
Acquire Sourcing, LLC
Comex North America, Inc.
Contract Transportation Systems Co.
CTS National Corporation
Omega Specialty Products & Services LLC
Purdy International Corporation
Sherwin-Williams International Holdings LLC
Sherwin-Williams Leasing, Inc.
Sherwin-Williams Ohio LLC
Sherwin-Williams Realty Holdings, Inc.
Sherwin-Williams Russia LLC
The Sherwin-Williams US Licensing Company
SWI Company
SWIMC, Inc.
SWIMC, LLC
The Sherwin-Williams Acceptance Corporation
The Sherwin-Williams Manufacturing Company
The Sherwin-Williams Headquarters Company
The Sherwin-Williams Foundation
Accurate Dispersions
Acme Quality Paints
AcromaPro Wood Finishes
AcromaPro
Baltimore Paint Group
Bestt Liebco
Brod-Dugan Company
Cabot
Cabot Woodcare
Cabot Stains
C&M Coatings
CBD Group
CTE Meetings
Color Corporation of America
Color Wheel Paint
Columbia Paint & Coatings
Conco Paints
Con-Lux Coatings
Consumer Brands Group
Cover the Earth Media
Cover the Earth Meetings
Cuprinol Group
Custom Aerosols
Custom Paint Products Group
Deshler Products
Diversified Brands
Dobco
Duckback
Dupli-Color Canada Division
Dupli-Color Products
Duracoat Powder Manufacturing
DuraSeal
Duron
Duron Paint
Duron Paint & Wallcoverings
Dutch Boy
Dutch Boy Group
Dutch Boy Paints
Fabulon Products
Fabulon Wood and Floor Finishes
Flex Bon Paints
Formby's
Frazee Paint
General Paint
General Polymers
Geocel
Geocel Products Group
H&C Concrete Coatings
H&C Concrete Stain
H&C Products Group
Homeline Products Group
Independent Dealer Group
Kool Seal
Krylon
Krylon Products Group
Kwal Paint
Landmark Office Towers
Landmark Office Towers Management
MAB Paints
M.A.B. Paints, Co.
M.L. Campbell
Martin-Senour Company
Martin-Senour Paints
Mautz Paints
McCloskey
Mercury Paints
Minwax
Minwax Company
Minwax, Wood Care Product
Moly-White Pigments Group
National Aerosol Products Company
Norfolk Paint Company
Old Quaker Paint
Paint-Safe
Parker Paint
PQ Products Group
Pratt & Lambert
Pratt & Lambert Paints
Pro Line Paint
Purdy
Purdy Brushes
Raabe
Ress Realty
Ress Realty Company
Rubberset Company
Sherwin-Williams Automotive Finishes
Sherwin-Williams Diversified Brands
Sprayon Products
Specialty Aerosols
The Terminal Garage Company
The Thompson's Company
Valentine & Co.
Uniflex Coatings
United Coatings
U.S. Chemical & Plastics
Watson Adhesives
Watson Industrial
Watson Standard
White Lightning Products
VALSPAR ENTITIES:
- Engineered Polymer Solutions, Inc.
- Plasti-Kote Co., Inc.
- Valspar
- Valspar Automotive
- Valspar Coatings
- Valspar Holdings I, Inc.
- Valspar Holdings II, Inc.
- Valspar Industries Holding, LLC
- Valspar Refinish, Inc.
- Valspar Insustrial
- Valspar Packaging
- Valspar Specialty Paints Holding Corporation (formerly Quest Specialty Coatings Holding Corporation)
- Valspar Specialty Paints, LLC (formerly Quest Specialty Coatings, LLC)
- Valspar Paint (NZ) Ltd
- The Valspar (New Zealand) Corporation Ltd

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) The Sherwin-Williams Company 101 W. Prospect Avenue Cleveland, OH 44115 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 216-566-3095 1c. NYS Unemployment Insurance Employer Registration Number of Insured 52-724878 1d. Federal Employer Identification Number of Insured or Social Security Number 34-0526850
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 ACE American Insurance Company 3b. Policy Number of Entity Listed in Box "1a" WCUC66927040 3c. Policy effective period 05/01/2020 to 05/01/20201 3d. The Proprietor, Partners or Executive Officers are [x] included. (Only check box if all partners/officers included) [ ] all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: ANNETTE D'URSO
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Annette D'Urso 05/05/2020
(Signature) (Date)

Title: VICE PRESIDENT

Telephone Number of authorized representative or licensed agent of insurance carrier: 302.476.6307

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-17) www.wcb.ny.gov

Attachment: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

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: Sherwin Williams CRS (RES-2021-52 : Town Wide Paint Contract - Sherwin Williams - CRS #2312)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22675

RESOLUTION 2021-53

Town Wide Ice Melt CRS #2320

WHEREAS, the Contract Compliance and Administration Department is requesting approval to use the Erie County Contract for the purchase of Ice Melt, Bid #220259-004 with Chemical Distributors, Inc.; and

WHEREAS, the contract term is through October 31, 2021;

NOW, THEREFORE, BE IT RESOLVED, the Town Board approves and authorizes the use of the Erie County bid for the purchase of Ice Melt; and

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

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amouont TBD

TOWN OF AMHERST

Erie County, New York

SUPERVISOR
Brian J. Kulpa
716-631-7032

DEPUTY SUPERVISOR/COUNCILMEMBER
Jacqualine Berger

COUNCILMEMBERS
Deborah Bruch Bucki, RN, PhD
Shawn Lavin
Michael Szukala

AGREEMENT

Let this document stand as an Agreement between Chemical Distributors, Inc. and the Town of Amherst permitting the Town of Amherst to participate in the Erie County Ice Melt contract Bid #220259-004 for the contract term through October 31, 2021.

Agreed to and Accepted by:

Chemical Distributors, Inc.

By: _____
Signature

Rick Franclemont
Printed Name

General Manager
Title

Date: 12.8.2020

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

COUNTY OF ERIE
DIVISION OF PURCHASE
MEMORANDUM

TO: All Using Departments

FROM: Tricia Pierce, Buyer

DATE: November 23, 2020

SUBJECT: Ice Melt Products
Bid #220259-004

This is to advise you that there is a new contract for ***Ice Melt Products.*** The new contract is good through October 31, 2021.

For your convenience any information needed is listed on the attached sheet. Please be sure to get your requirements in early. Check your stock to see if your department needs to place an order.

When submitting your requisition, please be sure to use commodity code #775 and purchasing group #004. Be sure to reference bid #220259-004.
For your convenience I have listed the information on the attached sheet.

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

ICE MELT PRODUCTS
CONTRACT TERM: NOVEMBER 1, 2020 – OCTOBER 31, 2021
BID NO.: 220259-004
COMMODITY CODE: 775

VENDOR INFORMATION

Chemical Distributors – Vendor #101580
80 Metcalfe St.
Buffalo, NY 14206
Telephone #856-2300
Fax #856-7115
No Minimums

Amrex Chemical – Vendor #112296
391 Exchange St.
Buffalo, NY 14204
Telephone #716-852-7245
Fax #716-852-0889
No Minimums

1. **ICE MELTER - CHEMICAL DISTRIBUTORS**
   Brand: Safe Step 4300 Dual Blue
   $7.25/50#Bag
   $355.25/pallet-49 Bags

2. **ROCK SALT – AMREX CHEMICAL**
   Brand: American Rock Salt
   $4.15/50# Bag
   $203.35/pallet – 49 Bags

3. **CALCIUM CHLORIDE - AMREX CHEMICAL**
   Brand: Pelladow
   $12.00/50#Bag
   $660.00/pallet-55 Bags

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

Addendum to Contract VENDOR ON SITE Minor

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Vendors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Vendor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Vendor its officers, agents, sub-Vendors, and/or employees as well as the negligence, active or passive, of the Vendor, its officers, agents, sub-Vendors, and/or employees.

4. Vendor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Vendor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Vendor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Vendor shall furnish the above insurances, including sub-Vendors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Vendor shall ensure all its sub-Vendors, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Vendor or sub-sub-Vendor shall name the Town as an additional insured on a primary and non-contributory basis.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

6. No Assignment: In accordance with the provisions of Section 109 of the General Municipal Law, the Vendor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

7. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this Agreement shall be physically amended forthwith to make such insertion. In particular, the Vendor shall, among other things, fully comply with:

(a) Article 8 of the NYS Labor Law for public work contracts and Article 9 of the Labor Law regarding prevailing wage for Building Service employees.
(b) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.
(c) Affirmative action as required by the Labor Law.
(d) Prevention of dust hazard required by Labor Law Section 222-a.
(e) Preference in employment of persons required by Labor Law Section 222.
(f) Eight-hour workday as required by Labor Law Section 220(2).
(g) Chapter 32 of the Town of Amherst: Minority Women and Business Utilization Commitment.
(h) Chapter 163 of the Town of Amherst: Registration of Sex Offenders.

8. The Vendor, in accordance with its status as an independent Vendor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. This Agreement shall be governed by, and interpreted according to the laws of the State of New York. If the contract between the parties refers to the laws, statutes, rules,

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

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:

Chemical Distributors, Inc
Print Name of Company

By: _____
Signature

Rick Franclemont
Printed name

Date: 12.8.2020

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

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: Chemical Distributors, Incorporated

Signature: [signature]

Print Name: Rick Franclemont

Title: General Manager

Date: 12-8-2020

Sworn To Before Me This

8th Day of Dec, 2020

[signature]

Notary Public

STATE OF NEW YORK NOTARY PUBLIC

LOIS A BOETTCHER
Registration #01BO6040285
Qualified in Erie County
My Commission Expires
April 17, 20[illegible]

Revised 4.2017

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

Client#: 1678591 CHEMIDIS1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/08/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Linda A. Mayflower, ACSR, CPIA	
USI Insurance Services, LLC 726 Exchange St. Ste 618 Buffalo, NY 14210 716 314-2000	PHONE (A/C, No, Ext): 716 314-2060	FAX (A/C, No): 716-314-2199
	E-MAIL ADDRESS: Linda.Mayflower@usi.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : AIG Specialty Insurance Company	26883
INSURED Chemical Distributors Inc 80 Metcalfe Street Buffalo, NY 14206	INSURER B : Commerce & Industry Insurance Co.	19410
	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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	EG1426074202	06/10/2020	06/10/2021	EACH OCCURRENCE	$1,000,000
	X CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)	$25,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						PERSONAL & ADV INJURY	$1,000,000
	OTHER:						GENERAL AGGREGATE	$2,000,000
							PRODUCTS - COMP/OP AGG	$2,000,000
								$
B	AUTOMOBILE LIABILITY	X	X	CA4416669	06/10/2020	06/10/2021	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	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)	$
								$
A	☐ UMBRELLA LIAB ☐ OCCUR	X	X	EGU1426074102	06/10/2020	06/10/2021	EACH OCCURRENCE	$8,000,000
	X EXCESS LIAB X CLAIMS-MADE						AGGREGATE	$8,000,000
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: See description below.

Additional Insured/Waiver of Subrogation coverage shown above and marked with an X apply only when such coverage is required by written contract signed by the insured prior to a los

General Liability:
(See Attached Descriptions)

CERTIFICATE HOLDER	CANCELLATION
Town of Amherst 5583 Main Street Williamsville, NY 14221	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

DESCRIPTIONS (Continued from Page 1)

103366 (9/11) Blanket Additional Insured
94283 (3/07) Blanket Waiver of Subrogation

Auto:
CA 20 48 02 99 - Designated Insured
62897 (6/95) - Waiver of Transfer of Rights or Recovery Against Others to Us
CA 20 01 10 13 - Lessor-Additional Insured and loss payee

Excess Liability:
105616 (11/13) - AIGSIC Commercial Excess Follow Form Policy

Town of Amherst is named Additional Insured with regard to General Liability coverage.

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

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)
CHEMICAL DISTRIBUTORS, INC.

80 METCALFE STREET
BUFFALO, NY 14206

Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., Wrap-Up Policy)*

1b. Business Telephone Number of Insured
716-856-2300

1c. Federal Employer Identification Number of Insured or Social Security Number
160773146

2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)

3a. Name of Insurance Carrier
ShelterPoint Life Insurance Company

3b. Policy Number of Entity Listed in Box "1a"
DBL604947

3c. Policy effective period
12/01/2020 to 11/30/2021

4. Policy provides the following benefits:
- [x] A. Both disability and paid family leave benefits.
- [ ] B. Disability benefits only.
- [ ] C. Paid family leave benefits only.

5. Policy covers:
- [x] A. All of the employer's employees eligible under the NYS Disability and Paid Family Leave Benefits Law.
- [ ] B. Only the following class or classes of employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability and/or Paid Family Leave Benefits insurance coverage as described above.

Date Signed 12/9/2020 By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 516-829-8100 Name and Title Richard White, Chief Executive Officer

IMPORTANT: If Boxes 4A and 5A are checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.

If Box 4B, 4C or 5B is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the NYS Disability and Paid Family Leave Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Plans Acceptance Unit, PO Box 5200, Binghamton, NY 13902-5200.

PART 2. To be completed by the NYS Workers' Compensation Board (Only if Box 4C or 5B of Part 1 has been checked)

State of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability and Paid Family Leave Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____
(Signature of Authorized NYS Workers' Compensation Board Employee)

Telephone Number _____ Name and Title _____

Please Note: *Only insurance carriers licensed to write NYS disability and paid family leave benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (10-17)

DB-120.1 (10-17)

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only) **Chemical Distributors Inc.** **80 Metcalfe Street** **Buffalo, NY 14206** Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e. a Wrap-Up Policy)*	1b. Business Telephone Number of Insured **716-856-2300** 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number **160773146**
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** **Selective Insurance Co of South Carolina** **3b. Policy Number of entity listed in box "1a":** **B13208376** **3c. Policy effective period:** **05/07/2020 – 05/07/2021** **3d. The Proprietor, Partners or Executive Officers are:** X☐ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under **Item 3A** on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box"3c", whichever is earlier.***

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Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: _Michael R. Bonetto_____
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 12/09/2020_____
(Signature) (Date)

Title: _Regional Director, Senior Vice President_____

Telephone Number of authorized representative or licensed agent of insurance carrier: (716)314-2060

Please Note: *Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are* ***NOT*** *authorized to issue it.*

C-105.2 (9-07) www.wcb/state.ny.us

Attachment: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

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: Chemical Distributors Agreement CRS (RES-2021-53 : Town Wide Ice Melt - Chemical Distributors, Inc. - CRS #2320)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22586

RESOLUTION 2021-54

Award of Bid #2020028A - Tractor Parts - CRS #2291

WHEREAS, the Contract Compliance and Administration Department opened bids on November 19, 2020 for Bid #2020028A, Tractor Parts; and

WHEREAS, the bid process resulted in responses from one (1) vendor, as per the attached bid tabulation form;

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Contract Compliance and Administration Department to award this bid to Niagara Frontier Equipment Sales, Inc.; and

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Niagara Frontier Equipment Sales, Inc.

FINANCIAL IMPACT:

Town Wide - Various Accounts - Amount TBD

Bid #2020028A Tractor Parts		
	Low Bid	Niagara Frontier Equipment Sales
		% Discount
1	Ford/New Holland Parts – All Models and engines	5%
2	Kubota Parts – All Models and engines	No Bid
3	Case – All Models and engines	No Bid
4	John Deere Parts – All Models and engines	No Bid
5	Caterpillar – All models and engines	No Bid
		Hourly Rate
6	Labor Rate Per Hour for Service - Shop	No Bid
7	Labor Rate Per Hour for Service – On Road	No Bid
NOTES:		
Vendor modified shipping terms to: Prices shall be quoted FOB Shipping Point.		
Shipping prices should be quoted.		
See page 5 paragraph 10. Orders need to be picked up or UPS.		

Attachment: Bid Tab Tractor Parts (RES-2021-54 : Award of Bid #2020028A - Tractor Parts - CRS #2291)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22723

RESOLUTION 2021-55

Award of Bid #2020027A - Worthington Pump Rebuild - CRS #2337

WHEREAS, the Contract Compliance and Administration Department opened bids on December 11, 2020 for Bid #2020027A, Worthington Pump Rebuild; and

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

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

BE IT FURTHER RESOLVED, the Town Board authorizes the Supervisor to sign the contract with Corrosion Products, Inc.; and

BE IT FURTHER RESOLVED, approval is being requested pending successful completion of the Contract Routing System due to the urgent need for the repair of this pump to begin as soon as possible.

FINANCIAL IMPACT:

$90,000

Bid #2020027A Worthington Pump Rebuild				
		Low Bidder		
Item No.	Qty.	Vendor Name:	Hohl Industrial	Corrosion Products
			PRICE	**PRICE**
1	EA	Total cost to perform the Worthington Vertical Volute Pump rebuild as further outlined within this bid document.	$39,800.00	$30,000.00
2	EA	Pump repair - parts, labor, etc.	$64,000.00	$60,000.00
		Total	**$103,800.00**	**$90,000.00**

Attachment: Bid Tab 2020027A Worthington Pump Rebuild (RES-2021-55 : Award of Bid #2020027A - Worthington Pump Rebuild - CRS #2237)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Contract Compliance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22727

RESOLUTION 2021-56

Authorize COVID-19 Laboratory Services Agreement with KSL Diagnostics, Inc. CRS #2340

WHEREAS, an agreement for COVID-19 testing services is necessary to test Town employees who may have had an exposure to the COVID-19 virus in an accurate and timely manner, thereby allowing them to return to work safely and as soon as possible, especially when their work involves an essential service; and

WHEREAS, several companies were contacted and KSL Diagnostics, Inc. offers both a timely and cost-effective service; and

WHEREAS, KSL's draft agreement is attached to this resolution, but may be amended slightly to fit the Town's specific needs, with the final version requiring review and approval by the Town Attorney;

NOW, THEREFORE, BE IT RESOLVED, the Supervisor is hereby authorized to sign the COVID-19 Laboratory Services Agreement with KSL Diagnostics, Inc.; and

BE IT FURTHER RESOLVED, that approval is pending successful completion of the Contract Routing System, due to the immediate need for this service.

FINANCIAL IMPACT:

A9060-0394, Under $20,000

COVID-19 LABORATORY SERVICES AGREEMENT

THIS AGREEMENT is by and between **Town of Amherst ("PARTNER")**, a New York for-profit corporation with corporate offices located at 5583 Main St., Williamsville, NY 14221, and **KSL Diagnostics Inc. ("KSL"),** with its principal office located at 1000 Youngs Road, Suite 210, Buffalo, New York 14221. In consideration of the mutual promises and provisions contained herein, the sufficiency of which each party agrees, and intending to be legally bound, each party agrees as follows:

I. GENERAL

1. This Agreement covers the purchase of service(s) described in KSL's Proposed Pricing, which is attached as Exhibit A hereto and incorporated here by reference.

2. KSL shall be the provider of the laboratory services listed in Exhibit A for the Term of this agreement. PARTNER reserves the right to perform specimen collection services listed in Exhibit A at PARTNER's discretion.

3. KSL and PARTNER shall work in good faith to facilitate collection of specimens and information required for provision of services listed in Exhibit A. PARTNER shall provide facilities for training and collection of specimens related to services listed in Exhibit A that comply with current State and Federal requirements and regulations.

4. KSL shall report test results as directed by PARTNER via secure web portal when the patient provides KSL's standard records release consent form. KSL shall also report results in compliance with the New York State Department of Health and prevailing State and Federal regulations and directives.

5. KSL shall bill for testing as a direct institutional bill to PARTNER at the pricing listed in Exhibit A.

6. KSL shall provide materials listed in Exhibit A performed by KSL. KSL shall provide materials for specimen collection services performed by PARNTER at cost, as listed in Exhibit A.

7. PARTNER reserves the right to extend the terms of this Agreement, including prices, to all qualified PARTNER sites.

8. Pricing for any new technology introduced after the date of this Agreement will be mutually agreed to by the parties prior to being made available to PARTNER. No such new technology may be supplied to PARTNER without prior approval of PARTNER or one of its ordering physicians.

9. If applicable, KSL agrees to provide all product Material Safety Data Sheets (MSDS), as required by law.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

10. PARTNER must be notified of any change in service methodologies, product(s), or packaging within 30 days of such change.

11. KSL will comply with all federal, state, and local statutes, ordinances, rules, or regulations ("Applicable Laws") regarding the product(s) and/or service(s) covered in this Agreement. KSL's failure to comply with Applicable Laws may be considered a material breach of this Agreement.

12. KSL represents and warrants that it, and the personnel it intends to assign to perform the Services (including subcontractors) hereunder: (a) have not been convicted of a criminal offense related to health care; and (b) are not excluded from participation, and have not been found to be otherwise ineligible to participate, in a "Federal health care program" as defined in 42 U.S.C. Section 1320a-7b(f) or any applicable successor statutory section or in any other government payment program. To the extent KSL becomes aware of any such information, KSL will promptly notify PARTNER and remove any such person from the engagement.

II. TERM/TERMINATION

1. This Agreement will be effective from January 5, 2021 to May 4, 2021 (120 days from start of agreement.)

2. Either party may terminate this Agreement, with or without cause, upon 60 days prior written notice.

3. Either party may terminate this Agreement immediately by written notice to the other party if a State or Federal Executive Order or Law overturns testing requirements instituted in New York State Executive Order No. 202.30.

4. Either party may terminate this Agreement immediately by written notice to the other party if there occurs any assignment of the other party's assets for the benefit of creditors, any dissolution of the other party, any voluntary act of bankruptcy by the other party, or any involuntary filing under any bankruptcy law against the other party which is not dismissed within 30 days of filing.

5. Either party may terminate this Agreement immediately upon breach by the other party of any material obligation in this Agreement, which breach has not been cured to the satisfaction of the other party within five days after written notice of such breach.

III. PAYMENT AND DELIVERY TERMS

1. Payment terms are NET 30 days from invoice date.

2. KSL agrees to firm prices for the length of the agreement.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

3. KSL agrees for the term of this Agreement to neither bill PARTNER for nor pass through to PARTNER in any manner any tax, including but not limited to, the medical device excise tax enacted by section 1405 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)), in conjunction with the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)) (jointly, the ACA). A medical device is defined as a device contained in Section 4191(b)(1) which provides that, in general, a "taxable medical device" is any device, as defined in section 201(h) of the Federal Food, Drug Cosmetic Act (FFDCA) (codified as amended at 21 U.S.C. 301 et seq. (2006)) that is intended for humans. KSL acknowledges and agrees that PARTNER is a tax-exempt entity and as such, KSL will not include sales tax in its invoices to PARTNER.

4. If PARTNER reasonably disputes any portion of an invoice, PARTNER must pay the undisputed portion of the Invoice and submit Written notice of the claim (with sufficient detail of the nature of the claim, the amount and invoices in dispute and information necessary to identify the affected Service(s)) for the disputed amount. All claims disputing invoice amounts must be submitted to KSL in writing within thirty (30) days from the date of the invoice for those Services. PARTNER waives the right to dispute any charges not disputed within such thirty (30) day period. If the dispute is resolved in KSL's favor, PARTNER shall pay such amounts to KSL.

5. All equipment or product(s) will be FOB Destination, delivered to the PARTNER site specified on the purchase order.

6. Delivery of equipment, product(s) or service(s) will be in the quantities ordered and within the delivery time specified on the purchase order. If delivery does not occur within the agreed upon time, PARTNER may obtain the equipment, product(s) or service(s) from another source, and KSL will be liable for the excess cost incurred by PARTNER in receiving the equipment, product(s) or service(s) from a secondary KSL.

7. Return of goods or an exchange of equipment or product(s) will be consistent with KSL's customary policies and will be at no charge to PARTNER. Items exchanged will be of the same quality, and any goods returned will be refunded in cash.

IV. DISCOUNTS, REBATES, AND PRICE CONCESSIONS

1. The purchase prices under this Agreement (including the value of any discounts, rebates, or other price concessions) are intended to reflect discounts or other reductions in price within the meaning of the discount exception to the federal anti-kickback statute (42 U.S.C. §1320a-7b(b)(3)(A)). In addition, any value provided to PARTNER under the warranties set forth in this Agreement shall be provided in accordance with the provisions of the federal anti-kickback

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

warranty safe harbor regulation (42 C.F.R. §1001.952(g)) and Section 1128G of the Social Security Act.

2. So that PARTNER may comply with its obligation to properly disclose and appropriately reflect such discounts, rebates, or other price concessions on applicable cost reports or in charges to Medicare, Medicaid, and other federal health insurance programs or state health insurance programs in accordance with Section 1128B(b)(3) of the Social Security Act, 42 U.S.C. § 1320a-7b(b)(3), KSL will:

   a. Provide the value of any discounts or other price concessions to PARTNER in its quotations, proposals, or invoices, as applicable.

   b. Provide the amount of any rebate to PARTNER no later than February 28th of each year for the prior calendar year during which this Agreement is in effect. Such information shall be provided to PARTNER by First Class mail, postage prepaid, addressed to ----

V. BOOKS AND RECORDS

1. KSL shall maintain all laboratory records in compliance with New York State Department of Health and US Food and Drug Administration regulations.

2. KSL agrees to provide PARTNER with any business records PARTNER reasonably requests to assure: (a) any payments it made to KSL are correct, or (b) compliance with all federal and state laws, regulations, or reimbursement requirements.

3. Each party agrees to make books and records available and to require any subcontractor to make books and records available, upon request of the Secretary of Health and Human Services or the Comptroller General of the United States for up to four years following the furnishing of services under this Agreement in compliance with Section 1861(v)(1)(I) of the Social Security Act.

VI. INDEMNIFICATION

Each party will defend, indemnify, and hold harmless the other party, its officers, directors, employees, and managers, against all actions, suits, claims, losses, liabilities, and demands whatsoever, including costs, expenses, and attorneys' fees, resulting from or claimed to have resulted from any intentional or negligent acts or omissions of the indemnifying party or its employees, agents, or other independent contractors. The provisions of this Section will survive expiration or termination of this Agreement. Each party will promptly notify the other of any claim asserted against it for which such indemnification is sought. In no event will the indemnifying party, without the reasonable consent of the indemnified party, enter into any settlement that reasonably can be expected to require a material affirmative obligation of, results in any ongoing material liability to, or materially prejudices the indemnified party.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

VII. INSURANCE

KSL will maintain in effect throughout the term of this Agreement and any extension thereof the insurance coverages described in Exhibit B attached to and made a part of this Agreement. Prior to commencement of the work or provision of the equipment or product(s) covered by this Agreement, KSL will deliver to PARTNER Certificate(s) of Insurance acceptable to PARTNER certifying that the coverages described in Exhibit B are in effect.

VIII. WARRANTIES

1. KSL warrants to PARTNER that materials, product(s), or equipment furnished under this Agreement will be of good quality and new unless otherwise required or permitted by the Agreement, that the work will be free from defects not inherent in the quality required or permitted, and that the work will conform to the requirements of the Agreement. Work not conforming to these requirements, including substitutions not properly approved and authorized by PARTNER, may be considered defective. If required by PARTNER, KSL will furnish satisfactory evidence as to the kind and quality of materials and equipment furnished.

2. KSL warrants to PARTNER that any service provided herein will be performed in accordance with industry practices. If any failure to meet the foregoing warranty appears and written notice thereof is provided to KSL within the terms of this Agreement, KSL will correctly re-perform the service identified.

IX. NOTICES

Any notice required or permitted to be given under this Agreement must be in writing and will be deemed to have been properly served if sent by hand delivery, recognized overnight courier, or certified mail, return receipt requested, properly addressed and posted in a United States depository to the respective parties at the following addresses:

To PARTNER:

Town of Amherst
Attn: Contract Compliance & Administration
5583 Main St.
Williamsville, NY 14221

To KSL:

KSL Diagnostics Inc.
Attention: CEO
1000 Youngs Road, Suite 210
Buffalo, NY 14221

Either party may change the notification addresses listed above with proper written notification.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

X. MISCELLANEOUS

1. HIPAA. PARTNER is a Covered Entity as that term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder and as amended from time to time. Therefore, if applicable, KSL and PARTNER have entered into a HIPAA Business Associate Agreement, and each party acknowledges its obligations thereunder.

2. Physician Sunshine Act. Within 30 days after the end of each calendar quarter, KSL shall furnish in writing to PARTNER the following information concerning events between KSL and PARTNER that KSL will report to the Centers for Medicare and Medicaid Services pursuant to the Physician Sunshine Act: date, location, and amount. Such information shall be provided to PARTNER's Chief Compliance Officer by U.S. first class mail, postage prepaid, addressed to: ---.

3. Product Safety, Withdrawal, and Recall Information. KSL will notify PARTNER of all applicable product safety, withdrawal, and recall information within 24 hours of KSL's determination to issue such information. KSL will notify: ---.

4. Use of Names. Neither party may use the name of any other party in any advertising or other form of publicity without the written permission of an authorized representative of the party whose name is to be used.

5. Confidentiality. All information contained herein will be held confidential and will not be disclosed by either party, except as required by law, or to an attorney or consultant working on behalf of either party, provided such attorney or consultant abides by the same confidentiality restrictions as the disclosing party. Notwithstanding the foregoing, PARTNER may disclose the pricing available under this Agreement to third-party consultants and any group purchasing organization of which PARTNER is a member.

6. Governing Law. PARTNER has been granted an operating certificate by the New York State Department of Health and must abide by the laws of the State of New York. Therefore, this Agreement, which is executed, delivered, and performed in the State of New York, will be governed by, interpreted, and construed in accordance with the laws of the State of New York without reference to its conflicts of law principles. Each party agrees to submit to the personal and exclusive jurisdiction of the courts located in Erie County, New York.

7. Events Beyond Either Party's Control. Notwithstanding anything to the contrary in this Agreement, in the event that either party is required by federal or state law, any court of competent jurisdiction, any other tribunal or proceeding, the terms of a settlement agreement, or due to any other reason

beyond that party's reasonable control to act in a manner that makes performance of its obligations under this Agreement impossible, the party will be temporarily excused from performing such obligations. If the affected party is unable to perform its obligations for more than 30 days, the parties will attempt to renegotiate the terms of this Agreement to enable the affected party to perform its obligations. If the parties are unable to successfully renegotiate the terms of this Agreement, either party may terminate this Agreement pursuant to Section II. A party that is unable to perform due to circumstances beyond its control will immediately notify the other party in writing of the occurrence of any such event.

8. Independent Contractors. This Agreement is not intended to create, and will not be construed to create, any relationship between the parties other than that of independent contractors. Neither of the parties nor any of their respective representatives will be construed to be the agent, employee, or representative of the other. KSL will neither have nor exercised any control or direction over the methods by which PARTNER provides services.

9. Construction. During the term of this Agreement, if legislative or regulatory action or interpretation renders any of its content impossible to perform, impractical or illegal, each party will have the right to remedy such condition through the immediate renegotiation of the affected portion(s) of this Agreement. This right may be exercised by written notice to the other party. Should the parties be unable to renegotiate this Agreement within 30 days after notice of renegotiation is given, either party will be entitled to terminate this Agreement in accordance with Section II of this Agreement.

10. Severability. Unless the consideration set forth in this Agreement is affected, if any paragraph, section, portion, subsection, subparagraph or sub-portion of this Agreement is determined to be unenforceable or invalid, it will not affect the remainder of this Agreement, which will be and remain binding and effective as against all parties.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to its subject matter, and as such this Agreement supersedes all prior negotiations, understandings, and agreements whether oral or written between the parties with respect to its subject matter. The parties acknowledge and affirm that in entering into this Agreement they are not relying upon any statements, representations or assertions not contained in this document. No amendment, modification, or waiver of any provision of this Agreement will be valid unless it is in writing and signed by each party hereto. Any waiver of a breach of any of the provisions of this Agreement will not be deemed a waiver of any other provision of this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of each party hereto.

12. Interpretation. All headings are included for convenience of reference only and are not of substantive effect. Neither party will be deemed the drafter of this

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

Agreement. Accordingly, the language of this Agreement will not be construed for or against either party.

13. Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed to be an original, but all of which will constitute one and the same instrument.

14. Effective Upon Execution; Authority. This Agreement will not be considered accepted, approved, or otherwise effective until signed below by the appropriate persons. Each party represents and warrants that the person signing below on its behalf has the authority to enter into this Agreement, and that this Agreement does not violate any existing agreement or obligation of such party.

XI. ADDITIONAL TERMS (If applicable)

N/A.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by their duly authorized representatives.

PARTNER	**KSL DIAGNOSTICS INC.**
By: _____	**By:** _____
Name: **Brian Kulpa**	**Name:** **Kevin Lawson**
Title: **Supervisor**	**Title:** **President/CEO**
Date: _____	**Date:** _____

Rev. 24 NOV 2020

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

EXHIBIT A

(Remainder of page intentionally left blank).
Pricing from KSL Diagnostics Inc. is attached.

LABORATORY SERVICES	DESCRIPTION	CPT	QTY	PRICE
	Coronavirus Disease (COVID-19) virus testing by RT-PCR	87365	1	$90
	Coronavirus Disease (COVID-19) Antibody Testing by chemiluminescense immunoassay (CLIA)	86769	3	$90
SPECIMEN COLLECTION SERVICES	**DESCRIPTION**	**CPT**	**QTY**	**PRICE**
	Specimen collection for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]), any specimen source (swab or blood)	G2023	1	$15
	Specimen collection for severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]), from an individual in a skilled nursing facility or by a laboratory on behalf of a home health agency, any specimen source (swab or blood)	G2024	1	$15
MATERIALS*	**PROCEDURE DESCRIPTION**	**CPT**	**QTY**	**PRICE**
	RT-PCR Sample swab		1	$1.00
	Swab tube, cap and media		1	$2.00
	Vacutainer tube		1	$1.00
	Butterfly vacutainer phlebotomy kit		1	$1.00

* Included with KSL provided Specimen Collection Services

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EXHIBIT B

PARTNER INSURANCE REQUIREMENTS

(Remainder of page intentionally left blank.
Insurance Requirements immediately follow.)

1. INSURANCE TO BE MAINTAINED BY KSL/SERVICE PROVIDER

Prior to providing products/equipment and/or services under this Agreement, KSL/Service Provider, at its own cost and expense, shall procure and maintain insurance for the coverages listed below, written for not less than the limits specified for each coverage or required by law, whichever is greater (except that if KSL/Service Provider procures any policy limits greater than the amounts required herein, then the higher limits shall apply as though stated and required herein) and including the provisions enumerated below:

1.1. Commercial General Liability

Bodily Injury and Property Damage Limit	$1,000,000 each occurrence
Personal Injury & Advertising Injury Limit	$1,000,000 each person
Products/Completed Operations Limit	$2,000,000 aggregate
General Aggregate	$2,000,000

Coverage is to apply on an occurrence basis only. No endorsement or modification of this policy limiting the scope of coverage for Contractual Liability, Products/Completed Operations, or Personal Injury shall be permitted. In addition, no designated Premises/Operations limitation shall be permitted.

1.2. Automobile Liability[1]

Owned, Hired and Non-Owned Autos

Combined Single Limit for Bodily Injury & Property Damage $1,000,000 each accident

1.3. Workers' Compensation & Employers' Liability and New York Disability Benefits[1]

Statutory coverage complying with the law of each state in which KSL/Service Provider's employees are headquartered, working, or domiciled with Employers' Liability limits of not less than $500,000 Each Accident and $500,000 Each Employee for Disease and $500,000 Policy Limit for Disease, or the minimum level required by KSL/Service Provider's Excess Umbrella Liability insurance company, whichever is greater and New York Disability Benefits Law.

1.4. Excess "Umbrella" Liability

Combined Single Limit for Bodily Injury & Property Damage	$2,000,000 each occurrence $2,000,000 aggregate

Coverage is to apply on an occurrence basis only; in excess of the other Liability coverages required in 1.1, 1.2, and 1.3 above and shall be no more restrictive than such scheduled underlying insurance.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

NOTE: Any combination of primary and excess limits is acceptable as long as the total limits achieved are at least equal to the total limits achieved by the above described combination of primary and excess layers.

1.5. Additional Insureds

PARTNER and its subsidiary and/or affiliated entities and their respective trustees, officers, employees and agents (as well as such other person(s) or organization(s) as designated by PARTNER in writing) shall be named as Additional Insureds under the policies required in 1.1, 1.2, and 1.4 providing coverage for both ongoing and completed operations. The insurance protection afforded to the Additional Insureds under such policies shall apply on a primary basis and any insurance (or self-insurance program) maintained by the Additional Insureds shall not contribute with the insurance afforded to PARTNER and its subsidiary and/or affiliated entities and their respective trustees, officers, employees and agents.

1.6. Financial Rating of Insurers

The insurance companies providing the required coverages shall be licensed to do so in New York State, and shall be rated no lower than "A-" by the most recent Best's Key Rating Guide or Best's Agent's Guide, and shall have a Best's Financial Size Category of not less than VIII, unless otherwise agreed to by PARTNER.

1.7. Notice of Cancellation, etc.

KSL/Service Provider is hereby obligated to e-mail or fax to PARTNER a copy of any cancellation or non-renewal notice received from the insurer for any policy affording the coverages required herein within five (5) days of KSL/Service Provider's receipt of same. KSL/Service Provider further agrees to provide PARTNER with 30 days advance written notice of cancellation, non-renewal or material reduction in coverage initiated by KSL/Service Provider with respect to any of the required insurance coverages. For the purpose of this provision, material reduction in coverage shall mean any change or reduction in the scope of insurance coverage that adversely affects the protection that would otherwise be available to PARTNER. **Notices to PARTNER hereunder must be e-mailed to ljuul@amherst.ny.us, with a copy to khalton@amherst.ny.us.**

1.8. Deductibles or Self-Insured Retentions

Deductibles or self-insured retentions shall be permitted with the understanding that Service Provider (and not PARTNER) shall be responsible for such deductible or self-insured retention.

1.9. General Provisions

1.9.1 Cross-Liability. If KSL/Service Provider's liability policies do not contain the standard ISO separation of insureds provision, or an equivalent clause, such policies shall be endorsed to provide cross-liability coverage.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

1.9.2 Claims-Made Coverage. For any liability coverages maintained on a claims-made basis, the following provisions apply unless otherwise agreed to by PARTNER:

1.9.2.1 If the claims-made coverage terms designate a specific retroactive date, KSL/Service Provider shall maintain a retroactive date which is not later than the earlier of (a) the date of the commencement of the term of this Agreement, or (b) the original coverage retroactive date for KSL/Service Provider's first claims-made policy for each and every coverage provided on a claims-made basis;

1.9.2.2 For the duration of this Agreement, or any subsequent renewals, if the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed, KSL/Service Provider shall purchase, at its own expense, an extended reporting period endorsement. This endorsement must provide an extended reporting period ("tail" coverage) of one year or the minimum as prescribed by the New York State Department of Financial Services, whichever is greater.

1.9.2.3 Upon termination of the services provided to PARTNER by KSL/Service Provider, KSL/Service Provider shall maintain such claims-made coverage without interruption for one year or a period of time equal to the length of any extended reporting period requirement as specified above, whichever is greater (the extended term of protection). If the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed during this period of time, KSL/Service Provider shall purchase, at its own expense, an extended reporting period endorsement covering a term of one year or the minimum as prescribed by the New York State Department of Financial Services, whichever is greater. It is understood that the length of this extended reporting period endorsement may be reduced to coincide with any time remaining in the extended term of protection.

1.10. Evidence of Insurance

KSL/Service Provider shall deliver to PARTNER, prior to providing products/equipment and/or services, Certificates of Insurance acceptable to PARTNER certifying that policies of insurance for the required coverages have been issued and are in effect and comply with the requirements herein. Upon expiration or cancellation of any policy during the period the coverages under such policy are required to be maintained, KSL/Service Provider shall immediately deliver to PARTNER a Certificate of Insurance evidencing proper renewal or replacement of the policy.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

1.10.1 Certificates evidencing Liability coverage under which PARTNER et al. is required to be named as an Additional Insured must state that "PARTNER and its subsidiary and/or affiliated entities and their respective trustees, officers, employees and agents are included as Additional Insureds under the Automobile, General Liability, and Umbrella/Excess policies for both ongoing and completed operations. Coverage is primary and non-contributory with respect to any other insurance or self-insurance programs afforded to, or maintained by, PARTNER and its subsidiary and/or affiliated entities."

The certificate(s) must specify the policies under which such Additional Insured status has been granted and a copy of the Additional Insured Endorsement(s) or Policy Provision(s) that grant(s) the required Additional Insured status must be attached to the certificate.

A Waiver of Subrogation in favor of PARTNER and its subsidiary and/or affiliated entities shall also be included under the General Liability, Workers Compensation, Automobile and Umbrella Liability coverages and evidenced on the certificate of insurance.

1.10.2 Failure of PARTNER to demand such Certificate of Insurance or failure of PARTNER to identify a deficiency in a certificate that is provided shall not be construed as a waiver of KSL/Service Provider's obligation to maintain such insurance.

1.10.3 PARTNER shall have the right, but not the obligation, to prohibit the KSL/Service Provider from providing products/equipment and/or services until such certificate indicating full compliance with the requirements herein has been received and approved by PARTNER.

1.10.4 Certificates of Insurance shall be sent to -------.

1.10.5 Certificates must specify the applicable retroactive date of any claims-made coverage being evidenced.

1.11. Failure to Secure and Maintain Insurance

KSL/Service Provider acknowledges that failure to secure the above-specified insurance constitutes a material breach of this Agreement and subjects KSL/Service Provider to liability for damages and all other legal remedies available to PARTNER. KSL/Service Provider further acknowledges that procurement of the insurance coverage and limits required herein shall not limit the extent of KSL/Service Provider's other responsibilities and liabilities specified within the Agreement between PARTNER and KSL/Service Provider or by law.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

1.12. Adequacy of Insurance

PARTNER does not in any way represent that the insurance specified herein, whether in scope of coverage or limits of coverage, is adequate or sufficient to protect the business or interest of KSL/Service Provider.

2. SUB-CONTRACTORS/INDEPENDENT CONTRACTORS

All sub-contractors/independent contractors shall maintain the insurance coverages outlined above and comply with all requirements set forth above, including the furnishing of separate insurance certificates and endorsements prior to said sub-contractors/independent contractors providing products/equipment and/or services unless otherwise agreed to by PARTNER.

Attachment: KSL COVID-19 Laboratory Service Agreement- Town of Amherst draft (RES-2021-56 : Authorize COVID-19 Laboratory Services

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22733

RESOLUTION 2021-57

Public and Private Improvement Permit Inspection Services - DiDonato Associates CRS No. 2327

The Engineering Department is requesting approval of the contract between the Town of Amherst and DiDonato Associates. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

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

Thank you for considering this request.

FINANCIAL IMPACT:

No Financial Impact

IDENTIFY (INFORMATION MUST BE COMPLETED OR CONTRACT WILL BE RETURNED TO APPROPRIATE DEPARTMENT)

REQUESTED TOWN BOARD AGENDA DATE: January 4, 2021

Contract/Project Title: PIP Inspection Services

Vendor: DiDonato Associates

ORG: AG4000

OBJECT: 0699

Amount: TBD

Contract Period: through December 31, 2023

Department contact: Marc A. Bellacose – Junior Municipal Engineer

APPROVED AS TO CONTENT

Department Head - Signature

Department Head - Print Name

Date Approved: 12/22/20

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

December 15, 2020
AGENDA – January 4, 2021

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

RE: Proposal for Professional Engineering Services – DiDonato Associates
Public and Private Improvement Permit (PIP)
Inspection Services

Councilmembers:

The Engineering Department is requesting approval of the contract between the Town of Amherst and DiDonato Associates. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

Thank you for considering this request.

Very truly yours,

Jeffrey S. Burroughs, P.E.
Town Engineer

JSB/MAB
cc: Brian J. Kulpa – Supervisor
Councilmembers
Jacqualine Berger - Liaison
Stanley Sliwa, Esq. – Town Attorney
Daryl Bramer – Comptroller

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

TOWN OF AMHERST
PROFESSIONAL DESIGN SERVICES AGREEMENT
2021-2023 PUBLIC & PRIVATE IMPROVEMENT PERMIT INSPECTION SERVICES

This document is a MODIFIED version of EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.
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Those portions of the text that originated in copyrighted EJCDC documents remain subject to the copyright.

THIS IS AN AGREEMENT effective as of January 4, 2021 ("Effective Date") between the

Town of Amherst (Owner") and

DiDonato Associates (Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

A. Owner shall have the responsibilities set forth herein and in Exhibit B.

B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.

C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:

1. any development that affects the scope or time of performance of Engineer's services;

2. the presence at the Site of any Constituent of Concern; or

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

3. Any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 *Time for Completion*

A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

5.03 *Opinions of Total Project Costs*

A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:

   a. changes after the Effective Date to Laws and Regulations;

   b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;

   c. changes after the Effective Date to Owner-provided written policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means,

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

M. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

A. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations and one electronic record version of such Drawings (AutoCad format) and Specifications (MS Word format).

B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

6.04 *Electronic Transmittals*

A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.

B. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

A. Engineer shall procure and maintain insurance as set forth by the Town of Amherst in Exhibit E. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insured with respect to such liability insurance purchased and maintained by Contractor for the Project.

C. Engineer shall each deliver to the other certificates of insurance evidencing the coverage indicated in Exhibit E. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

6.06 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C shall appear in the Construction Contract Documents.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

6.07 *Environmental Condition of Site*

A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.

B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.

E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.

F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.08 *Controlling Law*

A. This Agreement is to be governed by the Laws and Regulations of the State of New York.

6.09 *Records Retention*

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:

1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.

3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.

5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as "Contract Documents" in the Construction Contract, and which together comprise the Construction Contract.

11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.

12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.

13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.

17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

20. *Engineer*—The individual or entity named as such in this Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.

22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

23. *Owner*—the Town of Amherst. Unless indicated otherwise, this is the entity that will enter into any Construction Contracts concerning the Project.

24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.

27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

34. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

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B. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

A. Exhibit A, Engineer's Services.

B. Exhibit B, Owner's Responsibilities.

C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.

E. Exhibit E, Insurance Requirements.

F. Exhibit F, Special Provisions

8.02 *Total Agreement*

A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: **Town of Amherst**

By: _____

Brian J. Kulpa

Supervisor

Date Signed: _____

Engineer: **DiDonato Associates**

By: _____

Print name: **John DiDonato, P.E.**

Title: **Principal**

Date Signed: _____

Engineer License or Firm's Certificate No. (if required):

_____

State of: **New York**

Address for Owner's receipt of notices:

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Address for Engineer's receipt of notices:

DiDonato Associates

689 Main Street

Buffalo, NY 14203

Designated Representative (Paragraph 8.03.A):

Jeffrey S. Burroughs, P.E.

Town Engineer

Phone Number: (716) 631-7154

E-Mail Address: jburroughs@amherst.ny.us

Designated Representative (Paragraph 8.03.A):

_____

Title: _____

Phone Number: **(716) 656-1900**

E-Mail Address: **jdidonato@didonato.cc**

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Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES 2021-2023 Public & Private Improvement Permit Inspection

~~A1.01 *Phase I - Study and Report Phase*~~

~~A. Engineer shall:~~

~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~

~~a. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~

~~b. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [ ] alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~

~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~

~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~

~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~

~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~

~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~

~~8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its~~

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Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.

9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.

10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."

11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.

12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.

13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.

14. Perform or provide the following other Study and Report Phase tasks or deliverables:

    a. Conduct field edit(s) of the supplied data as required to supplement and verify information.

    b. Prepare preliminary design plans for each alternate, and meet with Town Engineering staff to review the proposed designed improvements.

    c. Prepare preliminary design plans in AutoCAD format from the project base maps to include plan views, profiles, details, general construction notes, tables, title sheet and location map. All design work is to be preformed in accordance with the requirements of the Building Code of New York State.

15. Specific additional project tasks and/or deliverables:

    a. Prepare preliminary/schematic design report including; descriptions of proposed floor plan, all associated systems, utilities, required utility stabilizations or relocations. A narrative of applicable codes and design parameters, and opinion of probable cost.

16. Furnish **three (3)** copies of the Report and any other Study and Report Phase deliverables to Owner within **thirty (30)** days of the Effective Date and review it with Owner. Within **five (5)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

17. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish three (3) copies of the revised Report and any other Study and Report Phase deliverables to the Owner within fifteen (15) days of receipt of Owner's comments.

B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

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A1.02 *Phase II - Preliminary Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Report and any other Study and Report Phase deliverables the Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.

2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.

3. Utilize Town-provided plans, ~~field surveys and topographic and utility mapping~~ for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then ~~at a minimum~~ the utility mapping may ~~will~~ include Engineer contacting utility owners for verification of the Town-provided utility information.

4. Visit the Site as needed to prepare the Preliminary Design Phase documents.

5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the project design.

6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.

7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.

8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.

9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:

   a. Utilize existing digital and plan data supplied by the town (digital orthophotos, tax parcel boundaries, DTM data, building outlines, pavement edges, topographic survey and/or record drawing information) to prepare base mapping of the project area.

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b. Conduct field edit(s) of the supplied data and record drawing information as required to supplement and verify information.

c. Prepare preliminary design plans of existing and proposed improvements, and meet with Town Engineering staff to review the proposed designed improvements.

d. Prepare preliminary design plans in AutoCAD format from the project base maps ~~to include plan views, profiles, details, general construction notes, tables, title sheet and location map.~~ All design work is to be preformed in accordance with the requirements of the Building Code of New York State.

e. The Engineer shall provide all drawing and specifications, as required.

f. Non-technical portion of the specifications will be prepared using the Owner's standard specifications (Division 0).

10. Furnish **three (3)** review copies of the Preliminary Design Phase documents, Construction Cost Estimate, and any other Preliminary Design Phase deliverables to Owner within **thirty (30)** days of authorization to proceed with this phase, and review them with Owner. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner **three (3)** copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within **fifteen (15)** days after receipt of Owner's comments.

B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Phase III - Final Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Preliminary Design Phase documents the Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.

2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.

3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.

4. Advise Owner of any recommended adjustments to the preliminary construction cost estimate.

5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.

6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.

7. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.

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8. Perform or provide the following other Final Design Phase tasks or deliverables:

   a. Prepare and furnish **three (3)** copies of 90% complete design plans and bidding specifications for review by the Owner within **fifteen (15)** days of authorization to proceed with this phase. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments for revisions.

   b. Revise the design plans and bidding specifications in accordance with comments and instructions from all applicable agencies, as appropriate, and submit final copies of the design plans and bidding specifications, a revised opinion of probable Construction Cost, and any other required deliverables to the Owner within **ten (10)** calendar days after receipt of all applicable agency review comments and instructions.

   c. Prepare the bid documents with an itemized list of work to be performed. The itemized list will consist of all items in the "technical specifications" listed in the Preliminary Design Phase, [refer to Section A.1.02, A, 9]. Bidding will be based on each item on the itemized list. Contract award will be based on "all" or "a portion of" the items.

B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **three (3)**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Phase IV - Bidding or Negotiating Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

   1. Assist Owner in obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents to prospective contractors, and attend pre-bid conferences.

   2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.

   3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.

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4. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.

5. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

6. Prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals.

7. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.

8. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:

   a. Provide **fifteen (15)** sets of final construction documents for bidding.

   b. Address any questions from potential bidders and issue any necessary addendums to the contract documents promptly and prior to Bid opening.

   c. Assist Owner in connection with Bid protests, or renegotiating contracts for construction, materials, equipment, or services.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

A1.05 *Phase V - Construction Phase*

A. ~~Upon successful completion of the Bidding and Negotiating Phase~~, Engineer shall:

~~1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.~~

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.

~~3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.~~

4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.

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6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

~~7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.~~

8. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:

   a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, or at a minimum of **two (2)** inspection visits per week during construction, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

   b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

9. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.

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10. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.

11. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

12. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.

13. *Change Orders:* Recommend Change Orders to Owner, as appropriate, and prepare Change Orders as required.

14. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

15. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

16. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

17. *Inspections and Tests:*

    a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

    b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

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c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

18. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

~~19. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:~~

~~a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).~~

~~b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~

20. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of

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inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.16. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.

21. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

22. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:

    a. Make visits to the site at **part-time** intervals appropriate to the various phases and nature of construction to observe the progress and quality of the construction work and to determine, in general if the results of the construction work are in accordance with the Drawings and Specifications. Where construction does not comply with Plans and Specifications, notify Owner of such deficiencies or non-complying construction and report to the Owner any work not adequately corrected with recommendations to assist the Owner to obtain compliance of the construction with the Plans and Specifications. On the basis of his on-site observations as an Engineer, he shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the Contractor; but does not guarantee the performance of the Contractor.

    b. Attend scheduled construction progress meetings and issue minutes.

    c. The Engineer is not responsible for the construction means, methods, techniques, sequences or procedures, time of performance, programs or for any safety precautions in connection with the construction work. The Engineer is not responsible for the Contractor's failure to execute the work in accordance with the construction Contract.

    d. Notify the Owner of all permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the Owner for its correction and; at the request of the Owner have recommendations implemented by the Contractor.

    e. [List any additional tasks or deliverables.]

23. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor that the Work is acceptable to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

24. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions

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and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Phase VI - Post-Construction Phase*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.

2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

3. Perform or provide the following other Post-Construction Phase tasks or deliverables:

a. Following completion of construction, the Engineer shall furnish the Owner and Design Engineer with a set of inspection records, drawings, sketches and all other field records for preparation of record drawings showing those changes made during the Construction Contract execution or during the construction process, based upon the Engineer's Project Representative's notes and executed Change Orders.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services will be paid for by Owner as indicated in Exhibit C.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for preparation or review of environmental assessments; review and evaluation of the effects on the design requirements for the Project of any documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, or Owner's schedule; and revising previously

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accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are due to any causes beyond Engineer's control.

3. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.

4. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

5. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.

6. Overtime work requiring higher than regular rates.

7. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).

8. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.

1. Services in connection with Change Orders to reflect changes requested by Owner.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; and services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project.

3. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.

4. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

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Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Give instructions to Engineer regarding Owner's procurement of construction services, Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents. Furnish copies of all design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents. Owner shall have responsibility for the final content of (1) such bidding-related documents, and (2) those portions of any Construction Contract other than the design, and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, and insurance advisors with respect to the drafting and content of such documents.

C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.

D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish, or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Utility and topographic mapping and surveys.
4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
7. Data or consultations as required for the Project but not otherwise identified in this Agreement.

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E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

F. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.

2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.

3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.

4. Placement and payment for advertisement for Bids in appropriate publications.

G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through the Contractor.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

M. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

N. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

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O. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.

P. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.

Q. Perform or provide the following: [ ] ***[List any other Owner responsibilities here.]***

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 *Compensation For Basic Services – Standard Hourly Rates Method of Payment*

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer's Consultants' charges, if any.

2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer's services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer's Consultants' charges.

3. Engineer's Standard Hourly Rates are attached to this Exhibit C as Appendix 1.

4. The total compensation for services under Paragraph C2.01 is estimated to be based on the below referenced hourly rates:

   a. Construction Phase/ Construction Administration $ 115.00/hour

   b. Construction Phase/ Resident Project Representative

      NICET LEVEL II $ 70.00/hour

      NICET LEVEL III $ 75.00/hour

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.

6. **The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.4 incorporates all labor, overhead, profit, and Engineer's Consultants' charges.**

7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.

~~8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1, 2022** to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Deleted*

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C2.03 *Other Provisions Concerning Payment*

A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.0**.

B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.

D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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Appendix 1: Standard Hourly Rates Schedule

C2.06 Compensation for Standard Hourly Rates for *Basic Services – Standard Hourly Rates Method of Payment*

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

2. The Standard Hourly Rates apply only as specified in Article C2.

B. *Schedule:*

Hourly rates for services performed on or after the date of the Agreement are:

Officer / Principal		$ 210.00 /hour
Project Engineer/Architect (CA Hourly Rate)		$ 115.00 /hour (CA Hourly Rate)
Engineer/Architect 3		$ 124.00 /hour
Engineer/Architect 2		$ *116.00* /hour
Engineer/Architect 1		$ 100.00 /hour
Technician 4		$ 120.00 /hour
Technician 3		$ 94.00 /hour
Technician 2		$ 76.00 /hour
Technician 1		$ 56.00 /hour
Resident Engineering	(NICET LEVEL III)	$ 75.00 /hour (CI Hourly Rate)
Resident Engineering	(NICET LEVEL II)	$ 70.00 /hour (CI Hourly Rate)

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Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 *Resident Project Representative*

A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.

B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.

C. The duties and responsibilities of the RPR are as follows:

1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.

2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.

5. *Liaison:*

   a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.

   b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

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c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.

7. *Shop Drawings and Samples:*

   a. Record date of receipt of Samples and Contractor-approved Shop Drawings.

   b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

   c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.

8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.

9. *Review of Work; Defective Work:*

   a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

   b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and

   c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

    a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.

    b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.

    c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

    d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.

    e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

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11. *Records*:

    a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.

    b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

    c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

    d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.

    e. Maintain records for use in preparing Project documentation.

    f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

    a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

    b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

    c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.

    d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

~~13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.~~

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

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15. *Completion*:

    a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.

    b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

    c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

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Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 *Insurance*

A. The limits of liability for the insurance required by Paragraph 6.05.A and 6.05.B of the Agreement are as follows:

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID 57 TOA--A1

DATE (MM/DD/YYYY) 04/02/09

PRODUCER

Insurers Name,
Address,
Phone Number

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 POLICIES BELOW.

INSURED

Insured Name,
Address,
Phone Number

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: MISCELLANEOUS COMPANIES	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR X ERRORS/OMISSIONS GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	CONSULTANTS PROFESSIONAL	01/01/09	01/01/10	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PRO LIAB	$ 1,000,000. $ 50,000. $ 10,000. $ 1,000,000. $ 2,000,000. $ 2,000,000.
A		AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS		01/01/09	01/01/10	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000. $ $ $
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
		EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ 2,000,000. $ 2,000,000.
X		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below		01/01/09	01/01/10	X WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 100,000. $ 100,000. $ 500,000.
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Town of Amherst should be named as an add'l insured on the Comprehensive General liability Insurance Policy on a primary basis. Workers Compensation insurance should include owners.

CERTIFICATE HOLDER

TOWN001

TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Insurers Signature

ACORD 25 (2001/08)

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Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

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: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

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: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

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: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

CERTIFICATE OF LIABILITY INSURANCE

DATE 12/18/2020

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: Jennifer Dissette
Promark Associated Agencies, Inc. 7 Limestone Dr. Williamsville NY 14221	PHONE (A/C, No, Ext): (716) 633-8401 FAX (A/C, No): (716) 633-8429 E-MAIL ADDRESS: jdissette@promarkinsurance.com
INSURED DiDonato Associates, Engineering & Architecture, P.C. 689 Main Street Buffalo NY 14203	INSURER(S) AFFORDING COVERAGE — NAIC INSURER A: RLI Insurance Company — 13056 INSURER B: Navigators Insurance Company — 42307 INSURER C: Hartford Life Insurance Co. — 88072 INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** CL20121111686 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR X Includes contractual liab X Includes w/in 50' railroad GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:	X		PSB0006102	3/1/2020	3/1/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000, $ 1,000, $ 10, $ 1,000, $ 2,000, $ 2,000,
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	X		PSB0006102	3/1/2020	3/1/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000, $ $ $
A	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $	X		PSE0003184	3/1/2020	3/1/2021	EACH OCCURRENCE AGGREGATE	$ 5,000, $ 5,000,
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		PSW0001342	3/1/2020	3/1/2021	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000, $ 1,000, $ 1,000,
B	Professional Liability			CM20DPL084864IV	3/1/2020	3/1/2021	Per Claim / Aggregate	$5M/
C	Disability			LNY631991	1/1/2021	1/1/2022	NYS DBL	Statut

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: 2021-2023 Public & Private Improvement Permit Inspection Services.
Professional Liability limits shown are per claim and aggregate for all projects of the named insured.
Town of Amherst is an additional insured on a primary and non-contributory basis for the general, auto and excess liability only in regards to services provided by the named insured when required by written contract.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

C Alderson/JWARNE

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Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only) DIDONATO & ASSOCIATES P.E., P.C. 689 MAIN STREET BUFFALO, NY 14203	1b. Business Telephone Number of Insured 716-656-1900 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 161382582
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) TOWN OF AMHERST 5583 MAIN ST. WILLIAMSVILLE, NY 14221	3a. Name of Insurance Carrier Hartford Life Insurance Co 3b. Policy Number of entity listed in box "1a": LNY-631991 3c. Policy effective period: 01/01/2021 to 12/31/2021

4. Policy covers:

a. ☑ All of the employer's employees eligible under the New York Disability Benefits Law

b. ☐ Only the following class or classes of the employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above ar that the named insured has NYS Disability Benefits insurance coverage as described above.

Date Signed 12/11/2020 By _____

(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carri

Telephone Number (800) 454-7020 Title Manager

IMPORTANT: If box "4a" is checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of th carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.
If box "4b" is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be mail for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" 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 Benefits Law with respect to all of his/her employees.

Date Signed _____ By _____

(Signature of NYS Workers' Compensation Board Employee)

Telephone Number _____ Title _____

Please Note: *Only insurance carriers licensed to write NYS disability benefits insurance policies and NYS licensed insurance agents those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (5-06)

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

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 "1a" for disability benefits under the New York State Disability Benefits Law. The Insurance Carrier or its licensed agent will send Certificate of Insurance to the entity listed as the certificate holder in box "2". ***This Certificate is valid for the earlier of one year after form is approved by the insurance carrier or its licensed agent, or the policy expiration date listed in box "3c".***

Please Note: Upon the cancellation of the disability benefits policy indicated on this form, if the business continues to be named on a permit, licens contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of NYS Disability Benefits Coverage or c authorized proof that the business is complying with the mandatory coverage requirements of the New York State Disability Benefits Law.

DISABILITY BENEFITS LAW

§220. Subd. 8

(a) The head of a state or municipal department, board, commission or office authorized or required by law issue any permit for or in connection with any work involving the employment of employees in employment defined in this article, and not withstanding any general or special statute requiring or authorizing the issue of su permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a fo satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided this article. Nothing herein, however, shall be construed as creating any liability on the part of such state municipal department, board, commission or office to pay any disability benefits to any such employee if employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law enter into any contract for or in connection with any work involving the employment of employees in employm as defined in this article, and notwithstanding any general or special statute requiring or authorizing any su contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced i form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provic by this article.

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name and address of Insured (Use street address only) **DiDonato Associates, Engineering & Architecture, P.C.** **689 Main St** **Buffalo, NY 14203** ***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 Insurance** **716-656-1900** **1c. NYS Unemployment Insurance Employer Registration Number of Insured** **1d. Federal Employer Identification Number of Insured** **161382582**
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as Certificate Holder) **Town of Amherst** **5583 Main St** **Williamsville, NY 14221**	**3a. Name of Insurance Carrier** **RLI Insurance Company** **3b. Policy Number of entity listed in box "1a"** **PSW0001342** **3c. Policy effective period** **03/01/20 To 03/01/21** **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 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 policy). The insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicate on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.***.

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Thomas N. Alderson
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Thomas N. Alderson 2/20/2020
(Signature) (Date)

Title: President

Telephone Number of authorized representative or licensed agent of insurance carrier: 716-633-8401

Please Note: *Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are NOT authorized to issue it*

C-105.2 (9-07)

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

Workers' Compensation Law

Section 57. Restrictions 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, hoard, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

C-105.2 (9-07) Reverse

Attachment: DiDonato PIP (RES-2021-57 : Public and Private Improvement Permit Inspection Services - DiDonato Associates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22734

RESOLUTION 2021-58

Public and Private Improvement Permit Inspection Services - Fisher Associates CRS No. 2335

The Engineering Department is requesting approval of the contract between the Town of Amherst and Fisher Associates. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

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

Thank you for considering this request.

FINANCIAL IMPACT:

No Financial Impact

IDENTIFY (INFORMATION MUST BE COMPLETED OR CONTRACT WILL BE RETURNED TO APPROPRIATE DEPARTMENT)

REQUESTED TOWN BOARD AGENDA DATE: January 4, 2021

Contract/Project Title: PIP Inspection Services

Vendor: Fisher Associates

ORG: AG4000

OBJECT: 0699

Amount: TBD

Contract Period: through December 31, 2023

Department contact: Marc A. Bellacose – Junior Municipal Engineer

APPROVED AS TO CONTENT

Department Head - Signature

Department Head - Print Name

Date Approved: 12/29/20

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

December 15, 2020
AGENDA – January 4, 2021

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

RE: Proposal for Professional Engineering Services – Fisher Associates
Public and Private Improvement Permit (PIP)
Inspection Services

Councilmembers:

The Engineering Department is requesting approval of the contract between the Town of Amherst and Fisher Associates. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

Thank you for considering this request.

Very truly yours,

DRAFT

Jeffrey S. Burroughs, P.E.
Town Engineer

JSB/MAB
cc: Brian J. Kulpa – Supervisor
Councilmembers
Jacqualine Berger - Liaison
Stanley Sliwa, Esq. – Town Attorney
Daryl Bramer – Comptroller

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

December 1, 2020

Fisher Associates
325 Delaware Avenue
Buffalo, NY 14202
Attn: Edward Kostowniak, P.E.

RE: **Request for Proposal for Professional Engineering Services**
Public Improvement Permits (PIP) – Construction Administration & Observation Services
Three-Year Term Contract

Dear Mr. Kostowniak:

The Town of Amherst is seeking Professional Engineering Services Proposals for the purpose of establishing a term contract/s for construction administration and full-time observation services with respect to Public Improvement Permits. The engineer will provide the level of observation necessary to insure that improvements are constructed in accordance with approved plans, Town standards and general construction practices.

Under this solicitation, it is anticipated that the Town will set a standard hourly rate and develop a list of firms to be used for the services described below.

SCOPE OF SERVICES REQUIRED

A. The engineer shall appoint a qualified project manager, acceptable to the Town, who will be responsible for coordinating the services provided by the engineer and serve as liaison to the Town.

B. The engineer shall conduct a pre-construction meeting with representatives of the Town, the contractor, developer, design engineer and any other affected agencies (utility companies, NYSDOT, ECDPW, etc.).

C. The engineer shall review, evaluate and determine the acceptability of submittals made by the contractor. Submittals include, but not limited to: shop drawings, samples of materials to be used, construction schedules, and materials, equipment or techniques which differ from those specified in the approved plans and documents. A copy of all P.I.P. submittals/shop drawings shall be provided to the Town.

D. The engineer shall conduct job meetings as necessary with the contractor, Town involved agencies, developer and/or design engineer. The engineer shall provide all attendees with a copy of job meeting minutes within one week.

E. The engineer shall provide full-time NICET certified observers (minimum of level II) throughout the course of construction, who are acceptable to the Town. Observers shall keep a detailed written daily record of work completed, contractors and subcontractors, personnel and equipment employed, materials delivered and utilized, and any problems or specific situations encountered. The engineer shall not change inspection personnel without the written approval by the Town.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

F. Observers shall witness all material and system testing and shall clearly document all test results. The engineer relative to the observations will prepare certifications.

G. If necessary, the engineer shall coordinate communication with the contractor, developer and/or design engineer for additional interpretation or required deviations from the approved documents and plans.

H. The engineer shall conduct and inspection of the all construction with a representative of the Town at the substantially competed phase of the project. The engineer shall prepare a detailed list of items that remain to be completed (punch list) and forward said list to the Town, contractor and developer for action.

I. Subsequent to completing outstanding punch list items, the engineer shall conduct a final inspection to determine if all work has been completed in accordance with approved documents, plans and permits.

J. The engineer shall certify to the Town of Amherst that all work is complete in accordance with the permit requirements and/or Town standards.

K. The engineer is responsible for providing a copy of all related inspection reports and detailed sketches to the appropriate design engineer for use in the preparation of "As-Built" drawings.

L. The engineer shall provide the Town with copies of all project related inspection reports, correspondence, certifications, project photographs and related information. All documentation must be identified with the appropriate P.I.P. number and Town of Amherst Job Number(s).

M. Each observer assigned to a project shall have his/her daily time sheet or equivalent project tracking form signed by the developer or his designated representative each day. The referenced time sheet/tracking form shall be included with all invoices.

Please include a standard hourly rate schedule for all job titles included in the proposal. Also include a reimbursable expense schedule for all pertinent costs and services which form the basis of the proposal. A copy of each form is also included for your use.

Proof of insurance in accordance with Town of Amherst provisions is not required to be submitted with the proposal, but will be required of the successful consultant(s) prior to contract execution.

The Town reserves the right to reject any and all proposals; negotiate any elements of the proposal; award a services contract in whole or combination of phases. The Town assumes no responsibility or liability for costs incurred by respondents to this Request for Proposals.

We are requesting that three (3) copies of your proposal be submitted to Jeffrey S. Burroughs, P.E., –Town Engineer at this office, by 2:00 pm, Tuesday, December 15, 2020.

Thank you for your anticipated interest in this proposal. Please notify this office in writing, should your firm be unable to submit a Services Proposal for the referenced project.

If you have any questions or need any additional information, please do not hesitate to call.

Very truly yours,

Marc A. Bellacose
Junior Municipal Engineer

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

Fax	$_____/page
8"x11" Copies/Impressions	$_____/page
Blue Print Copies	$_____/sq. ft.
Reproducible Copies (Mylar)	$_____/sq. ft.
Reproducible Copies (Paper)	$_____/sq. ft.
Mileage	$_____/mile (or federal rate if different)
Field Survey Equipment	$_____/day
Resident Project Representative Equipment	$_____/month

Other Costs

_____ $_____/____

_____ $_____/____

_____ $_____/____

Please fill in all that may apply to Engineering Services Proposal

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Standard Hourly Rates Schedule

A. Standard Hourly Rates

1) Standard Hourly Rates are include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

2) The Standard Hourly Rates will be adjusted annually (as of January 2021) to reflect equitable changes in the compensation payable to Engineer.

3) Schedule

Hourly rates for services performed on or after the date of the Agreement are:

Officer	$_____/hour
Sr. Project Engineer/Scientist/Architect 6	$_____/hour
Project Engineer/Scientist/Architect 5	$_____/hour
Engineer/Scientist/Architect 3	$_____/hour
Engineer/Scientist/Architect 2	$_____/hour
Engineer/Scientist/Architect 1	$_____/hour
Technician 4	$_____/hour
Technician 3	$_____/hour
Technician 2	$_____/hour
Technician 1	$_____/hour
Resident Engineering (Inspector)	$_____/hour

Other Titles

_____	$_____/hour
_____	$_____/hour
_____	$_____/hour
_____	$_____/hour

Please fill in all that may apply to Engineering Services Proposal

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Marquis Engineering, P.C.
3739 Seneca Street
West Seneca, NY 14224
Attn: Keith D. Marquis, P.E.

DiDonato Associates
689 Main Street
Buffalo, NY 14203
Attn: John DiDonato, P.E. – President

Fisher Associates
325 Delaware Avenue
Buffalo, NY 14202
Attn: Edward Kostowniak, P.E.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

TOWN OF AMHERST
PROFESSIONAL DESIGN SERVICES AGREEMENT
2021-2023 PUBLIC & PRIVATE IMPROVEMENT PERMIT INSPECTION SERVICES

This document is a MODIFIED version of EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.
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THIS IS AN AGREEMENT effective as of January 4, 2021 ("Effective Date") between the

Town of Amherst (Owner") and

Fisher Associates (Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

A. Owner shall have the responsibilities set forth herein and in Exhibit B.

B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.

C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:

1. any development that affects the scope or time of performance of Engineer's services;

2. the presence at the Site of any Constituent of Concern; or

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

3. Any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 *Time for Completion*

A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

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5.03 *Opinions of Total Project Costs*

A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:

   a. changes after the Effective Date to Laws and Regulations;

   b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;

   c. changes after the Effective Date to Owner-provided written policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means,

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

M. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

A. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations and one electronic record version of such Drawings (AutoCad format) and Specifications (MS Word format).

B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

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6.04 *Electronic Transmittals*

A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.

B. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

A. Engineer shall procure and maintain insurance as set forth by the Town of Amherst in Exhibit E. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insured with respect to such liability insurance purchased and maintained by Contractor for the Project.

C. Engineer shall each deliver to the other certificates of insurance evidencing the coverage indicated in Exhibit E. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

6.06 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C shall appear in the Construction Contract Documents.

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6.07 *Environmental Condition of Site*

A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.

B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.

E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.

F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.08 *Controlling Law*

A. This Agreement is to be governed by the Laws and Regulations of the State of New York.

6.09 *Records Retention*

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:

1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

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2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.

3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.

5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as "Contract Documents" in the Construction Contract, and which together comprise the Construction Contract.

11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.

12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.

13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing

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services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.

17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

20. *Engineer*—The individual or entity named as such in this Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.

22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

23. *Owner*—the Town of Amherst. Unless indicated otherwise, this is the entity that will enter into any Construction Contracts concerning the Project.

24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.

27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

34. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

B. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

A. Exhibit A, Engineer's Services.

B. Exhibit B, Owner's Responsibilities.

C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.

E. Exhibit E, Insurance Requirements.

F. Exhibit F, Special Provisions

8.02 *Total Agreement*

A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: **Town of Amherst**

By: _____

Brian J. Kulpa

Supervisor

Date Signed: _____

Engineer: **Fisher Associates**

By: _____

Print name: **Edward Kostowniak, P.E.**

Title: **Director of Engineering**

Date Signed: _____

Engineer License or Firm's Certificate No. (if required):

_____

State of: **New York**

Address for Owner's receipt of notices:

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Address for Engineer's receipt of notices:

Fisher Associates

325 Delaware Avenue, Suite 200

Buffalo, NY 14202

Designated Representative (Paragraph 8.03.A):

Jeffrey S. Burroughs, P.E.

Town Engineer

Phone Number: (716) 631-7154

E-Mail Address: jburroughs@amherst.ny.us

Designated Representative (Paragraph 8.03.A):

_____

Title: _____

Phone Number: **(716) 858-1234**

E-Mail Address: **Ekostowniak@fisherassoc.com**

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES 2021-2023 Public & Private Improvement Permit Inspection

~~A1.01 *Phase I - Study and Report Phase*~~

~~A. Engineer shall:~~

~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~

~~a. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~

~~b. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [ ] alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~

~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~

~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~

~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~

~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~

~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~

~~8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its~~

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~~Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.~~

~~9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.~~

~~10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."~~

~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~

~~12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.~~

~~13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~

~~14. Perform or provide the following other Study and Report Phase tasks or deliverables:~~

~~a. Conduct field edit(s) of the supplied data as required to supplement and verify information.~~

~~b. Prepare preliminary design plans for each alternate, and meet with Town Engineering staff to review the proposed designed improvements.~~

~~c. Prepare preliminary design plans in AutoCAD format from the project base maps to include plan views, profiles, details, general construction notes, tables, title sheet and location map. All design work is to be preformed in accordance with the requirements of the Building Code of New York State.~~

~~**15. Specific additional project tasks and/or deliverables:**~~

~~**a. Prepare preliminary/schematic design report including; descriptions of proposed floor plan, all associated systems, utilities, required utility stabilizations or relocations. A narrative of applicable codes and design parameters, and opinion of probable cost.**~~

~~16. Furnish **three (3)** copies of the Report and any other Study and Report Phase deliverables to Owner within **thirty (30)** days of the Effective Date and review it with Owner. Within **five (5)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~

~~17. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish three (3) copies of the revised Report and any other Study and Report Phase deliverables to the Owner within fifteen (15) days of receipt of Owner's comments.~~

~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

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A1.02 *Phase II - Preliminary Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Report and any other Study and Report Phase deliverables the Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.

2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.

3. Utilize Town-provided plans, ~~field surveys and topographic and utility mapping~~ for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then ~~at a minimum~~ the utility mapping may ~~will~~ include Engineer contacting utility owners for verification of the Town-provided utility information.

4. Visit the Site as needed to prepare the Preliminary Design Phase documents.

5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the project design.

6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.

7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.

8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.

9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:

   a. Utilize existing digital and plan data supplied by the town (digital orthophotos, tax parcel boundaries, DTM data, building outlines, pavement edges, topographic survey and/or record drawing information) to prepare base mapping of the project area.

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b. Conduct field edit(s) of the supplied data and record drawing information as required to supplement and verify information.

c. Prepare preliminary design plans of existing and proposed improvements, and meet with Town Engineering staff to review the proposed designed improvements.

d. Prepare preliminary design plans in AutoCAD format from the project base maps ~~to include plan views, profiles, details, general construction notes, tables, title sheet and location map.~~ All design work is to be preformed in accordance with the requirements of the Building Code of New York State.

e. The Engineer shall provide all drawing and specifications, as required.

f. Non-technical portion of the specifications will be prepared using the Owner's standard specifications (Division 0).

10. Furnish **three (3)** review copies of the Preliminary Design Phase documents, Construction Cost Estimate, and any other Preliminary Design Phase deliverables to Owner within **thirty (30)** days of authorization to proceed with this phase, and review them with Owner. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner **three (3)** copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within **fifteen (15)** days after receipt of Owner's comments.

B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Phase III - Final Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Preliminary Design Phase documents the Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.

2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.

3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.

4. Advise Owner of any recommended adjustments to the preliminary construction cost estimate.

5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.

6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.

7. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.

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8. Perform or provide the following other Final Design Phase tasks or deliverables:

   a. Prepare and furnish **three (3)** copies of 90% complete design plans and bidding specifications for review by the Owner within **fifteen (15)** days of authorization to proceed with this phase. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments for revisions.

   b. Revise the design plans and bidding specifications in accordance with comments and instructions from all applicable agencies, as appropriate, and submit final copies of the design plans and bidding specifications, a revised opinion of probable Construction Cost, and any other required deliverables to the Owner within **ten (10)** calendar days after receipt of all applicable agency review comments and instructions.

   c. Prepare the bid documents with an itemized list of work to be performed. The itemized list will consist of all items in the "technical specifications" listed in the Preliminary Design Phase, [refer to Section A.1.02, A, 9]. Bidding will be based on each item on the itemized list. Contract award will be based on "all" or "a portion of" the items.

B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **three (3)**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Phase IV - Bidding or Negotiating Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

   1. Assist Owner in obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents to prospective contractors, and attend pre-bid conferences.

   2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.

   3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.

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4. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.

5. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

6. Prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals.

7. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.

8. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:

   a. Provide **fifteen (15)** sets of final construction documents for bidding.

   b. Address any questions from potential bidders and issue any necessary addendums to the contract documents promptly and prior to Bid opening.

   c. Assist Owner in connection with Bid protests, or renegotiating contracts for construction, materials, equipment, or services.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

A1.05 *Phase V - Construction Phase*

A. ~~Upon successful completion of the Bidding and Negotiating Phase~~, Engineer shall:

~~1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.~~

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.

~~3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.~~

4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.

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6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

~~7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.~~

8. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:

   a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, or at a minimum of **two (2)** inspection visits per week during construction, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

   b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

9. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.

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10. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.

11. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

12. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.

13. *Change Orders:* Recommend Change Orders to Owner, as appropriate, and prepare Change Orders as required.

14. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

15. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

16. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

17. *Inspections and Tests:*

    a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

    b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

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c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

18. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

~~19. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:~~

~~a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).~~

~~b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~

20. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of

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inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.16. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.

21. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

22. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:

    a. Make visits to the site at **part-time** intervals appropriate to the various phases and nature of construction to observe the progress and quality of the construction work and to determine, in general if the results of the construction work are in accordance with the Drawings and Specifications. Where construction does not comply with Plans and Specifications, notify Owner of such deficiencies or non-complying construction and report to the Owner any work not adequately corrected with recommendations to assist the Owner to obtain compliance of the construction with the Plans and Specifications. On the basis of his on-site observations as an Engineer, he shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the Contractor; but does not guarantee the performance of the Contractor.

    b. Attend scheduled construction progress meetings and issue minutes.

    c. The Engineer is not responsible for the construction means, methods, techniques, sequences or procedures, time of performance, programs or for any safety precautions in connection with the construction work. The Engineer is not responsible for the Contractor's failure to execute the work in accordance with the construction Contract.

    d. Notify the Owner of all permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the Owner for its correction and; at the request of the Owner have recommendations implemented by the Contractor.

    e. [List any additional tasks or deliverables.]

23. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor that the Work is acceptable to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

24. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions

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and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Phase VI - Post-Construction Phase*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.

2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

3. Perform or provide the following other Post-Construction Phase tasks or deliverables:

a. Following completion of construction, the Engineer shall furnish the Owner and Design Engineer with a set of inspection records, drawings, sketches and all other field records for preparation of record drawings showing those changes made during the Construction Contract execution or during the construction process, based upon the Engineer's Project Representative's notes and executed Change Orders.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services will be paid for by Owner as indicated in Exhibit C.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for preparation or review of environmental assessments; review and evaluation of the effects on the design requirements for the Project of any documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, or Owner's schedule; and revising previously

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accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are due to any causes beyond Engineer's control.

3. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.

4. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

5. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.

6. Overtime work requiring higher than regular rates.

7. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).

8. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.

1. Services in connection with Change Orders to reflect changes requested by Owner.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; and services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project.

3. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.

4. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Give instructions to Engineer regarding Owner's procurement of construction services, Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents. Furnish copies of all design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents. Owner shall have responsibility for the final content of (1) such bidding-related documents, and (2) those portions of any Construction Contract other than the design, and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, and insurance advisors with respect to the drafting and content of such documents.

C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.

D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish, or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Utility and topographic mapping and surveys.
4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
7. Data or consultations as required for the Project but not otherwise identified in this Agreement.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

F. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.

2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.

3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.

4. Placement and payment for advertisement for Bids in appropriate publications.

G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through the Contractor.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

M. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

N. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

O. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.

P. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.

Q. Perform or provide the following: [ ] ***[List any other Owner responsibilities here.]***

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 *Compensation For Basic Services – Standard Hourly Rates Method of Payment*

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer's Consultants' charges, if any.

2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer's services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer's Consultants' charges.

3. Engineer's Standard Hourly Rates are attached to this Exhibit C as Appendix 1.

4. The total compensation for services under Paragraph C2.01 is estimated to be based on the below referenced hourly rates:

   a. Construction Phase/ Construction Administration $ 115.00/hour

   b. Construction Phase/ Resident Project Representative

      NICET LEVEL II $ 70.00/hour

      NICET LEVEL III $ 75.00/hour

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.

6. **The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.4 incorporates all labor, overhead, profit, and Engineer's Consultants' charges.**

7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.

~~8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1, 2022** to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Deleted*

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

C2.03 *Other Provisions Concerning Payment*

A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.0**.

B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.

D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Appendix 1: Standard Hourly Rates Schedule

C2.06 Compensation for Standard Hourly Rates for *Basic Services – Standard Hourly Rates Method of Payment*

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

2. The Standard Hourly Rates apply only as specified in Article C2.

B. *Schedule:*

Hourly rates for services performed on or after the date of the Agreement are:

Officer / Principal		$ 135.00 /hour
Sr. Project Engineer		$ 125.00 /hour
Project Engineer/Architect (CA Hourly Rate)		$ 115.00 /hour (CA Hourly Rate)
Engineer/Architect 3		$ 85.00 /hour
Engineer/Architect 2		$ *80.00* /hour
Engineer/Architect 1		$ 65.00 /hour
Technician 4		$ 105.00 /hour
Technician 3		$ 85.00 /hour
Technician 2		$ 82.00 /hour
Technician 1		$ 65.00 /hour
Resident Engineering	(NICET LEVEL III)	$ 75.00 /hour (CI Hourly Rate)
Resident Engineering	(NICET LEVEL II)	$ 70.00 /hour (CI Hourly Rate)

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 *Resident Project Representative*

A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.

B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.

C. The duties and responsibilities of the RPR are as follows:

1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.

2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.

5. *Liaison:*

   a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.

   b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.

7. *Shop Drawings and Samples:*

   a. Record date of receipt of Samples and Contractor-approved Shop Drawings.

   b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

   c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.

8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.

9. *Review of Work; Defective Work:*

   a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

   b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and

   c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

    a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.

    b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.

    c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

    d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.

    e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

11. *Records*:

    a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.

    b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

    c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

    d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.

    e. Maintain records for use in preparing Project documentation.

    f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

    a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

    b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

    c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.

    d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

~~13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.~~

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

15. *Completion*:

    a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.

    b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

    c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 *Insurance*

A. The limits of liability for the insurance required by Paragraph 6.05.A and 6.05.B of the Agreement are as follows:

ACORD CERTIFICATE OF LIABILITY INSURANCE OP ID 57 TOA--A1 DATE (MM/DD/YYYY) 04/02/09

PRODUCER
Insurers Name,
Address,
Phone Number

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 POLICIES BELOW.

INSURED
Insured Name,
Address,
Phone Number

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: MISCELLANEOUS COMPANIES	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR X ERRORS/OMISSIONS GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	CONSULTANTS PROFESSIONAL	01/01/09	01/01/10	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PRO LIAB	$ 1,000,000. $ 50,000. $ 10,000. $ 1,000,000. $ 2,000,000. $ 2,000,000.
A		AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS		01/01/09	01/01/10	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000. $ $ $
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
		EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ 2,000,000. $ 2,000,000. $ $ $
X		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below		01/01/09	01/01/10	X WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 100,000. $ 100,000. $ 500,000.
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Town of Amherst should be named as an add'l insured on the Comprehensive General liability Insurance Policy on a primary basis. Workers Compensation insurance should include owners.

CERTIFICATE HOLDER

TOWN001

TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Insurers Signature

ACORD 25 (2001/08) © ACORD CORPORATION 1988

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Attachment: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

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: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

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: Fisher Associates PIP (RES-2021-58 : Public and Private Improvement Permit Inspection Services - Fisher Associates)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22737

RESOLUTION 2021-59

Public and Private Improvement Permit Inspection Services, Marquis Engineering CRS No. 2336

The Engineering Department is requesting approval of the contract between the Town of Amherst and Marquis Engineering. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

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

Thank you for considering this request.

FINANCIAL IMPACT:

No Financial Impact

IDENTIFY (INFORMATION MUST BE COMPLETED OR CONTRACT WILL BE RETURNED TO APPROPRIATE DEPARTMENT)

REQUESTED TOWN BOARD AGENDA DATE: January 4, 2021

Contract/Project Title: PIP Inspection Services

Vendor: Marquis Engineering, PC

ORG: AG4000

OBJECT: 0699

Amount: TBD

Contract Period: through December 31, 2023

Department contact: Marc A. Bellacose – Junior Municipal Engineer

APPROVED AS TO CONTENT

Department Head - Signature

Department Head - Print Name

Date Approved: 12/29/20

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

December 15, 2020
AGENDA – January 4, 2021

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

RE: Proposal for Professional Engineering Services – Marquis Engineering
Public and Private Improvement Permit (PIP)
Inspection Services

Councilmembers:

The Engineering Department is requesting approval of the contract between the Town of Amherst and Marquis Engineering. This contract serves as a 3-year rate agreement to perform Private and Public Improvement Permit (PIP) inspection services, on an "as-needed" basis, on behalf of the Town. The fee structure for inspections is set by the Town's PIP Inspection Permit program.

Funds for these consultant services will be collected from developers by the Engineering Department as Public and Private Improvement Inspection Permit fees. The fees will be placed in an escrow account established by the Town Comptroller and will be paid to consultants following project completion. The entire cost of inspection services is funded through the fee collection, with no financial impact to the Town.

Thank you for considering this request.

Very truly yours,

DRAFT

Jeffrey S. Burroughs, P.E.
Town Engineer

JSB/MAB
cc: Brian J. Kulpa – Supervisor
Councilmembers
Jacqualine Berger - Liaison
Stanley Sliwa, Esq. – Town Attorney
Daryl Bramer – Comptroller

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

TOWN OF AMHERST
PROFESSIONAL DESIGN SERVICES AGREEMENT
2021-2023 PUBLIC & PRIVATE IMPROVEMENT PERMIT INSPECTION SERVICES

This document is a MODIFIED version of EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.
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Those portions of the text that originated in copyrighted EJCDC documents remain subject to the copyright.

THIS IS AN AGREEMENT effective as of January 4, 2021 ("Effective Date") between the

Town of Amherst (Owner") and

Marquis Engineering (Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows:

Professional Services associated with the construction administration and full-time inspection services of Public and Private Improvement Permits.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

A. Owner shall have the responsibilities set forth herein and in Exhibit B.

B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.

C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:

1. any development that affects the scope or time of performance of Engineer's services;
2. the presence at the Site of any Constituent of Concern; or

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

3. Any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 *Time for Completion*

A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

5.03 *Opinions of Total Project Costs*

A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with applicable Laws and Regulations.

2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:

   a. changes after the Effective Date to Laws and Regulations;

   b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;

   c. changes after the Effective Date to Owner-provided written policies or procedures.

F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

G. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means,

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

H. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

I. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

J. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

K. Engineer's services do not include providing legal advice or representation.

L. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

M. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

A. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations and one electronic record version of such Drawings (AutoCad format) and Specifications (MS Word format).

B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

6.04 *Electronic Transmittals*

A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.

B. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

A. Engineer shall procure and maintain insurance as set forth by the Town of Amherst in Exhibit E. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insured with respect to such liability insurance purchased and maintained by Contractor for the Project.

C. Engineer shall each deliver to the other certificates of insurance evidencing the coverage indicated in Exhibit E. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

6.06 *Successors, Assigns, and Beneficiaries*

A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C shall appear in the Construction Contract Documents.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

6.07 *Environmental Condition of Site*

A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.

B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.

E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.

F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.08 *Controlling Law*

A. This Agreement is to be governed by the Laws and Regulations of the State of New York.

6.09 *Records Retention*

A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:

1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.

3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.

5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.

8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.

10. *Construction Contract Documents*—Those items designated as "Contract Documents" in the Construction Contract, and which together comprise the Construction Contract.

11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.

12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.

13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.

17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

20. *Engineer*—The individual or entity named as such in this Agreement.

21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.

22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

23. *Owner*—the Town of Amherst. Unless indicated otherwise, this is the entity that will enter into any Construction Contracts concerning the Project.

24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.

27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

34. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

B. *Day*:

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

A. Exhibit A, Engineer's Services.

B. Exhibit B, Owner's Responsibilities.

C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.

E. Exhibit E, Insurance Requirements.

F. Exhibit F, Special Provisions

8.02 *Total Agreement*

A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: **Town of Amherst**

By: _____

Brian J. Kulpa

Supervisor

Date Signed: _____

Address for Owner's receipt of notices:

Town of Amherst
5583 Main Street
Williamsville, NY 14221

Designated Representative (Paragraph 8.03.A):

Jeffrey S. Burroughs, P.E.

Town Engineer

Phone Number: (716) 631-7154

E-Mail Address: jburroughs@amherst.ny.us

Engineer: **Marquis Engineering, P.C.**

By: _____

Print name: **Keith D. Marquis, P.E.**

Title: **President**

Date Signed: _____

Engineer License or Firm's Certificate No. (if required):

_____

State of: **New York**

Address for Engineer's receipt of notices:

Marquis Engineering

3739 Seneca Street

West Seneca, NY 14127

Designated Representative (Paragraph 8.03.A):

_____

Title: _____

Phone Number: **(716) 677-9200**

E-Mail Address: **kmarquis@marquisengineering.com**

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Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES **2021-2023 Public & Private Improvement Permit Inspection**

~~A1.01 *Phase I - Study and Report Phase*~~

~~A. Engineer shall:~~

~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~

~~a. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~

~~b. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [ ] alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~

~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~

~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~

~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~

~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~

~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~

~~8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its~~

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Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.

9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.

10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."

11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.

12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.

13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.

14. Perform or provide the following other Study and Report Phase tasks or deliverables:

a. Conduct field edit(s) of the supplied data as required to supplement and verify information.

b. Prepare preliminary design plans for each alternate, and meet with Town Engineering staff to review the proposed designed improvements.

c. Prepare preliminary design plans in AutoCAD format from the project base maps to include plan views, profiles, details, general construction notes, tables, title sheet and location map. All design work is to be preformed in accordance with the requirements of the Building Code of New York State.

15. Specific additional project tasks and/or deliverables:

a. Prepare preliminary/schematic design report including; descriptions of proposed floor plan, all associated systems, utilities, required utility stabilizations or relocations. A narrative of applicable codes and design parameters, and opinion of probable cost.

16. Furnish **three (3)** copies of the Report and any other Study and Report Phase deliverables to Owner within **thirty (30)** days of the Effective Date and review it with Owner. Within **five (5)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

17. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish three (3) copies of the revised Report and any other Study and Report Phase deliverables to the Owner within fifteen (15) days of receipt of Owner's comments.

B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

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A1.02 *Phase II - Preliminary Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Report and any other Study and Report Phase deliverables the Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.

2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.

3. Utilize Town-provided plans, ~~field surveys and topographic and utility mapping~~ for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then ~~at a minimum~~ the utility mapping may ~~will~~ include Engineer contacting utility owners for verification of the Town-provided utility information.

4. Visit the Site as needed to prepare the Preliminary Design Phase documents.

5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the project design.

6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.

7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.

8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.

9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:

   a. Utilize existing digital and plan data supplied by the town (digital orthophotos, tax parcel boundaries, DTM data, building outlines, pavement edges, topographic survey and/or record drawing information) to prepare base mapping of the project area.

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b. Conduct field edit(s) of the supplied data and record drawing information as required to supplement and verify information.

c. Prepare preliminary design plans of existing and proposed improvements, and meet with Town Engineering staff to review the proposed designed improvements.

d. Prepare preliminary design plans in AutoCAD format from the project base maps ~~to include plan views, profiles, details, general construction notes, tables, title sheet and location map.~~ All design work is to be preformed in accordance with the requirements of the Building Code of New York State.

e. The Engineer shall provide all drawing and specifications, as required.

f. Non-technical portion of the specifications will be prepared using the Owner's standard specifications (Division 0).

10. Furnish **three (3)** review copies of the Preliminary Design Phase documents, Construction Cost Estimate, and any other Preliminary Design Phase deliverables to Owner within **thirty (30)** days of authorization to proceed with this phase, and review them with Owner. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner **three (3)** copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within **fifteen (15)** days after receipt of Owner's comments.

B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Phase III - Final Design Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After written acceptance by Owner of the Preliminary Design Phase documents the Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.

2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.

3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.

4. Advise Owner of any recommended adjustments to the preliminary construction cost estimate.

5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.

6. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.

7. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.

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8. Perform or provide the following other Final Design Phase tasks or deliverables:

   a. Prepare and furnish **three (3)** copies of 90% complete design plans and bidding specifications for review by the Owner within **fifteen (15)** days of authorization to proceed with this phase. Within **ten (10)** days of receipt, Owner shall submit to Engineer any comments for revisions.

   b. Revise the design plans and bidding specifications in accordance with comments and instructions from all applicable agencies, as appropriate, and submit final copies of the design plans and bidding specifications, a revised opinion of probable Construction Cost, and any other required deliverables to the Owner within **ten (10)** calendar days after receipt of all applicable agency review comments and instructions.

   c. Prepare the bid documents with an itemized list of work to be performed. The itemized list will consist of all items in the "technical specifications" listed in the Preliminary Design Phase, [refer to Section A.1.02, A, 9]. Bidding will be based on each item on the itemized list. Contract award will be based on "all" or "a portion of" the items.

B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.

D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **three (3)**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Phase IV - Bidding or Negotiating Phase (THESE SERVICES ARE NOT INCLUDED AT THIS TIME)*

A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

   1. Assist Owner in obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents to prospective contractors, and attend pre-bid conferences.

   2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.

   3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.

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4. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.

5. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

6. Prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals.

7. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.

8. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:

   a. Provide **fifteen (15)** sets of final construction documents for bidding.

   b. Address any questions from potential bidders and issue any necessary addendums to the contract documents promptly and prior to Bid opening.

   c. Assist Owner in connection with Bid protests, or renegotiating contracts for construction, materials, equipment, or services.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

A1.05 *Phase V - Construction Phase*

A. ~~Upon successful completion of the Bidding and Negotiating Phase~~, Engineer shall:

~~1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.~~

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.

~~3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.~~

4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.

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6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

~~7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.~~

8. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:

   a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, or at a minimum of **two (2)** inspection visits per week during construction, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

   b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

9. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.

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10. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.

11. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

12. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.

13. *Change Orders:* Recommend Change Orders to Owner, as appropriate, and prepare Change Orders as required.

14. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

15. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

16. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.

17. *Inspections and Tests:*

    a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

    b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

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c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

18. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

~~19. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:~~

~~a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).~~

~~b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~

20. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of

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inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.16. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.

21. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

22. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:

    a. Make visits to the site at **part-time** intervals appropriate to the various phases and nature of construction to observe the progress and quality of the construction work and to determine, in general if the results of the construction work are in accordance with the Drawings and Specifications. Where construction does not comply with Plans and Specifications, notify Owner of such deficiencies or non-complying construction and report to the Owner any work not adequately corrected with recommendations to assist the Owner to obtain compliance of the construction with the Plans and Specifications. On the basis of his on-site observations as an Engineer, he shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the Contractor; but does not guarantee the performance of the Contractor.

    b. Attend scheduled construction progress meetings and issue minutes.

    c. The Engineer is not responsible for the construction means, methods, techniques, sequences or procedures, time of performance, programs or for any safety precautions in connection with the construction work. The Engineer is not responsible for the Contractor's failure to execute the work in accordance with the construction Contract.

    d. Notify the Owner of all permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the Owner for its correction and; at the request of the Owner have recommendations implemented by the Contractor.

    e. [List any additional tasks or deliverables.]

23. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor that the Work is acceptable to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

24. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions

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and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Phase VI - Post-Construction Phase*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.

2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

3. Perform or provide the following other Post-Construction Phase tasks or deliverables:

a. Following completion of construction, the Engineer shall furnish the Owner and Design Engineer with a set of inspection records, drawings, sketches and all other field records for preparation of record drawings showing those changes made during the Construction Contract execution or during the construction process, based upon the Engineer's Project Representative's notes and executed Change Orders.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services will be paid for by Owner as indicated in Exhibit C.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for preparation or review of environmental assessments; review and evaluation of the effects on the design requirements for the Project of any documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, or Owner's schedule; and revising previously

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accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are due to any causes beyond Engineer's control.

3. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.

4. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

5. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.

6. Overtime work requiring higher than regular rates.

7. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).

8. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.

1. Services in connection with Change Orders to reflect changes requested by Owner.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; and services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project.

3. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.

4. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

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Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Give instructions to Engineer regarding Owner's procurement of construction services, Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents. Furnish copies of all design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents. Owner shall have responsibility for the final content of (1) such bidding-related documents, and (2) those portions of any Construction Contract other than the design, and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, and insurance advisors with respect to the drafting and content of such documents.

C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.

D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish, or otherwise make available such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Utility and topographic mapping and surveys.
4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
7. Data or consultations as required for the Project but not otherwise identified in this Agreement.

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E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

F. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.

2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.

3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.

4. Placement and payment for advertisement for Bids in appropriate publications.

G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through the Contractor.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

M. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

N. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

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O. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.

P. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.

Q. Perform or provide the following: [ ] ***[List any other Owner responsibilities here.]***

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Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 *Compensation For Basic Services – Standard Hourly Rates Method of Payment*

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer's Consultants' charges, if any.

2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer's services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer's Consultants' charges.

3. Engineer's Standard Hourly Rates are attached to this Exhibit C as Appendix 1.

4. The total compensation for services under Paragraph C2.01 is estimated to be based on the below referenced hourly rates:

   a. Construction Phase/ Construction Administration $ 115.00/hour

   b. Construction Phase/ Resident Project Representative

      NICET LEVEL II $ 70.00/hour

      NICET LEVEL III $ 75.00/hour

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.

6. **The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.4 incorporates all labor, overhead, profit, and Engineer's Consultants' charges.**

7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.

~~8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 1, 2022** to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Deleted*

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C2.03 *Other Provisions Concerning Payment*

A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.0**.

B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.

D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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Appendix 1: Standard Hourly Rates Schedule

C2.06 Compensation for Standard Hourly Rates for *Basic Services – Standard Hourly Rates Method of Payment*

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Appendix to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

2. The Standard Hourly Rates apply only as specified in Article C2.

B. *Schedule:*

Hourly rates for services performed on or after the date of the Agreement are:

Officer / Principal		$ 150.00 /hour
Project Engineer/Architect (CA Hourly Rate)		$ 115.00 /hour (CA Hourly Rate)
Resident Engineering	(NICET LEVEL III)	$ 75.00 /hour (CI Hourly Rate)
Resident Engineering	(NICET LEVEL II)	$ 70.00 /hour (CI Hourly Rate)

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 *Resident Project Representative*

A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.

B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.

C. The duties and responsibilities of the RPR are as follows:

1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.

2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.

5. *Liaison:*

   a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.

   b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.

7. *Shop Drawings and Samples:*

   a. Record date of receipt of Samples and Contractor-approved Shop Drawings.

   b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

   c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.

8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.

9. *Review of Work; Defective Work:*

   a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.

   b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and

   c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

    a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.

    b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.

    c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

    d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.

    e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

11. *Records*:

    a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.

    b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

    c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.

    d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.

    e. Maintain records for use in preparing Project documentation.

    f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

    a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

    b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.

    c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.

    d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

~~13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.~~

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

15. *Completion*:

    a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.

    b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

    c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 *Insurance*

A. The limits of liability for the insurance required by Paragraph 6.05.A and 6.05.B of the Agreement are as follows:

ACORD™ CERTIFICATE OF LIABILITY INSURANCE OP ID 57 TOA--A1 — DATE (MM/DD/YYYY) 04/02/09

PRODUCER
Insurers Name,
Address,
Phone Number

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 POLICIES BELOW.

INSURED
Insured Name,
Address,
Phone Number

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: MISCELLANEOUS COMPANIES	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR X ERRORS/OMISSIONS GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC	CONSULTANTS PROFESSIONAL	01/01/09	01/01/10	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PRO LIAB	$ 1,000,000. $ 50,000. $ 10,000. $ 1,000,000. $ 2,000,000. $ 2,000,000.
A		AUTOMOBILE LIABILITY ANY AUTO X ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS		01/01/09	01/01/10	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000. $ $ $
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
		EXCESS/UMBRELLA LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE AGGREGATE	$ 2,000,000. $ 2,000,000. $ $ $
X		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below		01/01/09	01/01/10	X WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 100,000. $ 100,000. $ 500,000.
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Town of Amherst should be named as an add'l insured on the Comprehensive General liability Insurance Policy on a primary basis. Workers Compensation insurance should include owners.

CERTIFICATE HOLDER

TOWN001

TOWN OF AMHERST
5583 MAIN STREET
WILLIAMSVILLE NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Insurers Signature

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Attachment: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

Consultant Minor Exposure Addendum to Contract

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Consultants or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Consultant shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Consultant its officers, agents, sub-Consultants, and/or employees as well as the negligence, active or passive, of the Consultant, its officers, agents, sub-Consultants, and/or employees.

4. Consultant shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Consultant shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Consultant shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate.

(c) Consultant shall furnish the above insurances, including sub-Consultants' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Consultant shall ensure all its sub-Consultants, if any, have obtained all the above insurances and shall also assure that any policy procured by any sub-Consultant or sub-sub Consultant shall name the Town as an additional insured on a primary and non-contributory basis.

5. Any accident shall be reported to the Office of the Town Attorney as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Town of Amherst as soon thereafter as possible as and no later than three (3) days after the date of such accident.

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: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

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: Marquis PIP (RES-2021-59 : Public and Private Improvement Permit Inspection Services, Marquis Engineering)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22738

RESOLUTION 2021-60

Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin Electric CRS No. 2317

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $18,050.09. This change order is required to enhance the safety, security and functionality of the shooting range by adding access control locations, adding red-light fixtures within the range space and relocating several light fixtures. Additionally, several runs of electrical conduit will also be painted.

Funding is available for this change order from the project bond account KP2009.4972.

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

Thank you for considering this request.

FINANCIAL IMPACT:

KP2009.4972; $18,050.09

AIA® Document G701™ – 2017

Change Order

PROJECT:	CONTRACT INFORMATION:	CHANGE ORDER INFORMATION:
Police Training Center Shooting Range *Project #2018.036A*	*Contract For: Town of Amherst*	Change Order Number: EC01 Date: 12/10/20
OWNER: *Town of Amherst*	**ARCHITECT:** *The LiRo Group*	**CONTRACTOR:** *Goodwin Electric Corp.*

The Contract is changed as follows:

1. *Paint Conduit*
2. *Lighting controls revision within range*
3. *Add "type G" red light fixtures within the range*
4. *Add access control locations*

The original Contract Sum was	$ 179,200.00
The net change by previously authorized Change Orders	$ 0
The Contract Sum prior to this Change Order was	$ 179,200.00
The Contract Sum will be increased by this Change Order in the amount of	$ 18,050.09
The new Contract Sum, including this Change Order, will be	$ 197,250.09
The Contract Time will be unchanged) by	(0) days. The
new date of Substantial Completion will be	

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT *(The LiRo Group)*	CONTRACTOR *(Goodwin Electric)*	OWNER *(Town of Amherst)*
Liro	Goodwin	
SIGNATURE	SIGNATURE	SIGNATURE
Christopher Abramo	Kevin Martin	
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
12/9/20	12/9/20	
DATE	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 17, 2020

Mr. Brian Armstrong
Town of Amherst
Engineering Department
1100 North Forest Road
Williamsville, NY 14221

RE: Goodwin Electric CO#1- Paint Conduit
Police Training Center & Shooting Range
Town Project No. 2018.036A

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the change order for the lump sum amount of $2,676.00 and recommend approval by the town board. The change order is for the material and labor to paint 100 feet of conduit that is exposed within a finished area.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

Goodwin Electric Corp.

201 South Youngs Road
Williamsville, NY 14221
Phone: (716) 634-4000 Fax: (716) 634-4038

3-Nov-20

Christopher C. Abramo PE LEED AP BD&C
The LiRo Group
716-228-3559 [M] | 716-970-4124 [O] www.liro.com

RE: Amherst Police Traing Center Shooting Range Improvements
PCO 1 - Paint Conduit

Dear Mr. Abramo,

Quote: This quote includes additional work as referenced above and as attached.
See below and attached for labor and material breakdown.

Electrician Frmn	(	2.62	Hrs @	$	91.97	)	$ 240.67
Electrician Frmn 2nd	(	0.00	Hrs @	$	102.55	)	$ -
Electrician Frmn OT	(	0.00	Hrs @	$	122.83	)	$ -
Electrician	(	20.93	Hrs @	$	84.68	)	$ 1,772.72
Electrician 2nd	(	0.00	Hrs @	$	94.23	)	$ -
Electrician OT	(	0.00	Hrs @	$	111.99	)	$ -
Material							$ 150.00
Subtotal							$ 2,163.39
O&P							$ 432.68
Bond							$ 80.22
Total Add							$ 2,676.00

If you have and questions, please do not hesitate to contact me.

Goodwin Electric Corp.,

Kevin Martin
Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 17, 2020

Mr. Brian Armstrong
Town of Amherst
Engineering Department
1100 North Forest Road
Williamsville, NY 14221

RE: Goodwin Electric CO#2- Lighting Control Revision
Police Training Center & Shooting Range
Town Project No. 2018.036A

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the change order for the lump sum amount of $9,991.00 and recommend approval by the town board. The change order is to provide material and labor to accommodate relocating 5 switches and providing 16 additional 3 way switches and controllers associated with the shooting lights within the range based on police training requirements. Refer to revision 2 on drawing E 201.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

Goodwin Electric Corp.

201 South Youngs Road
Williamsville, NY 14221
Phone: (716) 634-4000 Fax: (716) 634-4038

3-Nov-20

Christopher C. Abramo PE LEED AP BD&C
The LiRo Group
716-228-3559 [M] | 716-970-4124 [O] www.liro.com

RE: Amherst Police Traing Center Shooting Range Improvements
PCO 3 - Lighting Control Revisions

Dear Mr. Abramo,

Quote: This quote includes additional work as referenced above and as attached.
See below and attached for labor and material breakdown.

Electrician Frmn	(	5.25	Hrs @	$	91.97	)	$ 482.43
Electrician Frmn 2nd	(	0.00	Hrs @	$	102.55	)	$ -
Electrician Frmn OT	(	0.00	Hrs @	$	122.83	)	$ -
Electrician	(	41.96	Hrs @	$	84.68	)	$ 3,553.56
Electrician 2nd	(	0.00	Hrs @	$	94.23	)	$ -
Electrician OT	(	0.00	Hrs @	$	111.99	)	$ -
Material							$ 4,040.14
Subtotal							$ 8,076.14
O&P							$ 1,615.23
Bond							$ 299.46
Total Add							$ 9,991.00

If you have and questions, please do not hesitate to contact me.

Goodwin Electric Corp.,

Kevin Martin
Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 17, 2020

Mr. Brian Armstrong
Town of Amherst
Engineering Department
1100 North Forest Road
Williamsville, NY 14221

RE: Goodwin Electric CO#3- Add type G fixtures
Police Training Center & Shooting Range
Town Project No. 2018.036A

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the change order for the lump sum amount of $1,938.00 and recommend approval by the town board. The change order is to provide material and labor to accommodate addition of two type G red light fixtures that provide additional lighting for safe passage out of the range upon failure of the range system during lights-out training. Refer revision 2 on drawing E 201.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

Goodwin Electric Corp.

201 South Youngs Road
Williamsville, NY 14221
Phone: (716) 634-4000 Fax: (716) 634-4038

20-Nov-20

Christopher C. Abramo PE LEED AP BD&C
The LiRo Group
716-228-3559 [M] | 716-970-4124 [O] www.liro.com

RE: Amherst Police Traing Center Shooting Range Improvements
PCO 4 - Add Type G Red LED Lights

Dear Mr. Abramo,

Quote: This quote includes additional work as referenced above and as attached.
See below and attached for labor and material breakdown.

Electrician Frmn	(	1.06	Hrs @	$	91.97	)	$ 97.51
Electrician Frmn 2nd	(	0.00	Hrs @	$	102.55	)	$ -
Electrician Frmn OT	(	0.00	Hrs @	$	122.83	)	$ -
Electrician	(	8.48	Hrs @	$	84.68	)	$ 718.28
Electrician 2nd	(	0.00	Hrs @	$	94.23	)	$ -
Electrician OT	(	0.00	Hrs @	$	111.99	)	$ -
Material							$ 750.41
Subtotal							$ 1,566.20
O&P							$ 313.24
Bond							$ 58.07
Total Add							$ 1,938.00

If you have and questions, please do not hesitate to contact me.

Goodwin Electric Corp.,

Kevin Martin
Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 17, 2020

Mr. Brian Armstrong
Town of Amherst
Engineering Department
1100 North Forest Road
Williamsville, NY 14221

RE: Goodwin Electric CO#4- Add access control locations
Police Training Center & Shooting Range
Town Project No. 2018.036A

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the change order for the lump sum amount of $3,445.00 and recommend approval by the town board. The change order is to provide labor and material to accommodate the installation of access control at two existing entry doors to meet police security requirements. Refer to revision 1 on drawing E 202.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

Goodwin Electric Corp.

201 South Youngs Road
Williamsville, NY 14221
Phone: (716) 634-4000 Fax: (716) 634-4038

20-Nov-20

Christopher C. Abramo PE LEED AP BD&C
The LiRo Group
716-228-3559 [M] | 716-970-4124 [O] www.liro.com

RE: Amherst Police Traing Center Shooting Range Improvements
PCO 5 - Add Access Control locations

Dear Mr. Abramo,

Quote: This quote includes additional work as referenced above and as attached.
See below and attached for labor and material breakdown.

Electrician Frmn	(	3.07	Hrs @	$	91.97	)	$ 282.43
Electrician Frmn 2nd	(	0.00	Hrs @	$	102.55	)	$ -
Electrician Frmn OT	(	0.00	Hrs @	$	122.83	)	$ -
Electrician	(	24.57	Hrs @	$	84.68	)	$ 2,080.34
Electrician 2nd	(	0.00	Hrs @	$	94.23	)	$ -
Electrician OT	(	0.00	Hrs @	$	111.99	)	$ -
Material							$ 422.40
Subtotal							$ 2,785.17
O&P							$ 557.03
Bond							$ 103.27
Total Add							$ 3,445.00

If you have and questions, please do not hesitate to contact me.

Goodwin Electric Corp.,

Kevin Martin
Project Manager

Attachment: Goodwin Change Order Form (RES-2021-60 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Goodwin

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22739

RESOLUTION 2021-61

Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise Mechanical CRS No. 2329

We are requesting that the Town Board consider approval of the above referenced Change Order, which increases the overall contract amount by $2,533.83. This change order is required to increase the new unit heaters sizes as they were determined to be slightly undersized during the submittal phase. This change will also provide for additional hvac ductwork support rails.

Funding is available for this change order from the project bond account KP2009.4972.

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

Thank you for considering this request.

FINANCIAL IMPACT:

KP2009.4972; $2,533.83

AIA® Document G701™ – 2017

Change Order

PROJECT:	CONTRACT INFORMATION:	CHANGE ORDER INFORMATION:
Police Training Center Shooting Range *Project #2018.036A*	*Contract For: Town of Amherst*	Change Order Number: MC01 Date: 12/18/20
OWNER: *Town of Amherst*	**ARCHITECT:** *The LiRo Group*	**CONTRACTOR:** *Parise Mechanical.*

The Contract is changed as follows:

1. *Increase unit heater sizes*
2. *Provide ductwork roof support rails*

The original Contract Sum was	$ 485,000.00
The net change by previously authorized Change Orders	$ 0
The Contract Sum prior to this Change Order was	$ 485,000.00
The Contract Sum will be increased by this Change Order in the amount of	$ 2,533.83
The new Contract Sum, including this Change Order, will be	$ 487,533.83
The Contract Time will be unchanged) by	(0) days. The
new date of Substantial Completion will be	

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT *(The LiRo Group)*	CONTRACTOR *(Parise Mechanical)*	OWNER *(Town of Amherst)*
SIGNATURE	SIGNATURE	SIGNATURE
PRINTED NAME AND TITLE	PRINTED NAME AND TITLE	PRINTED NAME AND TITLE
DATE	DATE	DATE

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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Attachment: Parise Change Order Form (RES-2021-61 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 18, 2020

Mr. Brian Armstrong, EIT
Assistant Municipal Engineer
Town of Amherst Engineering Department
1100 N Forest Road
Williamsville, NY 14221

RE: Parise Mach CO#1

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the attached change order and is recommending approval for the lump sump amount of $1003.90. The change order is to accommodate increasing the unit heater sizes within the support spaces.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Parise Change Order Form (RES-2021-61 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise

Parise Mechanical Inc.
1106 Sheridan Drive • Tonawanda, NY 14150 • Phone: 694.4900 • Fax: 694.7988

CHANGE ORDER

DATE: 8/11/2020

PROJECT: Town of Amherst Police Training Center Shooting Range

REQUEST FROM: Liro Engineers

REPLY (email): sparise@parisemechanical.com & Kristy@parisemechanical.com

Parise Mechanical Change Order # 1
Title: Bigger Unit Heaters

DRAWING NO.

Response Requested By: Parise Mechanical Inc.

Time & Materials Breakdown:

Materials	**= $650.00**
Labor, 2 hours x $89.83	**= $179.66**
Total T&M	**= $829.66**
Overhead – 10%	**= $82.97**
Profit – 10%	**= $91.27**

Final Total = $1,003.90

[redacted] **Upgrade 2 Unit Heaters to bigger models for more efficiency**

Attachment: Parise Change Order Form (RES-2021-61 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise

LiRo Engineers, Inc.
A LiRo Group Company
690 Delaware Avenue, Buffalo, NY 14209 Telephone 716.882.5476 Facsimile 716.882.9640 www.liro.com

December 18, 2020

Mr. Brian Armstrong, EIT
Assistant Municipal Engineer
Town of Amherst Engineering Department
1100 N Forest Road
Williamsville, NY 14221

RE: Parise Mach CO#2

Mr. Armstrong,

LiRo Engineers, Inc. (LiRo) has reviewed the attached change order and is recommending approval for the lump sump amount of $1,529.93. The change order is to accommodate three additional ductwork support roof rails.

Sincerely,
LiRo Engineers, Inc.

Christopher Abramo, PE
Senior Project Manager

Attachment: Parise Change Order Form (RES-2021-61 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise

Parise Mechanical Inc.
1106 Sheridan Drive • Tonawanda, NY 14150 • Phone: 694.4900 • Fax: 694.7988

CHANGE ORDER

DATE: 11/18/2020 Revised 12/9/2020

PROJECT: Town of Amherst Police Training Center Shooting Range

REQUEST FROM: Liro Engineers

REPLY (email): sparise@parisemechanical.com & Kristy@parisemechanical.com

Parise Mechanical Change Order # 2
Title: Additional Rails

DRAWING NO.

Response Requested By: Parise Mechanical Inc.

Time & Materials Breakdown:

Materials	**= $780.00**
Labor, 4 hours x $93.60	**= $374.40**
Pickup & Delivery, 2 hours @ $55.00	**= $110.00**
Total T&M	**= $1,264.40**
Overhead – 10%	**= $126.44**
Profit – 10%	**= $139.09**

Final Total = $1,529.93

[redacted] **Deliver to the site, Rig to the Roof, & Installation of 3 additional rails**

Attachment: Parise Change Order Form (RES-2021-61 : Amherst Police Training Center Shooting Range - Change Order No. 1 - Parise

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22740

RESOLUTION 2021-62

Ditch 5 Culvert Extension @ Flint Road Change Order No. 2 & Final CRS No. 2330

We are requesting the Town Board approve the above referenced Change Order No. 2, which calls for a $6,124.24 decrease in the contract amount. This Change Order reflects final quantity adjustments. Upon approval, the final value of the referenced contract will be $181,269.76.

May we please have approval for Change Order No. 2 (Final) for a decrease in the contract price? The project account number associated with this request is KP 1921 - 4972. This request is pending the successful completion of the contract review process. Thank you for considering this request.

FINANCIAL IMPACT:

Decrease of $6,124.24; KP1921-4972

			AMOUNT
CHANGE ORDER NO:	2	INCREASE/(DECREASE), THIS CHANGE ORDER:	($6,124.24)
		INCREASE/(DECREASE), PREVIOUS CHANGE ORDERS:	$0.00
		INCREASE/(DECREASE), ALL CHANGE ORDERS:	($6,124.24)

TOWN JOB NO:	88-113H	CONTRACT AWARD AMOUNT:	$ 187,394.00
		AMENDED CONTRACT TOTAL:	$ 181,269.76

Job Designation: Ditch 5 Culvert Extension at Flint Road Drainage Improvements

Contractor: Union Concrete and Construction Corp., 435 Meyer Road, W. Seneca, NY 14224

DESCRIPTION OF WORK:

Union Concrete and Construction Corp. submitted their final Application for Payment. All quantities have been reconciled and the ENGINEER recommends final payment.

REASONS FOR THE WORK:

This Change Order provides a final reconciliation of the project construction costs. The total of all payments results in a project construction cost savings of: $ 6,124.24

COST OF THE WORK:

Original Contract Amount:	$ 187,394.00
Total Paid to CONTRACTOR:	$ 181,269.76
Contract INCREASE/(DECREASE)	**($ 6,124.24)**

ACCEPTED BY CONTRACTOR, Union Concrete and Construction Corp., 435 Meyer Road, W. Seneca, NY 14224

Signature DATE: 11/23/2020

Jack Ford
VP Administration

APPROVED BY TOWN OF AMHERST:

Signature DATE: _____

Brian Kulpa
Town Supervisor

Attachment: Ditch 5 Change Order - Union Concrete (RES-2021-62 : Ditch 5 Culvert Extension @ Flint Road Change Order No. 2 & Final)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Finance
Initiated by: **Lynda Juul**
Co-Sponsored by:

DOC ID: 22715

RESOLUTION 2021-63

Adopt Procurement Policy & Contract Management Policy

WHEREAS, Amherst Town Code Section 4-17 requires the Department of Contract Compliance and Administration to establish and maintain the Town's Procurement Policy and Contract Management Policy; and

WHEREAS, these policies have been developed by the Contract Compliance and Administration Department, and shared with the various Town Department Heads for review and comment;

NOW, THEREFORE, BE IT RESOLVED, the attached Procurement Policy and Contract Management Policy are hereby adopted.

FINANCIAL IMPACT:

N/A

PROCUREMENT POLICY

TOWN OF AMHERST
NEW YORK

January 2021

Adopted 1/4/2021, Resolution 2021-xx

Attachment: Procurement Policy - 2021 Reorg - Final (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

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PURPOSE

The purpose of the procurement policy is to safeguard the taxpayers of the Town of Amherst by assuring that competition is sought in a reasonable, cost-effective manner for all procurements where practical and required by NYS General Municipal Law (GML) §103. Goods and services that are not subject to competitive bidding by NYS law must be procured in a manner that assures the prudent and economical use of public funding, facilitates the acquisition of goods and services of the highest quality at the lowest possible cost, and guards against favoritism, improvidence, extravagance, fraud and corruption (GML §104-b).

This policy supersedes any and all prior procurement policies, procedures and Town Board resolutions regarding procurement. All future Town Board resolutions that affect this policy must include revisions to the policy for simultaneous approval.

AUTHORITY AND DUTIES

Principal Procurement Official
Except as otherwise provided herein, the Director of Contract Compliance shall serve as the principal public procurement official for the Town of Amherst, and shall be responsible for the oversight of the procurement of supplies, services, equipment, and public works projects in accordance with this policy, as well as oversight of the auction/disposal of surplus supplies and equipment.

Departmental Authority
Department Heads (or their designee) have the authority to perform the purchasing function for their department. A listing of municipal officials responsible for purchasing decisions is attached in Appendix A. If a Department Head has designated an employee in their department to assist with purchasing, a listing of such employees should be given to the Contract Compliance and Administration Department. Contract Compliance should be notified when this list is modified.

ANNUAL REVIEW

This policy shall be reviewed on an annual basis, and placed on the agenda for approval by the Amherst Town Board at their Reorganization meeting, held in January of each year.

The Director of Contract Compliance shall be responsible for initiating the annual review process. Comments concerning the policies and procedures shall be solicited from officers of the Town involved in the procurement process prior to the submittal to the Town Board.

Attachment: Procurement Policy - 2021 Reorg - Final (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

GENERAL PROCUREMENT CATEGORIES

Most procurements generally fit into one of the categories listed in the following table. This table identifies whether these categories are within the requirements of General Municipal Law (GML) Section 103, or within local procurement policies and procedures required by GML Section 104-b.

See Town of Amherst Local Procurement Chart on page 7.

	Subject to Competitive Bidding (Section 103)	Local Policies and Procedures (Section 104-b)
Purchase Contracts and Contracts for Public Work if No Other Exception Applies		
Purchase Contracts – In excess of the $20,000 Threshold	X	
Purchase Contracts – Below the $20,000 Threshold		X
Contracts for Public Work – In excess of the $35,000 Threshold	X	
Contracts for Public Work – Below the $35,000 Threshold		X
Procurements Exempt from the Requirements of section 103 and the Quotations/Proposals Requirement of section 104-b		
Preferred Sources (State Finance Law, section 162; Correction Law, sections 184, 186)		X
State Contracts; certain Federal contracts (GML, section 104)		X
County Contracts (GML, section 103[3])		X
Additional exemptions provided for in local policies and procedures (e.g., “piggybacking” on certain other government contracts in accordance with the prerequisites in GML, section 103 [16]); other local exemptions).		X
Procurements Exempt from section 103		
Emergency (GML, section 103 [4])		X
Sole Source		X
Professional Service		X
True Leases		X
Insurance		X
Surplus/Second-hand Materials, Supplies, Equipment from Certain Other Governments (GML, section 103 [6])		X

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LAWS GOVERNING PROCUREMENT

NYS law allows various methods of procurement to be available to municipalities.

1. **NYS GML §103**

GML §103 requires advertisement for sealed bids for all contracts for public work involving an expenditure of more than $35,000 and all purchase contracts involving an expenditure of more than $20,000. Such contracts shall be awarded to the lowest responsible bidder, provided, however, that purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law) may be awarded on the basis of best value, as defined in State Finance Law §163. Chapter 40 of the Amherst Town Code allows purchasing using Best Value for piggyback contracts only. See the Amherst Town Code for more information.

A) Purchase Contract v. Public Works Contract

The Office of the State Comptroller has issued opinions that the term "purchase contract" applies to the procurement of commodities (e.g. equipment, materials, supplies and some services), while the term "contract for public work" applies to contracts for services, labor and construction. A public works contract is defined as an improvement to a public facility in which the majority of the costs are labor. In many instances, contracts involve both goods and services, and it is difficult to determine which bid limit to apply. Each procurement must be reviewed on a case-by-case basis and a determination made as to what kind of contract is involved. As a general rule, if the contract involves a substantial amount of labor such that it is the focal point and the acquisition of materials is incidental, it will be considered a contract for public work. Conversely, if services or labor is only minimal or incidental to the acquisition of goods, it is considered a purchase contract. For example, a contract for interior painting of a building involves both material (paint) and labor (painting). In most instances, the labor component of the contract will be predominant making it a contract for public work. In contrast, replacing a boiler or furnace, while involving both equipment (the boiler) and labor (installation) will, in most instances, consist primarily of a charge for the equipment, making it a purchase contract. The purchaser or initiating department should make this determination. If you are unsure, please contact Contract Compliance and Administration for assistance.

B) Aggregation

In determining thresholds, consideration must be taken as to the aggregate amount reasonably expected to be expended for "all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of purchase", whether from a single vendor or multiple vendors. Please note this is a rolling period and should be reviewed each time a purchase is made. Past history should also be taken into consideration when evaluating annual costs associated with the purchase of a commodity or service. If the bid limit is anticipated to be exceeded, competitive bidding shall be used. The Director of Contract Compliance shall determine aggregation rules and application to the annual value of a commodity based on the best information available at that time. If it is determined that a procurement is required that was not initially included in an aggregated contract, the item(s) may be quoted using one of the methods below and the item(s) must be included in the next bid or contract for that commodity or group of items.

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2. NYS GML §104-b

GML §104-b states that goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interests of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption. It requires, among other things, that the governing board of every political subdivision adopts, by resolution, internal policies and procedures governing all procurement of goods and services which are not required to be made pursuant to competitive bidding requirements of GML §103 or any other general, special or local law, and that the policies and procedures be reviewed on an annual basis.

3. EXEMPTIONS

A) Preferred Sources

In some situations, municipalities are required to purchase certain goods and services from providers having "preferred source" status, in order to achieve "special social and economic goals". These purchases are not subject to competitive procurement requirements. Preferred sources include: Correctional Industries Program of the Dept. of Corrections and Community Supervisions (Corcraft); approved qualified, nonprofit agencies for the blind; approved special employment programs for mentally ill persons; approved qualified charitable nonprofit agencies for other severely disabled persons; and certain approved qualified veteran's workshops. An assessment of preferred vendor availability should be made before a commodity or service is considered for competitive bidding or alternative procurement procedures. More information can be found at the NYS Office of General Services (OGS).

B) State Contracts, Certain Federal Contracts – GML §104

Certain State contracts are made available to local governments and school districts through the New York State Office of General Services (OGS). Purchases may be made at the same prices, under the same terms as the State. The majority of State contracts can be used as soon as they are awarded. Orders are placed directly with the contractors listed, using a purchase order.

Departments must follow the recommended procedures for State agencies for each contract (e.g. if over $50,000, multiple quotes should be obtained; requirement to use mini-bids in certain instances; etc.).

Departments are able and encouraged to negotiate a lower price from the NYS OGS contract holder. In addition, pursuant to State Finance Law §163(3)(a)(v), OGS centralized commodities contracts that contain a clause known as "OGS or Less" may allow an agency to obtain needed commodities from a non-contract vendor in order to take advantage of non-contract savings that may develop in the marketplace. The contractor holding the State contract must first be given an opportunity to meet the lower price. Please see NYS Procurement guidelines or contact Contract Compliance and Administration for assistance.

Federal contracts may be used from certain Federal General Service Administration (GSA) contracts. These include information technology and telecommunications items; certain equipment and activities through the US Department of Defense; alarm and signal systems; firefighting and rescue equipment;

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law enforcement and security equipment; certain products and services to facilitate recovery from major disasters; etc. For purchases of $3,000 or more, you must follow Federal Acquisition Regulations, which require competitive pricing among the GSA contractors. This can be accomplished by using eBuy on the GSA site. Please see Federal procurement guidelines.

C) County Contracts – GML §103(3)

GML §103(3) expressly permits a political subdivision to make purchases of materials, equipment or supplies, or to contract for services other than those subject to Article 9 of the Labor Law, when available, through the county in which the political subdivision or district is located or through any county within the state subject to the rules established pursuant to Subdivision 2 of Section 408-a of the County Law. Prior to making such purchases or contracts, the officer, board or agency shall consider whether such contracts will result in cost savings after all factors, including charges for service, material, and delivery, have been considered.

D) Piggybacking

Local governments may "piggyback" on contracts that have been extended to local governments and school districts by certain other governments. Use of these contracts constitutes an exception to the competitive bidding and offering requirements of the law. This exemption authorizes political subdivisions to purchase apparatus, materials, equipment or supplies, and to contract for services related to the installation, maintenance, or repair of these items, through the use of contracts let by the United States or any agency thereof, any State or any other political subdivision or district therein. Three prerequisites must be met:

1) The contract must have been let by the United States or any other agency thereof, any state or any other political subdivision or district therein. Therefore, there must be an underlying contract let by one of the listed governmental entities. Contracts developed for use by local governments that are let by private parties and not by the United States or any agency thereof, any state or any other political subdivision or district therein, would not fall within the exception.

   The phrase "any state or other political subdivision or district therein" clearly includes other states, and political subdivisions in other states, as well as New York State political subdivisions. Therefore, in addition to the current competitive bidding exception for certain purchases through contracts of New York State counties (County Law §408-a; GML §103[3]), local governments may also purchase through qualifying contracts let by other New York State political subdivisions under this exception.

2) The contract must have been made available for use by other governmental entities. This means that the other governmental entity has taken steps to make its contract available for New York local governments. In general, this would occur by inclusion in the contract let by the other entity of a clause extending the terms and conditions of the contract to other governmental entities. Unilateral offers by vendors to extend contract pricing and other terms and conditions would not fall within the exception.

3) The contract must have been let in a manner that constitutes competitive bidding "consistent with state law." The purchasing local government would need to obtain background information on the procedures used to let the contract and, as necessary, consult with its counsel, to determine whether this prerequisite is met.

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LOCAL PROCUREMENT CHART

The following procurement requirements shall apply to all Town of Amherst purchases.

	Verbal Quotes		Written Quotes			Bid	RFP/ RFQ	Other
	1	2	1	2	3			
Purchase Contracts								
$5,000 or less	X							
$5,001 - $10,000				X				
$10,001 - $20,000					X			
Over $20,000 (GML §103)						X		
IT & Consumer Electronics**								X
Public Works Contracts								
$7,500 or less	X							
$7,501 - $15,000				X				
$15,001 - $35,000					X			
Over $35,000 (GML 103)						X		
Emergency								X
Sole Source								X
Professional Services								
$20,000 or less (requires TB approval)			X					
Over $20,000							X	
True Leases			X					
Insurance					X			
Second Hand Equipment								
$20,000 or less	X							
Over $20,000 (from other gov. only)								X

***All information technology (IT) related products (hardware and software) and consumer electronics in an amount over $500 require the written approval of the Director of Information Technology (or designee) for suitability and compatibility with existing or planned IT infrastructure, in addition to the Purchase Contracts requirements above. Documentation of approval should be submitted to the Comptroller's Office with purchase orders. Police or SCADA networks are excluded from this requirement.*

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LOCAL PROCUREMENT REQUIREMENTS

Every purchase shall be made using the requirements in the Town of Amherst Procurement Chart. Each purchase must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known, or can reasonably be expected, that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.

When bidding is not required under GML §103, all goods and services will be secured by use of written requests for proposals/qualifications, written quotations, verbal quotations, or any other method that assures the goods will be purchased at the lowest price and that favoritism will be avoided.

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement, so long as the good faith effort has been made.

Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offer. The documentation will include an explanation of how the award will achieve the savings or how the offer was not responsible. A determination that the offer is not responsible shall be made by the purchasing department in conjunction with Contract Compliance.

Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types or procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances, it may not be in the best interests of the Town of Amherst to solicit quotations or document the basis for not accepting the lowest bid:

1) **Purchase Contracts Under $5,000 / Public Works Contracts Under $7,500**

   The time and documentation required to purchase through this policy may be costlier than the item itself and may therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de Minimis contracts would be awarded based on favoritism. However, this does not relieve the individual making the purchase from responsibility for monitoring other sources of the same product.

2) **Emergency Purchases**

   Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.

   There are three basic statutory criteria to be met in order to fall within this exception. These are: 1) that 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

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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 in 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.

There are certain emergency occurrences which may be foreseeable. In these instances, each department should, one time per year, solicit bids from appropriate providers to be selected to be the exclusive "on call" provider for recurring emergencies.

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.

The department head must make every reasonable attempt to obtain approval from the Supervisor prior to making the purchase. An Emergency Purchase Documentation Form must be completed to document the emergency purchase (see Exhibit B). This form must be submitted to the Town Board at the first work session following the date of the Emergency purchase. The Town Board, as soon as reasonably possible after notification, shall pass a resolution affirming the need for the purchase.

3) Sole Source

There is no requirement for competitive bidding when a good or service is available only from one possible source. To qualify as a sole source exception, the acquisition must be in the public interest and available only from one source, for which there is no equivalent. To service the public interest, there must be unique benefits as compared to a different good or service, and no other good or service would provide substantially similar benefits. The cost must be reasonable when considering the benefit. The sole source exception cannot be used simply because it is anticipated that only one bid will be submitted. Use of a sole source vendor requires Town Board approval.

4) Professional Services

This applies to professional services or services requiring a special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgement, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

Professional services up to $20,000 require approval by the Town Board, but do not require an RFP or RFQ process. In determining whether a service fits into this category, the Town Board shall take into consideration the following guidelines: a) whether the services are subject to State licensing or testing requirements; b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps, and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant or auditor; investment management services; appraisal services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

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Professional services over $20,000 must be solicited and evaluated using a Request for Proposals (RFP) or Request for Qualifications (RFQ). RFPs typically use cost as one factor in the evaluation process. RFQs typically require that pricing be submitted in a separate sealed envelope. Proposers are then evaluated based on their qualifications only, and pricing is negotiated after the preferred vendor is selected.

5) True Leases

Competitive bidding is not required when leasing real property or equipment. However, the lease must be an actual lease and a contract may not be called a lease to circumvent the competitive bidding process. In addition, the exception is not allowable for a lease-purchase agreement, in which the item being leased will be owned by the municipality at the end of the lease term.

6) Insurance

The purchase of insurance is exempt from bidding requirements. However, it is in the best interest of the taxpayers to solicit multiple quotations prior to binding insurance.

7) Second Hand Equipment

If alternate proposals are required, the Town may be precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product. Each piece of equipment shall be treated as an individual purchase, and aggregation shall not apply. Purchases of an individual piece of equipment with a cost over $20,000 may only be obtained from another governmental entity, unless formally bid.

REQUIRED DOCUMENTATION

Documentation is required of each action taken in connection with procurement. This includes Town Board resolutions, memoranda, written quotes, telephone logs (for verbal quotes), requests for proposals, proposals, contracts (i.e. copies of State/County contracts), and any other appropriate form of documentation. See Appendix C, Verbal Quote Sheet, which can be used for documentation. If there is any question on what form of documentation is required, the Contract Compliance and Administration Department should be consulted.

MWBE REQUIREMENTS

Chapter 32 of the Town Code defines the requirement for the commitment of the Town of Amherst MBE/WBE Utilization Commitment Act for expenditures over $50,000 for purchase contracts, and over $100,000 for public works contracts. Please see the Town Code for more information.

PURCHASE OF VEHICLES/EQUIPMENT

Purchases of passenger vehicles (A/C #2200), trucks/tractors (A/C #2250) and other equipment (A/C #2600) shall be placed on the Town Board agenda for approval prior to purchase.

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APPENDIX A

MUNICIPAL OFFICIALS
RESPONSIBLE FOR PURCHASING DECISIONS

Assessor's Office ..... David Marrano
Attorney's Office ..... Stanley Sliwa
Building Department ..... Mark Berke
Building Maintenance ..... Richard Lennox
Central Fire Alarm ..... Steven Matisz
Comptroller's Office ..... Daryl Bramer
Councilmembers ..... Jacqueline Berger
Emergency Services & Safety ..... James Zymanek
Engineering ..... Jeffrey Burroughs
Finance ..... Lynda Juul
Highway ..... Patrick Lucey
Human Resources ..... Robert McCarthy
Planning ..... Daniel Howard
Police ..... John Askey
Contract Compliance & Administration ..... Lynda Juul
Senior Services ..... Brian Bray
Supervisor's Office ..... Brian Kulpa
Town Clerk ..... Francina Spoth
Town Court ..... Maria Hughes
Youth & Recreation ..... Mary-Diana Pouli

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APPENDIX B

EMERGENCY PURCHASE DOCUMENTATION

(SEE FOLLOWING PAGE)

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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: _____

2. Date you received approval from the Supervisor: _____

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): _____
   _____
   _____

5. Is there adequate funding in your current operating budget to cover this purchase? _____
   Identify budget Org/Object: _____

6. Please describe the circumstances that resulted in the need to make an emergency purchase without following the Town's Purchasing Policy: _____
   _____
   _____

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: _____
   _____
   _____

8. Department Head Signature: _____ Date: _____

CC: Town Board, Town Attorney, Contract Compliance & Administration

For Contract Compliance & Administration Use Only
Date of Town Board Resolution: Emergency Purchase Tracking/Res #:

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APPENDIX C

VERBAL QUOTE SHEET

(SEE FOLLOWING PAGE)

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Town of Amherst

5583 Main Street
Williamsville, NY 14221

Verbal Quote Sheet

Product Description: _____

_____

_____

Quote #1 Date: ___/___/___ Vendor Name: _____

Contact Name: _____ Phone_____

Email: _____ **COST: $_____**

Notes: _____

_____

Quote #2 Date: ___/___/___ Vendor Name: _____

Contact Name: _____ Phone_____

Email: _____ **COST: $_____**

Notes: _____

_____

Quote #3 Date: ___/___/___ Vendor Name: _____

Contact Name: _____ Phone_____

Email: _____ **COST: $_____**

Notes: _____

_____

Quotes obtained by: _____

Department: _____

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CONTRACT ADMINISTRATION POLICY

TOWN OF AMHERST NEW YORK

January 2021

Adopted 1/4/2021, Resolution 2021-xx

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

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TOWN OF AMHERST
CONTRACT MANAGEMENT POLICY

PURPOSE

The purpose of this policy is to advise Town of Amherst department heads and other department personnel of Town contract administration procedures that should be followed. Adherence to the procedures outlined in this policy will allow contracts to be administered properly, and to smoothly and efficiently complete the contract routing process.

SIGNATURE REQUIREMENTS

Pursuant to Town Law §64, only the Supervisor has the authority to enter into a contract, after obtaining Town Board approval, and must be the signatory on all contracts. This includes ALL contracts that require a signature. The only exception to this is for Contracts under $5,000, as outlined below. ALL contracts should be routed through the Amherst Contract Management System (ACMS).

AMHERST CONTRACT MANAGEMENT SYSTEM (ACMS)

The Town IT Department, in conjunction with the Contract Compliance and Administration Department, developed the Amherst Contract Management System (ACMS). The purpose of the system is to route all Town contracts electronically to streamline the approval process and allow employees to view the status of Town contracts at any point during that process. There are two sides to the system – the Contract Routing System (CRS) and the Contract Management System (CMS). Contracts are entered into CRS, and automatically move over to CMS once routing approval is complete and the contract has been approved by the Town Board.

Contracts are entered into the system by the initiating department or by Contract Compliance for items that require bids, RFPs or RFQs. The following information is required to be entered into CRS:

- The type of contract (general contract, piggyback, professional services, etc.)
- Whether the contract is Town-wide (for use by any Town department) or pertains to an individual department
- Requested Town Board meeting date for placement on agenda
- Start and end dates (these should be included for all contracts)
- Whether the contract allows for extensions, and if so, how many, and the length of each
- Org, Object, and amount of the contract (for budgetary approval)
- Whether prevailing wage applies, and if so, the link to the prevailing wage schedule must be uploaded into CRS

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Contracts are reviewed and approved as outlined below. Each step of the process may take several days, depending on the schedules of each department. In order for contracts to receive full approval prior to the agenda deadline, all documentation should be entered into ACMS one to two weeks prior to that deadline. Each reviewing department shall review in a timely manner to ensure contracts are processed as efficiently as possible.

- Contract Compliance shall review for compliance with General Municipal Law, applicable Federal and State Laws, the Town's Procurement Policy, and to ensure that all required paperwork has been included in the submittal
- Comptroller shall review for compliance with the Town budget and sufficiency of information related to the audit of claims
- Attorney shall review for legal requirements and insurance

Once all the appropriate documentation is uploaded into CRS, each reviewing department will be notified, and will review the contract in the routing system. The originating department is notified via system emails at each step of the process. Once fully approved, the system notifies the originating department that the contract can be placed on the Town Board agenda. The originating department is responsible for uploading the contract to the agenda for Town Board approval.

If there is an issue with the proposed contract during the process and the contract cannot be approved, the contract is rejected by the applicable reviewing department and a note is entered into CRS identifying the reason for the rejection. An email is generated through CRS to both the initiating department and Contract Compliance notifying those parties that additional information is required. The appropriate party can then respond to the issue, upload additional documentation (if necessary) and resubmit for approval. Once a contract has received all approvals in CRS, a resolution must be placed on the Town Board agenda by the originating department for approval. All correspondence related to the contract should be done within ACMS.

The CRS # must be included in all Town Board resolutions, both in the header and in the body of the resolution. For a contract extension, amendment, change order, etc., the original CRS # should also be included in the resolution. Once approved by the Town Board, the initiating department sends three original contracts, signed by the vendor, to the Attorney's office. The Attorney's office has the contracts signed by the Supervisor, marks the contract as signed in CRS, and the contract then moves from the contract routing side of the system (CRS) to the management side of the system (CMS). The fully executed contract is then scanned into CMS by the Attorney's Office. The applicable departments are notified by an email from CMS when this has happened, and the contract is then available for use. Initiating departments must then go into CMS to enter insurance documents, insurance expiration dates, and start and end dates for the contract. It is the initiating department's responsibility to monitor these expiration dates, obtain updated insurance certificates, and enter them into CMS. Two sets of the original contract are sent back to the initiating department. The third set goes to the Town Clerk's Office where it is kept as an official Town record. The originating department then sends one fully executed contract to the vendor, and keeps the other for its records.

Contracts should not be placed on the Town Board agenda until they have received all CRS approvals, unless ***absolutely necessary***. Placement on the agenda prior to completion of routing makes contracts more difficult to track to ensure timely completion of all requirements. If a

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contract ***must*** be placed on the agenda prior to completion of contract routing due to time sensitivity, the resolution must state "pending successful completion of the contract routing system", and must also include an explanation of the time sensitivity and state the reason the contract routing system process was not completed prior to the meeting; this is required as per the Amherst Town Board Rules of Order. Purchases should not be made under the contract until the contract has completed routing and a valid contract has been signed by the Supervisor and uploaded into CMS. Initiating Departments are notified by an email from CMS when this has happened.

CONTRACT TERMS

1) Start/End Dates

Almost all contracts should include start/end dates, and the dates should be entered into CRS. In limited situations, a contract may not have start/end dates. If this is the case, dates should be entered into ACMS for notification purposes. The start date should represent the date the contract was approved by the Town Board, unless stated otherwise in the contract. The appropriate end date should be entered into ACMS.

The following types of contracts may not have start/end dates:

- Professional services contracts related to a specific project
- Construction contracts
- Telephone and utility contracts
- Inter-municipal agreements
- Certain lease agreements

In these cases, start/end dates should still be entered in ACMS to trigger review of the contracts in future years. Please consult with Contract Compliance or the Town Attorney if you have questions.

2) Auto-Renewal Clauses

Auto-renewal clauses should not be included in any contracts. If there are existing contracts with auto-renewal clauses, they should be reviewed and modified as soon as practical, to remove references to auto-renewal.

3) Effective Date

Contracts shall be effective as of the date of Town Board approval. However, the contract must have successfully completed contract routing system and all insurance must be in place prior to use. Note: If the vendor is coming on the premises for anything other than simple delivery, the department having the work completed must have a fully executed contract in their possession prior to anyone coming on site. This is to ensure that insurance is in effect, as some certificates of insurance state "as per written contract". If the contract is not fully executed, the insurance is essentially not in place, and the Town is not protected.

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4) Extensions

Contracts may be extended twice for a term equivalent to the initial term of the contract (i.e. a 3-year contract can have two 3-year extensions). The terms of the contract must remain the same during the extension period as in the original contract, unless the contract states otherwise. The allowance for extensions should be built into the bid or RFP, when desired.

5) Short-Term Extensions

Short-term extensions are allowable provided wording is included in the original contract. Suggested wording is as follows: "In the event a replacement contract has not been issued, this Contract may be extended unilaterally by the Town for an additional period of up to one month, upon notice to the Vendor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one-month extension), prices, and delivery requirements. With the concurrence of the Vendor, the extension may be for a period of up to three months in lieu of one month. However, this extension terminates should a replacement contract be issued in the interim."

Existing contracts that do not have extension clauses may be extended upon agreement by both the Town and the Vendor. Wording in the Addendum must state that the contract is extended as of the first date the previous contract expired (i.e. if the contract expired on December 31, the extension should be effective as of January 1).

All extensions must be routed through ACMS and approved by the Town Board.

6) Ownership Changes

From time to time, a company's ownership may change. The new company may assume the existing contract provided all terms remain the same. Such changes should be processed through ACMS, as insurance and other pertinent items may change. This is done by entering an amendment to the original contract. The following items should be included in the amendment: Written notification of the change of ownership (reassignment letter) and willingness to abide by the terms of the original contract, an addendum, the Iran Divestment form, and updated certificates of insurance. Once the Town Board has approved the contract, the IT Department should be notified to change the name of the company in ACMS; the name will be entered as "*New Company Name* (formerly *Old Company Name*)". Please reference the original contracts CRS# in the new resolution.

PURCHASES SUBJECT TO COMPETITIVE BIDDING

Departments should work with the Contract Compliance Department to develop a bid specification. Contract Compliance will ensure that the bid is properly noticed in the Town's newspaper of record through use of a legal notice. All bids are to be submitted to the Contract Compliance Department and will be opened on the advertised date and time. The Supervisor approves bid-opening dates for town-wide bids in writing. Departmental bids must have the bid

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opening date approved by the Town Board via resolution prior to bidding. Any vendor contacting individual departments with questions that arise during the bid process **must** be referred to the Contract Compliance Department so that responses may be generated through an addendum that is communicated with all potential bidders. If this does not happen and some bidders are given information that others are not, the bid may need to be thrown out and rebid, which causes purchasing delays. Bids are also posted electronically on BidNet Direct (bidnetdirect.com), a government bid website, by the Contract Compliance Department. In order to ensure as much competition as possible, it is the policy of the Town of Amherst that the bid holders list not be released until after the bid opening. The bid opening will be completed by the Contract Compliance Department. All bids must be publicly opened and read aloud.

Sealed bids done through the Highway Department or Engineering Department will be opened at Town Hall by the Contract Compliance and Administration Department or the Supervisor's Office. Signed contracts, including bid amounts, must be entered into ACMS so they are accessible town-wide. A CRS# should be obtained and should be referenced in the Town Board resolution awarding the contract.

PURCHASES NOT SUBJECT TO COMPETITIVE BIDDING

Purchases for goods and services under the competitive bidding threshold may or may not involve a contract. Any legally binding document must be approved by the Town Board and signed by the Supervisor prior to being used for purchasing. If a purchase does not involve a contract, and the proper procurement procedures have been followed, the purchase may be made. All documentation required under the Procurement Policy must be submitted with the PO/Invoice for payment. This includes verbal and written quotes.

NYS OGS PURCHASES

Purchases may be made under NYS OGS contract without going through a formal Town bid or RFP process. In some cases, NYS does requires that purchases are made using a mini-bid process (typical for vehicles) or bid/RFP process (typical for some computer equipment) through OGS awarded vendors only. If this is required, it will be shown on the OGS website under the contract in a file named "How to Use". All information related to OGS purchases is on the NYS OGS website – https://ogs.ny.gov/procurement. This site is open to the public, and all current contracts are available for viewing. Purchasers are encouraged to negotiate a price lower than state bid when possible; please see the Town of Amherst Procurement Policy regarding OGS or Less. All NYS OGS procedures must be followed when purchasing through OGS. Please contact the Contract Compliance Department if you have questions.

1) Commodity Purchases with "Simple" Delivery

Commodity purchases through NYS OGS that do not require the vendor to come onto Town property outside of a simple delivery can be made with a PO. There is no contract paperwork necessary, and nothing needs to be routed through ACMS. Town Board approval is not required, unless the purchase is for equipment, and as long as there is sufficient budget funding available.

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Information from the NYS OGS contract showing the pricing of items purchased must be included when the PO is submitted to the Comptroller's Office so that the claim (voucher) can be audited.

2) Commodity Purchases with "Extensive" Delivery Requirements

Some deliveries are more extensive, and require the same paperwork as vendors who are doing physical work (see below). If you are unsure, please check with Contract Compliance. These types of vendors include, but are not limited to, the following:

- Fuel delivery
- Salt delivery
- Vehicle delivery via flatbed
- Any delivery utilizing heavy equipment (crane, high lift, etc.)

3) Purchases that Include Physical Work

For vendors that come onto Town property to do physical work, the following are required:

- Town of Amherst Agreement for Participation in New York State Contract
- Addendum to Contract
- Prevailing Wage Schedule from NYSDOL (if applicable) – must include a link to the schedule
- Acord 25 Certificate of Liability Insurance, naming the Town of Amherst as additional insured, including any endorsements
- C-105.2 Proof of Workers Compensation Insurance (or waiver)
- Original contract between the vendor and OGS (used to confirm pricing upon audit of invoices) – this should include all terms and pricing information

Samples of most of the above documents are included in the appendices to this policy.

PURCHASES FROM COUNTY CONTRACT

Purchases made using County contracts can also be used without going through a formal Town bid or RFP process. These purchases are typically made from Erie County contracts, but can be made from other counties as well. Information on Erie County contracts can be found on the Erie County website at http://www2.erie.gov/purchasing/index.php?q=available-contracts. Unfortunately, only the award information is published on the County website, and not the entire contract. In order to obtain the entire contract, the department wishing to use the contract must go down to the Erie County Purchasing Department to obtain copies. The entire County contract, along with the bid tab, is required by the Comptroller's Office in order to audit the claim (voucher). *Please note: Erie County contracts have certain MWBE and other legal requirements that are not necessarily required by the Town; this is addressed in the Town Addendum.*

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1) Commodity Purchases with "Simple" Delivery

Commodity purchases through Erie County that do not require the vendor to come onto Town property outside of a simple delivery can be made with a PO. There is no contract paperwork necessary, and nothing needs to be routed through ACMS. Information from the County contract showing the pricing of items purchased must be included when the PO is submitted to the Comptroller's Office so that the claim (voucher) can be audited.

2) Commodity Purchases with "Extensive" Delivery Requirements

Some "deliveries" are more extensive, and require the same paperwork as vendors who are doing physical work (see below). If you are unsure, please check with Contract Compliance. These types of vendors include, but are not limited to, the following:

- Fuel delivery
- Salt delivery
- Vehicle delivery via flatbed
- Any delivery utilizing heavy equipment (crane, high lift, etc.)

3) Purchases that Include Physical Work

For vendors that come onto Town property to do physical work, the following are required:

- Town of Amherst Agreement for Participation in Erie County Contract
- Addendum to Contract
- Prevailing Wage Schedule from NYSDOL (if applicable) – must include a link to the schedule
- Iran Divestment Certification
- Acord 25 Certificate of Liability Insurance, naming the Town of Amherst as additional insured, including any endorsements
- C-105.2 Proof of Workers Compensation Insurance (or waiver)
- Original contract between the vendor and Erie County (used to confirm pricing upon audit of invoices) – this should include all terms and pricing information

Samples of most of the above documents are included in the appendices to this policy.

PIGGYBACK PURCHASES/COOPERATIVE AGREEMENTS

Purchases using the Piggyback Law (GML §103-16) may be made off contracts issued through other municipalities or with Cooperative Agreements (Omnia Partners, Sourcewell, etc.). The contract must be let either to the lowest responsible bidder or on the basis of best value, provided that the local municipality has authorized the use of Best Value (which the Town of Amherst has for contracts let by the US, any agency of the US, or any state or political subdivision or district thereof). Because of this requirement, piggyback contracts may not be used for RFPs. Additionally, NYS OSC has determined that piggyback contracts can only be used for purchase

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contracts, and not for contracts for public work (which are primarily labor). If you have questions regarding a specific piggyback contract, please contact Contract Compliance. *Please note: piggyback contracts may have certain MWBE and other legal requirements that are not necessarily required by the Town; this is addressed in the Town Addendum.*

All piggyback purchases require the following documentation:

- Town of Amherst Agreement for Participation in Piggyback Contract
- Addendum to Contract
- Prevailing Wage Schedule from NYSDOL (if applicable) – must include a link to the schedule
- Iran Divestment Act Certification
- Acord 25 Certificate of Liability Insurance, naming the Town of Amherst as additional insured (see sample certificate attached to this Policy), including any endorsements
- C-105.2 Proof of Workers Compensation Insurance (or waiver)
- Original bid document from the governmental agency, which must include piggyback language (language that allows other municipal entities to use the contract)
- Original contract between the vendor and agency holding the contract (used to confirm pricing upon audit of claims) – this should include all terms and pricing information
- Cost-benefit analysis comparing piggyback contract pricing to other pricing, which shows that the piggyback contract is beneficial to the Town. As per the piggyback law: "This analysis should be used to demonstrate whether "piggybacking" is cost effective and should consider all pertinent cost factors, including any potential savings on the administrative expense that would be incurred if the local government initiated its own competitive bidding or best value process." A simple tabulation showing the piggyback cost v. cost under another procurement method is acceptable as the cost-benefit analysis. Please contact Contract Compliance and Administration if you have questions.

Samples of most of the above documents are included in the appendices to this policy.

CONTRACTS UNDER $5,000

Town Board adopted resolutions 2017-206, 2017-691 and 2017-946 related to purchases under $5,000. The effect of these resolutions is summarized below.

The Supervisor is authorized to sign contracts, proposals, quotes, estimates, agreements, and leases for the one time purchase of equipment, goods, supplies, and personal services in an amount of less than Five Thousand Dollars ($5,000), so long as GML §103(1) is complied with as to aggregation, without obtaining prior approval of the Town Board. Contracts under $5,000 should be routed in ACMS for review as to proper insurance, prevailing wage requirements, potential aggregation, duplication, etc. ACMS review goes through the normal procedure, but Town Board review and approval is not required.

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MODIFICATIONS TO CONTRACTS

All modifications to contracts, with the exception of term task orders, must be entered into ACMS and go through the normal routing and Town Board approval process. This is done by going into the original contract and entering an extension. Term task orders must be entered into ACMS, but go through a modified routing process; they do not need to be placed on a Town Board agenda for approval.
When modifications to contracts are placed on the Town Board agenda for approval, the original contract's CRS or CMS # must be put in the resolution, along with the justification for the modification. This will allow all departments to more easily reference the original contract.

1) Contract Amendments

Contract amendments must be entered into ACMS through the process described above, and go through the normal routing process. Amendments must be approved by the Town Board and signed by the Supervisor.

The following documentation is required for contract amendments:

- Amendment agreement or proposal (varies based on the contract and type of purchase)

2) Contract Change Orders

Contract change orders must be entered into ACMS through the process described above, and go through the normal routing process. Change orders must be approved by the Town Board and signed by the Supervisor.

The following documentation is required for contract amendments:

- Change order documentation (varies based on the contract and type of purchase)

3) Contract Extensions

Contract extensions must be entered into ACMS through the process described above, and go through the normal routing process. If multiple vendors have been awarded a contract, all must agree to accept the extension or the contract must be re-bid. Change orders must be approved by the Town Board and signed by the Supervisor.

Contract extensions should be processed and approved prior to the expiration of the original contract. If a contract must be extended after it has expired, the following wording should be included in the extension paperwork: "the contract which expired on (*date*) is hereby being extended for a term of (*description of term*), following the same terms and conditions as the original contract". The new contract term should begin the day after the previous contract ended, to allow for continuity. The original contract's CRS# should be stated in the resolution approving the extension.

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The following documentation is required for contract amendments:

- Extension paperwork (varies based on the contract and type of purchase)

4) Term Contracts / Task Orders

Term contracts are contracts that cover a specified period of time, but are not related to a specific project. These tend to occur with attorneys, engineers, planners, grant writers, and in certain other situations. Term contracts are executed for a set term, and require task orders for each specific job/project they are used for. The initial contract should be entered into ACMS and complete routing, and each task order related to a job/project should be entered into ACMS as a Term Task Order through the process described above.

Term task orders must complete routing before being used, but do not require Town Board approval. The term task order is entered by the department, and reviewed by the Comptroller for budget compliance. As with the normal CRS process, term task orders shall be reviewed in a timely manner. Once approved by the Comptroller, the task order should be sent to the Supervisor's Office in triplicate for signature by the Supervisor. The ACMS email received notifying the originating department that the contract has been approved must be attached to the contracts as the cover page. Once signed, the document is marked as approved in ACMS by the originating department. The fully executed document is then scanned into ACMS by the originating department, the department retains two originals, and the third original is given to the Clerk's Office.

The following documentation is required for term contracts:

- Cover Sheet (Planning), and any other documents required/listed on the cover sheet
- Term contract documentation or project proposal

INSURANCE REQUIREMENTS

Proof of insurance is required for all contracts, unless the purchase is for goods only, and the vendor is not coming on to Town property at all, or the goods are simply being delivered by the vendor or a 3rd party delivery service. In all other instances, insurance is required according to the insurance matrix attached to this policy. Any endorsements must be included with the Acord 25. Please see Appendix F for a sample certificate. Limits may change based on the type of work being done, but Certificate Holder must be listed as Town of Amherst, 5583 Main St., Williamsville, NY 14221, and verbiage in Description of Operations section must be included.

PREVAILING WAGE

All work performed on Town property requires prevailing wage to be paid. Prevailing wage schedules should be obtained by the department responsible for the contract for all jobs requiring that prevailing wage be reported to the Town, and a link to the schedule entered into ACMS. This

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is required for the contract to begin routing. Requests are made through an online application on the New York State Department of labor (NYS DOL) website: https://www.labor.ny.gov/workerprotection/publicwork/PWReqforOWS.shtm

Departments are also responsible for reporting to NYS DOL as follows:

- When a contract is awarded, the Notice of Award form PW16 should be filled out and submitted to NYS DOL
- When the contract is complete, or if it has been cancelled, the Notice of Completion/Cancellation of Contract form PW200 should be filled out and submitted to NYS DOL

If you have any questions regarding prevailing wage, please contact Contract Compliance.

SOLE SOURCE PURCHASES

Sole source purchases are those that can only be obtained from one source. Written documentation regarding sole source procurement must be obtained and approved by Contract Compliance, and entered into CRS when the contract is routed. The Town Board must approve the vendor as sole source by resolution in conjunction with the contract approval. A contract must be in place outlining the terms of the purchase agreement; this will also assist in Comptroller review and approval of claims (vouchers).

EMERGENCY PURCHASES

Emergency purchases are allowable with approval from the Supervisor. In most cases, the circumstances surrounding emergency purchases typically do not allow enough time to put a contract in place. A proposal should be obtained from the vendor prior to the purchase or work being performed. When the PO/voucher is submitted to the Comptroller's Office, the proposal and Emergency Purchase Form (signed by the Supervisor) should be attached. Town Board approval is required at the first Town Board meeting following the purchase authorization. If a signed contract is obtained, it should be routed through ACMS. A note should be placed in the comment section indicating that it was an emergency purchase.

See the Procurement Policy for additional information regarding emergency purchases.

WITHDRAWAL OF CONTRACTS

If a contract has been entered into ACMS and needs to be withdrawn prior to completion of routing, the initiating department should submit a request to the IT Department, and copy the Contract Compliance Department. Once Contract Compliance approves the withdrawal, IT will mark the contract as withdrawn.

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APPENDIX A

Town of Amherst Agreements

NYS OGS Contract

Erie County Contract

Piggyback / Cooperative Contract

Please see following pages

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TOWN OF AMHERST AGREEMENT
PARTICIPATION IN
NYS OGS CONTRACT

Let this document stand as an agreement between (Vendor Name) and the Town of Amherst, permitting the Town of Amherst to participate in the (Contract Name) with (Vendor Name) under the New York State Office of General Services Contract (Contract Number), for the contract term (start date) through (end date).

Agreed to and Accepted by:

(VENDOR NAME)

By: _____
Signature

_____
Printed Name

_____
Title

Date: _____

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

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TOWN OF AMHERST AGREEMENT
PARTICIPATION IN
ERIE COUNTY CONTRACT

Let this document stand as an agreement between (Vendor Name) and the Town of Amherst, permitting the Town of Amherst to participate in the (Contract Name) with (Vendor Name) under the Erie County Bid Contract (Contract Number), for the contract term (start date) through (end date).

Agreed to and Accepted by:

(VENDOR NAME)

By: _____
Signature

_____
Printed Name

_____
Title

Date: _____

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

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TOWN OF AMHERST AGREEMENT
PARTICIPATION IN
PIGGYBACK / COOPERATIVE CONTRACT

Let this document stand as an agreement between (Vendor Name) and the Town of Amherst, permitting the Town of Amherst to participate in the (Contract Name) with (Vendor Name) under Contract (Contract Number), for the contract term (start date) through (end date). The original contract was bid out by (municipality or cooperative contract name).

Agreed to and Accepted by:

(VENDOR NAME)

By: _____
Signature

_____
Printed Name

_____
Title

Date: _____

Agreed to and Accepted by:

TOWN OF AMHERST

By: _____
Brian J. Kulpa, Supervisor

Date: _____

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APPENDIX B

Addendums

Minor Construction and Maintenance

Major Construction and Maintenance

Vendor On-Site – Minor

Vendor On-Site – Major

Vendor Not on Site

Professional Services Consultant – Minor

Professional Services Consultant – Major

Please see Town Intranet

The Addenda listed are the current forms to be used and are available on the Contract Compliance page of the Town Intranet. These Addenda coincide with the Insurance Matrix in Appendix E.

The Insurance Matrix, Addenda, and sample Certificates of Insurance are subject to change by the Town Attorney.

The most current versions will be kept up to date on the Intranet.

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APPENDIX C

Sample Prevailing Wage Schedule

New York State | State Agencies | Search all of NY.gov

New York State Department of Labor

Prevailing Wage

Unemployment Benefits | Career Services | Business Services | Worker Protection | Forms and Publications | Home

· Wage Schedule · Submit Notice Of Award · Submit Notice Of Project Completion

PRC#: 2019015126

Type of Contracting Agency: Town

Acceptance Status: Accepted Article 8

Contracting Agency

Town of Amherst New York
Thomas Barillari
Technical Services Officer
500 John James Audubon Parkway
Amherst NY 14228

(716) 939-1227
tbarillari@apdny.org

Send Reply To

Project Information

Project Title	Access Control at Police
Description of Work	Adding access control to doors at Police HQ
Contract Id No.	Y6264
Project Locations(s)	Police HQ
Route No / Street Address	500 John James Audubon Parkway
Village / City	Amherst
Town	Amherst
State / Zip	NY 14228
Nature of Project	Other New Construction (Explain)
Approximate Bid Date	12/03/2019
Checked Occupation(s)	Construction (Building, Heavy & Highway, Sewer, Water, Tunnel)

Applicable Counties

Erie

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APPENDIX D

Iran Divestment Certification Form

Please see following page

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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: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____

Sworn To Before Me This

_____ Day of _____, 20___

_____

Notary Public

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APPENDIX E

Insurance Matrix

Please see following page

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

INSTRUCTIONS FOR TOWN OF AMHERST STANDARD INSURANCE CERTIFICATE

I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.

II. CERTIFICATES OF INSURANCE
   A. Shall be made to the "Town of Amherst, 5583 Main St, Williamsville, NY 14221"
   B. Coverage must comply with all specifications of the contract.
   C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.

III. Forward the completed certificate to: Town of Amherst, (Department or Division) responsible for entering into the agreement for construction, purchase, lease or service.

IV. Minimum coverage with limits are as follows:

Vendor Classification	A Major Construction and Maintenance	B Minor Construction and Maintenance	C Vendor on Site – Minor	D Vendor on Site - Major	E Vendor not on site	F Professional Services Consultant - Minor	G Professional Services Consultant - Major
Commercial Gen. Liab.(CGL)	$1,000,000 per occ.	$1,000,000	$1,000,000 CSL	$1,000,000 CSL	N/A	$1,000,000 CSL	$1,000,000 CSL
General Aggregate	$2,000,000	$2,000,000	$2,000,000	$2,000,000	N/A	$2,000,000	$2,000,000
Products Completed Operations Liability	$2,000,000	$2,000,000	$2,000,000	$2,000,000	N/A	$2,000,000	$2,000,000
Blanket Broad Form Contractual Liability	INCLUDE	INCLUDE		INCLUDE		INCLUDE	INCLUDE
Contractual Liability	INCLUDE	INCLUDE	INCLUDE	INCLUDE	N/A	INCLUDE	INCLUDE
Broad Form P.D.	INCLUDE	INCLUDE	INCLUDE			INCLUDE	
X.C.U. (explosion, collapse, Underground)	INCLUDE	INCLUDE	INCLUDE				
Liquor Law					N/A	INCLUDE	
Auto Liab.	$1,000,000 CSL	$1,000,000	N/A	$1,000,000 CSL	N/A	$1,000,000 CSL	$1,000,000 CSL
Owned	INCLUDE	INCLUDE		INCLUDE		INCLUDE	INCLUDE
Hired	INCLUDE	INCLUDE		INCLUDE		INCLUDE	INCLUDE
Non-Owned	INCLUDE	INCLUDE		INCLUDE		INCLUDE	INCLUDE
Excess/Umbrella Liab.	$5,000,000	$2,000,000	N/A	$5,000,000		$2,000,000	$5,000,000
Worker's Compensation & Employer's Liability	STATUTORY		STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Disability Benefits	STATUTORY		STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Professional Liability				$5,000,000			
Town of Amherst, To Be Named Additional Insured	Comp. Gen. Liab., Auto Liab., & Excess		Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess

V. Construction contracts require excess Umbrella Liability limits of $5,000,000.

VI Coverage must be provided on a primary-noncontributory bases.

VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.

VIII. In the event the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.

IX. Waiver of Subrogation: Required on all lines unless noted

X. Transportation of people in buses, vans or station wagons requires $5,000,000 excess liability.

XI. Workers Compensation: State Workers' Compensation/Disability Benefits Law. Use Applicable Certificates Below:

Workers Compensation Forms

CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self-Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

CE-200	Exemption
DB-120.1	Insurers
DB-155	Self-Insured

XII. The "ACCORD" form certificate may be used in place of the Town of Amherst Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACCORD" form certificate.

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

APPENDIX F

Sample Certificate of Liability Insurance (Acord 25)

CONTRACTOR SAMPLE

ACORD CERTIFICATE OF LIABILITY INSURANCE DATE (MM/DD/YYYY)

PRODUCER
Broker Name
Address
Address
Phone

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 POLICIES BELOW.

INSURED
Insured Name
Address
Address
Phone

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Insurance Company	
INSURER B: Insurance Company	
INSURER C: Insurance Company	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER POLICY [ ] PRO-JECT [ ] LOC	#####	mm/dd/yy	mm/dd/yy	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 $ 50,000 $ 10,000 $1,000,000 $2,000,000 $2,000,000
A		AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS	#####	mm/dd/yy	mm/dd/yy	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
A	X	EXCESS / UMBRELLA LIABILITY [X] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $	#####	mm/dd/yy	mm/dd/yy	EACH OCCURRENCE AGGREGATE	$5,000,000 $5,000,000 $ $ $
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	#####	mm/dd/yy	mm/dd/yy	[X] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$100,000 $100,000 $500,000
B C		OTHER Professional Liability Pollution Liability (if required)	##### #####	mm/dd/yy mm/dd/yy	mm/dd/yy mm/dd/yy	$1,000,000/$2,000,000 $5,000,000/$5,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The Town of Amherst is named as an additional insured on a primary and non-contributory basis. Workers Compensation includes owners.

CERTIFICATE HOLDER

Town of Amherst
5583 Main Street
Williamsville, NY 14221

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Broker Signature

ACORD 25 (2001/08) © ACORD CORPORATION 1988

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

APPENDIX G

Sample Certificate of Workers Compensation

NEW YORK STATE | Workers' Compensation Board

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) **GP LAND AND CARPET CORP** **5905 Lake Road South** **Brockport, NY 14420**	1b. Business Telephone Number of Insured **(585)391-3969** 1c. NYS Unemployment Insurance Employer Registration Number of Insured
Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)* *Town of Amherst* *Building Maintenance Dept* *5538 Main St*	1d. Federal Employer Identification Number of Insured or Social Security Number 166330058
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) Town of Amherst Building Maintenance Dept 5538 Main St Williamsville, NY 14221	3a. Name of Insurance Carrier **Selective Insurance of South Carolina** 3b. Policy Number of Entity Listed in Box "1a" **WC9058002** 3c. Policy effective period 12/31/2018 to 12/31/2019 3d. The Proprietor, Partners or Executive Officers are ☐ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

Will the carrier notify the certificate holder within 10 days of a policy being cancelled for non-payment of premium or within 30 days if cancelled for any other reason or if the insured is otherwise eliminated from the coverage indicated on this certificate prior to the end of the policy effective period? ☐ Yes ☒ No

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: David S. Boyce
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: David S. Boyce 01/04/2019
(Signature) (Date)

Title: President – CEO

Telephone Number of authorized representative or licensed agent of insurance carrier: 1-888-229-6151

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-15) www.wcb.ny.gov

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

APPENDIX H

Sample Certificate of NYS Disability Insurance

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only)	1b. Business Telephone Number of Insured 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) **State University of New York** **Room 302** **1400 Washington Avenue** **Albany, NY 12222**	3a. Name of Insurance Carrier 3b. Policy Number of entity listed in box "1a": 3c. Policy effective period: _____ to _____

4. Policy covers:

a. ☐ All of the employer's employees eligible under the New York Disability Benefits Law

b. ☐ Only the following class or classes of the 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 Benefits insurance coverage as described above

Date Signed _____ By _____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number _____ Title _____

IMPORTANT: If box "4a" is 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" is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" 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 Benefits Law with respect to all of his/her employees

Date Signed_____ By_____
(Signature of NYS Workers' Compensation Board Employee)

Telephone Number_____ Title_____

Please Note:** Only insurance carriers licensed to write NYS disability 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 (5-06)

SAMPLE

Attachment: 16546 (RES-2021-63 : Adopt Procurement Policy & Contract Management Policy)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 22702 **RESOLUTION 2021-64**

Voluntary Separation Incentive CSEA 2021

VOLUNTARY SEPARATION INCENTIVE 2021

WHEREAS, the Town of Amherst is considering offering a Voluntary Separation Incentive Program for full-time employees subject to final agreement with the applicable unions as follows:

CIVIL SERVICE EMPLOYEES' ASSOCIATION, INC. (CSEA)

VOLUNTARY SEPARATION INCENTIVE:

Eligible Employee: Employees potentially eligible for the Voluntary Separation Incentive will be identified and targeted based on job title, departmental needs and other relevant factors following consultation with Department Heads. Any employee considered for the incentive must have a minimum of ten (10) years of continuous full time, permanent service with the Town of Amherst.

Time to apply for incentive: Employees must file an initial application for the Voluntary Separation Incentive no later than **December 1, 2021** on the form attached hereto, and an irrevocable letter of voluntary resignation no later than **December 17, 2021**. The Town reserves the right to extend the election period for additional days.

Separation Date: Employee must separate from employment with the Town no earlier than **January 4, 2021** and no later than **December 30, 2021**. The Town reserves the right to extend the separation deadline for additional days.

Voluntary Separation Incentive - Continued Health Insurance: For eligible employees who are approved and accept the Voluntary Separation Incentive, the Town shall continue to provide fully paid family or single health insurance, dental insurance and vision coverage for a two year (24 full consecutive months) period. In the event of death of the employee, the payments shall continue to be made and applied as payment in full for appropriate continued medical insurance for the employee's spouse and/or eligible dependents for the remainder of the twenty-four (24) month period.

The Voluntary Separation Incentive shall not be used in the calculation of any retirement benefit.

Resignation: An employee accepting the Voluntary Separation Incentive shall be required to sign an irrevocable letter of voluntary resignation no later than **December 17, 2021**. The employee agrees that he/she is not eligible for unemployment insurance.

****

I have read the terms of the foregoing Voluntary Separation Incentive Program and elect to accept the incentive. I understand that until I receive notification from the Director of Human Resources that I have been accepted into the program and I sign the separation affidavit this election is not finalized.

Signature: _____

Employee: _____
Print Name

Date: _____

****

NOW THEREFORE BE IT RESOLVED that the Amherst Town Board approves the described Voluntary Separation Incentive for 2021.

FINANCIAL IMPACT:

TBD

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Human Resources
Initiated by: **Robert McCarthy**
Co-Sponsored by:

DOC ID: 22705

RESOLUTION 2021-65

Police Officer (3 Positions)

Please appoint three (3) Police Officers to the Police Department. Permanent, from list, pending satisfactory completion of a probationary term as set forth in the Civil Service XIII(c). Effective January 11, 2021 at an annual salary of $62,102. Pending satisfactory completion of all pre-employment requirements and Civil Service Regulations.

These vacancies are due to two (2) retirements and one (1) resignation.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Planning
Initiated by: **Dan Howard**
Co-Sponsored by:

DOC ID: 22703

RESOLUTION 2021-66

To Set a Date for the Second of Two Public Hearings Required by the U.S. Department of Housing and Urban Development for the FY 2021 Community Development Action Plan.

WHEREAS, the Town is required to hold at least two public hearings for the 2021 Annual Action Plan encompassing both the Community Development Block Grant and HOME Investment Partnership Program applications; and

WHEREAS, the Town held the first public hearing on October 26, 2020 for the Plan, now therefore be it

RESOLVED, the Town Board of the Town of Amherst hereby sets the second public hearing for the 2021 Annual Action Plan for January 19, 2021.

FINANCIAL IMPACT:

Adoption of the proposed resolution involves no monetary consideration and will have no impact on the Town Budget or tax rate.

Amherst

Town of Amherst Planning Department — Erie County, New York

Brian J. Kulpa
Supervisor
Daniel C. Howard,
Planning Direct
Ellen M. Kost, Al
Assistant Planning D

December 16, 2020

Agenda of January 4, 2021

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

Subject: Set a second public hearing for the FY 2021 Community Development Action Plan

Honorable Members:

The Town is required to hold a second public hearing prior to submitting the 2021 Annual Action Plan for the Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) to the U.S. Department of Housing and Urban Development (HUD). The Action Plan development and adoption schedule previously discussed with the Town Board anticipated a hearing at the second Town Board meeting in January 2021.

The hearing must be held after the end of a required 30-day public comment period on the Draft Annual Action Plan. The final plan is due at HUD 45 days prior to the beginning of the 2021 program year, i.e. no later than February 15, 2021. For your information, the remaining plan development and adoption tasks should be completed in accordance with the following schedule.

December 17, 2020	Start of CDBG/HOME 30-day public comment period ("Draft Action Plan" made available in Town & Village Clerk's office/Planning Department and on website.)
January 15, 2021	End of 30 day public comment period on "Draft Action Plan"
January 19, 2021	Second (and final) public hearing
February 2021	Town Board authorizes Supervisor to submit the Final Action Plan to HUD
February 15, 2021	FY 2021 Action Plan for CDBG/HOME due to HUD
April 1, 2021	Start of 2021/2022 CDBG/HOME program year

At your meeting of January 4, 2021 please set the second public hearing for the FY 2021 Community Development Action Plan for January 19, 2021. A draft resolution is attached for your consideration.

Very truly yours,

Daniel C. Howard, AICP
Planning Director

X:\Community Development\New Structure\ANNUAL PLAN\Data 2021\Public Hearings\Set 2nd PH TB ltr 1.4.21.docx

Attachment: TB_Letter_2nd_public_hearing (RES-2021-66 : Request a Public Hearing for the 2021 Annual Plan)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Police
Initiated by: **John Askey**
Co-Sponsored by:

DOC ID: 22706

RESOLUTION 2021-67

2021 Asset Forfeiture Trust Account

Town Board Agenda Item: January 4, 2021

TO: **Town Board**

FROM: **John C. Askey, Chief of Police**

RE: **2021 Asset Forfeiture Trust Account**

Kindly adopt a resolution authorizing the approval to spend up to $50,000.00 from T2917 Asset Forfeiture Trust Account. This account is federally regulated by instituted guidelines regarding the expenditure of funds.

Thank you.

JCA:msl
C: Kathy Cooper, Deputy Town Clerk **(Agenda Item: January 4, 2021)**

FINANCIAL IMPACT:

T2917: $50,000.00

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Police
Initiated by: **John Askey**
Co-Sponsored by:

DOC ID: 22707

RESOLUTION 2021-68

2021 Safety Education Trust Fund

TOWN BOARD AGENDA ITEM : JANUARY 4, 2021

TO: **Town Board**

FROM: **John C. Askey, Chief of Police**

RE: **2021 Safety Education Trust Fund**

Kindly adopt a resolution authorizing the approval to spend up to $3,000.00 in 2021 from the Safety Education Trust Account (T4012). Safety Education expenses include, but are not limited to, training, materials, books, films, and office supplies. The Safety Education Program provides many services to the community, Pre-K to College, and awareness programs. This trust and agency account is capable of accepting designated donations for the continuation of the Safety Education Program. The current balance of this account is $5,038.95.

Thank you.

JCA:msl
C: Kathy Cooper, Deputy Town Clerk (**Agenda Item: January 4, 2021**)

FINANCIAL IMPACT:

T4012: Expenditure of up to $3,000.00 in 2021

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Police
Initiated by: **John Askey**
Co-Sponsored by:

DOC ID: 22714 **RESOLUTION 2021-69**

2021 Stop DWI Contract (CRS#2331) County of Erie

TOWN BOARD AGENDA ITEM: JANUARY 4, 2021

TO: **Town Board**

FROM: **John C. Askey, Chief of Police**

RE: **2021 Stop DWI Contract (CRS#2331)**
County of Erie

Kindly adopt a resolution authorizing the Supervisor to adopt and execute the attached agreement between the Town of Amherst and the County of Erie with regard to the above-entitled matter. Approval of this Contract is contingent upon successful completion of the Contract Routing Process.

Thank you.

JCA:KB:msl
Attachments
C: Kathy Cooper, Deputy Town Clerk **(Agenda Item: January 4, 2021)**

FINANCIAL IMPACT:

A3121 .02615: Amount TBD

Police & Court Contract
2021 STOP-DWI

THIS AGREEMENT, made and entered into as of the lst day of January, 2021, by and between the COUNTY OF ERIE, a municipal Corporation of the State of New York, with offices at 95 Franklin Street, Buffalo, New York, 14202, hereinafter referred to as the COUNTY, party of the first part, and the **TOWN OF AMHERST** a municipal corporation of the State of New York partly in Erie County, with offices **5583 Main Street, Williamsville, New York, 14221** hereinafter referred to as the MUNICIPALITY, party of the second part.

W I T N E S S E T H:

WHEREAS, the COUNTY, pursuant to the authority granted to it by Article 31 of the Vehicle and Traffic Law, has established a special traffic options program for driving while intoxicated (STOP-DWI) and has formulated a plan thereunder for the coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities, and

WHEREAS, the MUNICIPALITY, through its police agency, has made formal application to the Erie County STOP-DWI Coordinator for the funding of certain alcohol traffic safety law enforcement activities in Erie County during the period from January 1, 2021 to December 31, 2021, which application is attached hereto and made a part hereof as Appendix "A", and

WHEREAS, article 31 of the Vehicle and Traffic Law conveys to the County of Erie all fines associated with convictions on V&T Section 1192, Section 511(2)(a)(ii) and (iii) and Section 511(3)(i) provided that such cases are disposed within Erie County.

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES:

FIRST: During the term of this Agreement, the MUNICIPALITY, as an independent contractor, agrees to engage in the alcohol traffic safety law enforcement activities set forth in the annexed Appendix "A".

SECOND:

The MUNICIPALITY, through its police agency, agrees to compile information and render monthly reports, in a form acceptable to the County, to the Erie County STOP-DWI Coordinator with respect to:

(i) the MUNICIPALITY's law enforcement activities set forth in Appendix "A".

(ii) all alcohol-related traffic crashes investigated by the MUNICIPALITY's police agency.

(iii) the final court disposition of all cases involving alleged violation(s) of Section 1192, Section511(2)(a)(ii) or (iii) or Section 511(3)(i) of the Vehicle and Traffic Law commenced by the MUNICIPALITY's police agency in any court in Erie County.

THIRD The County agrees to reimburse the MUNICIPALITY overtime wages, excluding benefits, for officers authorized to perform extra effort Impaired Driving Patrols and Sobriety Checkpoints, Impaired Driving Enforcement Training, and related equipment subject to the provisions and guidelines of attached Appendix A, in a sum not to exceed the amount annually approved.

FOURTH: In the event the Erie County STOP-DWI Program, as approved by the Commissioner of the New York State Department of Motor Vehicles, is terminated before the COUNTY has paid to the MUNICIPALITY all of the sums otherwise payable under the terms of

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

this Agreement, the provisions of Section 1197(9) of the Vehicle and Traffic Law with respect to program cessation shall govern for purposes of determining the availability of such sums for payment to the MUNICIPALITY.

FIFTH: The MUNICIPALITY shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of any rights, title or interest herein, nor of the power to execute the same or any extension hereof to any other person or corporation without the previous consent in writing of the COUNTY.

SIXTH: The MUNICIPALITY agrees to comply with all applicable laws of the State of New York, the United States and the County of Erie, including laws against discrimination, and with all rules and regulations of pertinent authorities having jurisdiction.

SEVENTH: The MUNICIPALITY shall be fully accountable for its performance under this Agreement and agrees for itself and its officers to answer under oath all questions relevant to the performance thereof and to any transactions, act or omission in connection therewith if called before any Judicial, County, State or Federal agency empowered to investigate the Agreement or its performance.

EIGHTH: The MUNICIPALITY agrees to furnish verified accounts of its disbursements hereunder, with certified or verified invoices thereto attached at such times and in such form and detail as may be required by the Erie County Comptroller, who may at her option audit the pertinent books and records of the MUNICIPALITY, and a final account within thirty (30) days after the termination of this Agreement.

NINTH: The MUNICIPALITY agrees to defend, hold harmless and indemnify the COUNTY against any and all liability, claims, demands, suits and judgments arising out of the performance of the MUNICIPALITY's obligations under this Agreement. The MUNICIPALITY further agrees to maintain insurance coverage(s) during the term of this Agreement and to submit certificates of insurance in accordance with Vendor Classification C - "Professional Services" appearing on Appendix "B" annexed hereto. For purposes of this Agreement, the County must

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

be included as an additional named insured on the Municipality's insurance policies. For purposes of this Agreement, the MUNICIPALITY need not provide proof of professional liability insurance coverage. At the request of the MUNICIPALITY and with the consent of the Erie County Attorney, the Erie County STOP-DWI Coordinator may waive the excess and/or umbrella liability insurance coverage(s), or reduce the amount(s) thereof, otherwise required under this paragraph. In lieu of proof of insurance coverage, the MUNICIPALITY may furnish evidence of a self-insurance plan acceptable to the Erie County Attorney.

TENTH: Consistent with the MUNICIPALITY's status as an independent contractor, the COUNTY shall not be responsible for Worker's Compensation benefits, Social Security coverage or unemployment insurance benefits with respect to the MUNICIPALITY.

ELEVENTH: This Agreement, or any renewal thereof, may be terminated by either party upon at least thirty (30) days prior notice. Such notice shall be provided in writing to the chief executive officer of the other party at the address appearing on the first page of this Agreement.

TWELVTH: Provided that the MUNICIPALITY shall have made formal application for the continued funding of its alcohol traffic safety law enforcement activities, this Agreement may be renewed for such additional twelve (12) month terms as may be mutually agreed upon by the parties through their respective legislative bodies.

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

ACKNOWLEDGEMENTS

STATE OF NEW YORK)
COUNTY OF ERIE) SS:

On the _____ day of _____, in the year 2021, before me, the undersigned, personally appeared_____, Erie County Executive/_____, Deputy County Executive, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the entity or individual upon behalf of which the individual acted, executed the instrument.

_____

NOTARY PUBLIC

STATE OF NEW YORK:
COUNTY OF ERIE:

On this _____ day of _____, 2021 , before me personally came **Brian Kulpa** to me personally known, who, being by me duly sworn, did depose and say that he resides in **TOWN OF AMHERST,** County of Erie and State of New York; that he is the Supervisor of the **TOWN OF AMHERST,** the corporation described in, and which executed the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal and was so affixed by order of the governing body thereof and that signed name thereto by like order.

_____

Notary Public

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

This agreement is executed by the COUNTY pursuant to a resolution adopted by the Legislature of the County of Erie at its meeting held on December 3, 2020 and by the MUNICIPALITY pursuant to a resolution of its governing body adopted at a meeting of said governing body held on _____, a certified copy of the MUNICIPALITY'S resolution being annexed hereto as Appendix "C".

Town of Amherst

By: _____

Brian Kulpa, Supervisor

County of Erie

By: _____

Mark C. Poloncarz/Maria Whyte
Erie County Executive/Deputy

APPROVED AS TO CONTENT:

By: _____Signed Electronically_____
James Jancewicz, Commissioner
Erie County Central Police Services

_____
John F. Sullivan
STOP-DWI Coordinator

APPROVED AS TO FORM:

By: _____Signed Electronically_____
Greg Kammer
Assistant County Attorney

Document No. _____

Date: _____

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

2021 ERIE COUNTY STOP-DWI

APPENDIX A

Problem Identification

Approximately 2400 drivers are arrested for DWI in Erie County each year. The typical alcohol impaired drive is a male between the ages of 24 and 35, driving on a weekend night, between the hours of 0100 and 0500, witl an average BAC of .16%. Approximately 7% of impaired drivers are impaired by substances other than alcohol

Alcohol is a factor in 30% of fatal traffic crashes in Erie County. In the year 2018, 13 persons were killed an hundreds injured in DWI related traffic crashes.

Police Participation in the Erie County STOP-DWI Program

To address this threat, regular enforcement of DWI laws will be departmental priority. Within the practica boundaries of our department's resources, and in addition to normal patrol activities, the department will assig officers to dedicated DWI patrols at times and dates that maximize the enforcement impact. The STOP-DW office collects fines paid by those convicted of impaired driving and funding is available to supplemen Impaired Driving Enforcement activities.

In order to qualify for funding, I certify that

- STOP-DWI resources will be used for supplemental, DWI specific efforts;
- Officers from this department will participate in the DWI Sobriety Checkpoints and Roving Patrols sponsored by the STOP-DWI Office;
- We will support and utilize the DWI Crash Response Team and the Drug Recognition Expert Corps;
- We will provide for evidentiary chemical tests and the regular calibration and maintenance of additional DWI enforcement equipment.

Compliance with this plan qualifies this police department for participation in Erie County's STOP-DWI Program.

_____
Chief of Police

_____
Police Agency

Date: _____

Attachment: 2021STOP-DWI Contract (RES-2021-69 : 2021 Stop DWI Contract (CRS# 2331))

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Senior Services
Initiated by: **Brian Bray**
Co-Sponsored by:

DOC ID: 22687

RESOLUTION 2021-70

Request to Increase Use Trust & Agency Funds - Acct. #T2100-4002

The Senior Services Department was authorized to spend up to a total of $4,000 in Trust and Agency funds, Account #T2100-4002. We are requesting authorization to increase that total to $7,000.

These funds were donated to the Senior Center to be used benefit the Center. Due to the unanticipated needs from the COVID-19 pandemic, we are requesting an increase in the amount authorized to spend in fiscal year 2020.

FINANCIAL IMPACT:

Increase Use of Senior Services Trust & Agency Funds in 2020 from $4,000 to $7,000

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 22667

RESOLUTION 2021-71

Authorization to Spend T Account Funds

Authorize the Youth & Recreation Department to spend up to $5,000.00 in funds from T 2505 in 2021 for items not included in the town budget.

FINANCIAL IMPACT:

T 2505.4002 - up to $5,000.00

TOWN OF AMHERST
YOUTH & RECREATION DEPARTMENT
ERIE COUNTY, NEW YORK

Northtown Center at Amherst
1615 Amherst Manor Drive
Williamsville, NY 14221
(716) 631-7132
Fax (716) 626-9087
www.amherst.ny.us

BRIAN J. KULPA
Supervisor

JACQUALINE G. BERGER
Councilmember - Liaison

MARY-DIANA POULI, Executive Director

MARK FORDEN
Chairperson, Youth Board

TIMOTHY GARDNER
Chairperson, Rec Commission

Date: 11 December 2020

To: Members of the Amherst Town Board

From: Mary-Diana Pouli, Executive Director

Re: Expenditures from T 2505.4002

The Youth & Recreation Department respectfully requests approval to spend up to $5,000.00 from T account 2505.4002 in 2021. This is money that was either raised by volunteers or donated from civic groups to be used for items not included in our approved town budget. Typical expenses include small tokens of appreciation for volunteers, incentives for program participants, and snacks for end-of-program parties and staff trainings.

Thank you for your consideration of this request.

Attachment: T-Account Expenditure Approval (RES-2021-71 : Authorization to Spend T Account Funds)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 22681 A

RESOLUTION 2021-72

Lease Agreement - CRS #2322

Authorize the Supervisor to sign a lease agreement between the Town of Amherst (Youth & Recreation Department) and Kristen Redell for the rental of office space at the Harlem Road Community Center in 2021 and 2022.

FINANCIAL IMPACT:

Revenue of $3,070.00 in both 2021 and 2022 to A 1621.02410

AGREEMENT
Between the Town of Amherst
and
Kristen Redell

THIS AGREEMENT, made as of _____, 2021 between the Town of Amherst, a municipal corporation with its principal office at 5583 Main Street, Williamsville, New York 14221 (Landlord) and Kristen Redell, with an office at the Harlem Road Community Center, (the "Center"), 4255 Harlem Road, Amherst, New York 14226 (Tenant).

WITNESSETH, that the Landlord has agreed to let, and does hereby let, and the said Tenant has agreed to take, and does hereby take, certain premises containing two offices consisting of approximately 250 square feet for a term commencing the first day of January 2021 and ending the thirty-first day of December 2022. Offices shall be used for the purposes of providing counseling services. The said Tenant shall pay the Landlord the total rent of $3,070.00 annually in four equal installments of $767.50 on February 1, May 1, August 1 and November 1 of each year.

Landlord shall supply utilities and maintain the premises in a habitable manner in order to permit the Tenant to carry out its purposes and intent of providing counseling services.

Tenant shall have the right to make interior modifications to the building, subject however to prior approval of the Landlord. Tenant shall obtain all necessary permits and any additional insurance coverage.

Tenant will at its own expense defend, indemnify, save harmless and make good any damage that shall in the course of the activities of Tenant under this lease agreement be done or caused to the Center, including but not limited to land, foundations, walls, roof or other part of the structure and any equipment of the Landlord therein.

Tenant shall hold the Landlord harmless from any and all demands, claims or expenses, awards or judgments for personal injury to third parties, whether other users of the Center or employees of the Landlord, and damage to property of such other third parties resulting from the Tenant's use of the described premises.

Tenant shall at all times maintain general liability insurance, with indemnification coverage for the premises and the Landlord and shall cause the Landlord to be named as an additional named insured and certificate holder under each such policy, none of which shall be cancelled, reduced in amount of coverage, surrendered or allowed to expire without thirty (30) days prior written notice to the Landlord.

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

Tenant shall have access to the building during stated business hours, normally 7:30am until 11:30pm, Monday through Friday and 8:00am until 4:00pm, Saturday and Sunday. The building is closed on municipal and/or federal holidays (as outlined in Attachment A). The Landlord shall provide written notice of permanent changes to building hours.

If default be made in the payment of the rent or any part thereof, or if the Tenant shall without the written consent of the Landlord, let, underlet, or assign the said premises, or a part thereof, for the whole or any part of said term, or shall use said premises or any part thereof for any other purpose than as specified in this lease, the Landlord shall have the right at its discretion to terminate this Lease on first giving to the Tenant ten (10) days notice of such election.

This agreement may be terminated by either party with thirty (30) days written notice.

IN WITNESS THEREOF, the parties hereto have caused their corporate seals to be here unto affixed and these presents to be signed by their duly authorized officers the day and year first above written.

TENANT

Kristen Redell

Kristen Redell

TOWN OF AMHERST

_____

Brian J. Kulpa, Supervisor

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

Attachment A
2021-2022 Holiday Closing Schedule

2021

January 1, 2021 – New Year's Day

January 18, 2021 – Martin Luther King Day

February 15, 2021 – President's Day

April 2, 2021 – Good Friday

April 4, 2021 – Easter

May 31, 2021 – Memorial Day

July 4 & 5, 2021 – Independence Day

September 6, 2021 – Labor Day

November 11, 2021 – Veterans' Day

November 25 & 26, 2021 – Thanksgiving

December 24 & 25, 2021 – Christmas

December 31, 2021 – New Year's Eve

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

2022

January 1, 2022 – New Year's Day

January 17, 2022 – Martin Luther King Day

February 21, 2022 – President's Day

April 15, 2022 – Good Friday

April 17, 2022 – Easter

May 30, 2022 – Memorial Day

July 4, 2022 – Independence Day

September 5, 2022 – Labor Day

November 11, 2022 – Veterans' Day

November 24 & 25, 2022 – Thanksgiving

December 25 & 26, 2022 – Christmas

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

Addendum to Contract Minor Exposure

1. Notwithstanding any other provision in this Agreement, the following clauses shall be controlling. Should any other provision of the Agreement conflict with the clauses in this Addendum then the provisions of this Addendum are to be enforceable and any conflicting provision shall be considered null and void.

2. No rules, requirements or customs of any society or association of professional Contractors or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

3. To the fullest extent permitted by law, Contractor shall indemnify and hold the Town, its officers, agents, and employees, harmless from any and all liability, demands, claims, or expenses, awards or judgments imposed upon the Town, its officers, agents, and/or employees, arising out of the work of the Contractor its officers, agents, subcontractors, and/or employees as well as the negligence, active or passive, of the Contractor, its officers, agents, subcontractors, and/or employees.

4. Contractor shall not commence work under this Agreement until it has obtained all insurance specified below, produced satisfactory proof of the same and such insurance has been approved by the Town.

(a) Workers' Compensation Insurance: Contractor shall take out and maintain during the life of this Agreement, Workers' Compensation Insurance (both Part A and Part B) for its employees to be assigned to the work hereto under.

(b) General Liability, Professional (if applicable) Liability and Property Damage Insurance: Contractor shall take out and maintain during the life of this Agreement, such general liability and property damage insurance as shall protect it and the Town of Amherst from claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this Agreement. The amounts of such insurance shall be as follows in an amount not less than $1,000,000.00 per occurrence for bodily injury and property damage including wrongful death, and $2,000,000.00 aggregate

(c) Contractor shall furnish the above insurances, including subcontractors' insurances, to the Town and shall also assure that any policy procured by it shall name the Town as an additional insured on a primary and non-contributory basis.

(d) Contractor shall ensure all its subcontractors, if any, have obtained all the above insurances and shall also assure that any policy procured by any subcontractor or sub-subcontractor shall name the Town as an additional insured on a primary and non-contributory basis.

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

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: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

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:

Kristen Redell
Print Name of Company

By: _____
Signature

_____
Printed name

Date: _____

Agreed to and Accepted by:

Town of Amherst

By: _____
Brian J. Kulpa, Supervisor

Date: _____

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

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: _____

Signature: Kristen Redell

Print Name: _____

Title: _____

Date: _____

Sworn To Before Me This

9 Day of December, 20 21

Laura J. Isbrandt

Notary Public

LAURA J. ISBRANDT
Notary Public, State of New York
Qualified in Erie County
[illegible]
My Commission Expires June 19, 2021

Revised 4.2017

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

CNA

HEALTHCARE PROVIDERS SERVICE ORGANIZATION PURCHASING GROUP

HPSO

Certificate of Insurance

OCCURRENCE PROFESSIONAL LIABILITY POLICY FORM

Print Date: 11/02/2020

The application for the Policy and any and all supplementary information, materials, and statements submitted therewith shall be maintained on file by us or our Program Administrator and will be deemed attached to and incorporated into the Policy as if physically attached.

PRODUCER	BRANCH	PREFIX	POLICY NUMBER
018098	970	HPG	0597111015

POLICY PERIOD
From: 11/01/20 to 11/01/21 at 12:01 AM Standard Time

Named Insured and Address:
Kristin M Redell
61 Rosewood Dr
Williamsville, NY 14221-1535

Program Administered by:
Healthcare Providers Service Organization
1100 Virginia Drive, Suite 250
Fort Washington, PA 19034
1-800-982-9491
www.hpso.com

Medical Specialty: Social Worker, Clinical — **Code:** 80723

Excludes Cosmetic Procedures

Insurance Provided by:
American Casualty Company of Reading, Pennsylvania
151 N. Franklin Street
Chicago, IL 60606

Professional Liability $ 1,000,000 **each claim** $ 3,000,000 **aggregate**

Your professional liability limits shown above include the following:

* Good Samaritan Liability * Malplacement Liability * Personal Injury Liability
* Indirect Sexual Misconduct included in the PL limit shown above subject to $25,000 aggregate sublimit

Coverage Extensions

License Protection	$ 25,000	per proceeding	$ 25,000	aggregate
Defendant Expense Benefit	$ 1,000	per day limit	$ 25,000	aggregate
Deposition Representation	$ 10,000	per deposition	$ 10,000	aggregate
Assault	$ 25,000	per incident	$ 25,000	aggregate
Includes Workplace Violence Counseling				
Medical Payments	$ 25,000	per person	$ 100,000	aggregate
First Aid	$ 10,000	per incident	$ 10,000	aggregate
Damage to Property of Others	$ 10,000	per incident	$ 10,000	aggregate
Information Privacy (HIPAA)	$ 25,000	per incident	$ 25,000	aggregate

General Liability

General Liability	$1,000,000 each claim / $1,000,000 aggregate
Fire & Water Legal Liability	Included in the GL limit shown above subject to $250,000 aggregate sublimit
Personal Liability	$1,000,000 aggregate

Total $ 332.00

Base Premium $332.00

Premium reflects Self Employed , Part Time

Policy Forms and Endorsements (Please see attached list of policy forms and endorsements)

Chairman of the Board **Secretary**

Keep this Certificate of Insurance in a safe place. It and proof of payment are your proof of coverage. There is no coverage in force unless the premium is paid in full. To activate your coverage, please remit premium in full by the effective date of this Certificate of Insurance.

Coverage Change Date: **Endorsement Date:** Master Policy: 188711433

CNA93692 (11-2018)

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Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

POLICY FORMS & ENDORSEMENTS

The following are the policy forms and endorsements that apply to your current professional liability policy.

COMMON POLICY FORMS & ENDORSEMENTS

FORM #	FORM NAME
G-121500-D (04-08)	Common Policy Conditions
GSL10550NY (07-08)	New York Amendatory Endorsement
G-121501-C (07-01)	Occurrence Policy Form
GSL11892NY (01-09)	New York Amendatory Endorsement
CNA94164 (11-18)	Amendment Definition of Claim Endorsement
CNA81753 (03-15)	Coverage & Cap on Losses from Certified Acts Terrorism
CNA81758 (03-15)	Notice - Offer of Terrorism Coverage & Disclosure of Premium
G-145184-A (06-03)	Policyholder Notice - OFAC Compliance Notice
G-147292-A (03-04)	Policyholder Notice - Silica, Mold & Asbestos Disclosure
GSL15563NY (04-10)	New York Information Privacy Coverage
GSL15565NY (04-10)	New York Assault Coverage
GSL17101 (02-10)	Exclusion of Specified Activities Reuse of Parenteral Devices and Supplies
GSL18064NY (04-10)	New York Amendatory Endorsement
GSL13424 (05-09)	Services to Animals
CNA80051 (09-14)	Amended Definition of Personal Injury Endorsement
CNA80052 (10-14)	Distribution or Recording of Material or Information in Violation of Law Exclusion Endorsement
G-123813-C31 (01-02)	New York Amendatory Change
G-123846-D31 (07-01)	New York Cancellation and Non-Renewal
CNA82011 (04-15)	Related Claims Endorsement
CNA79575 (07-14)	Exclusion of Cosmetic Procedures
G-121504-C (07-01)	General Liability Form
G-123827-B (07-01)	Additional Insured General Liability
G-123828-B (07-01)	Certificate Holder

PLEASE REFER TO YOUR CERTIFICATE OF INSURANCE FOR THE POLICY FORMS & ENDORSEMENTS SPECIFIC TO YOUR STATE AND YOUR POLICY PERIOD.

For NJ residents: The PLIGA surcharge shown on the Certificate of Insurance is the NJ Property & Liability Insurance Guaranty Association.

For KY residents: The Surcharge shown on the Certificate of Insurance is the KY Firefighters and Law Enforcement Foundation Program Fund and the Local Tax is the KY Local Government Premium Tax. As required by 806 Ky. Admin Regs. 2:100, this Notice is to advise you that a surcharge has been applied to your insurance premium and is separately itemized on the Declarations page or billing instrument attached to your policy, as required KRS. §136.392.

For WV residents: The surcharge shown on the Certificate of Insurance is the WV Premium Surcharge.

For FL residents: The FIGA Assessment shown on the Certificate of Insurance is the FL Insurance Guaranty Association - 2012 Regular Assessment.

Form #:CNA93692 (11-2018)

Master Policy #: 188711433

Named Insured: Kristin M Redell

Policy #: 0597111015

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Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

HEALTHCARE PROVIDERS
GENERAL LIABILITY COVERAGE PART ENDORSEMENT

Additional Insured – General Liability

In consideration of the premium paid, and subject to the General Liability limit of liability shown on the **certificate of insurance**, it is agreed that the **GENERAL LIABILITY COVERAGE PART** is amended as follows:

The person or entity named below (the "additional insured") is an insured under this Coverage Part but only as respects its liability arising out of **named insured's** operations, or premises owned by or rented by the **named insured** and solely to the extent that:

1. a **general liability claim** is made against the **named insured** and the additional insured; and
2. in any ensuing litigation arising out of such **claim**, the **named insured** and the additional insured remain as co-defendants.

In no event is there any coverage provided under this policy for an **occurrence** that is the direct liability of the additional insured.

Additional Insured: the Town of Amherst
5583 Main Street
Williamsville, NY 14221

This endorsement is a part of **your** policy and takes effect on the effective date of **your** policy, unless another effective date is shown below. All other provisions of the policy remain unchanged.

Must Be Completed	
ENDT. NO.	POLICY NO.
1	597111015

Complete Only When This Endorsement Is Not Prepared with the Policy Or Is Not to be Effective with the Policy	
ISSUED TO	ENDORSEMENT EFFECTIVE DATE
Kristin M Redell	11/09/2020

Attachment: Kristen Redell Lease (RES-2021-72 : Lease Agreement - CRS # 2322)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Youth & Recreation
Initiated by: **Mary Diana Pouli**
Co-Sponsored by:

DOC ID: 22701

RESOLUTION 2021-73

2020 Budget Transfer

Authorize the transfer of $700.00 from 2020 budget line A 7253.4240 to KP 2039.2250 to complete the purchase of vehicles under 2020 CIP Project YR-1.

FINANCIAL IMPACT:

Transfer $700.00 fom A 7253.4240 (2020 budget) to KP 2039.2250

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22726

COMMUNICATION 2021-1

Request for Public Hearing

Request from Erik M. O'Neill for a public hearing for the rezoning of 6565 Main Street.

The hearing has been scheduled for the February 1st Town Board meeting.

RECEIVED
DEC 18 2020
TOWN OF AMHERST
PLANNING DEPT.

Erik O'Neill
79 Oakgrove Drive
Williamsville, NY 14221
[redacted]

To: Amherst Town Clerk
5583 Main Street
Williamsville, NY 14221

cc: Amherst Planning Department

Date: December 8, 2020

Subject: Request to rezone .48 acres of land from R-3 to OB Z-2020-07; Property Located at 6565 Main Street.

This letter serves as written acknowledgement that I wish to continue the processing of my petition to rezone the above referenced property. I request a public hearing on the matter before the Town Board. Thank You.

Regards,

Erik M. O'Neill

RECEIVED
Amherst Town Clerk
DEC21'20 AM 9:47 RCVD

Attachment: 6565 Main (COM-2021-1 : Request for Public Hearing)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Councilmembers
DOC ID: 22619

COMMUNICATION 2021-2

Amherst Community Diversity Commission 2021 Calendar

The attached is the Amherst Community Diversity Commission's Calendar of Events for the year 2021.

JANUARY		
December 26 - January 1, 2021	Kwanza	A celebration honoring African American Heritage
January 4th	World Braille Day	Celebration of human rights for blind and partially sighted individuals
January 5th	Birthday, 10th Guru Gobind Singh	Sikhism holiday that marks the birth anniversary of the 10th Guru of the Sikhs
January 7th	Orthodox Christmas	Christian holiday
January 18th	Martin Luther King Jr. Day	
January 20th	Bodhi Day	The buddhist holiday that commemorates the day that the historical Buddha, Siddhartha Gauatama, experienced enlightenement.
January 27th	Un Holocost Memorial Day	Annual international day of commemoration in memory of the victims of the Holocaust coinciding with the anniversity of the liberation of the Auschwitz death camp in 1945.
January 31st	International Transgender Day of Visibility	
FEBRUARY		
Whole month	Jewish Disabilities Awareness, Acceptance and Inclusion Month	A unified effort among Jewish organizations worldwide to raise awareness and foster acceptance and inclusion of people with disabilities and mental health conditions and those who love them
Whole month	Black History Month	Celebrates black history and African American culture.
February 1st	National Freedom Day	Commemorates the signing of the 13th Amendment which abolished slavery in 1865.
February 12th	Lunar New Year	Celebrated by Buddhists, Daoists and Confucianists. Also known as the Spring the Festival, an important festival celebrated at the turn of the traditional lunisolar Chinese calendar.

February 12th	Tadeusz Kosciuszko's Birthday	A Polish army officer and engineer who advanced the fight for liberty in Poland and the United States during the Revolutionary War.
February 14th	Valentine's Day	
February 15th	Presidents' Day	George Washington's birthday, along with the celebration of all the United States presidents.
February 15th	Susan B. Anthony Day	A commemorative holiday to celebrate the birth of Susan B. Anthony and women's suffrage in the United States.
February 16th	Shrove Tuesday	A Western Christian celebrating a day of pentience as well as the last chance to feast before Lent begins. This holiday is alos known as Mardi Gras, Fat Tuesday, and Carnival day.
February 17th	Ash Wednesday	This holiday falls on the first day of Lent for Western Christian churches, a 40-day period of spiritual preparation for Easter, not counting Sundays.
February 20th	World day of Social Justice	United Nations day to recognize efforts to achieve fair outcomes for all through employment, social protection, social dialogue, and fundamental principles and rights at work.
February 25th at sunset - 26th	Purim	A joyous Jewish holiday. The Book of Esther tells the story of how the Jewish people living in Persia were saved.
MARCH		
Whole month	Women's History Month	This day honors women as significant agents of historical change.
Whole month	National Developmental Disabilities Awareness Month	

Whole month	Irish-American Heritage Month	A celebration of the countless achievements of Irish Americans and recognize the remarkable contributions they have made to our Nation's character, culture, and prosperity.
Whole month	National Multiple Sclerosis Education and Awareness Month	
March 1st	Pulaski Day	It is a local holiday that commemorates and celebrates the birthday of Casimir Pulaski – a Polish soldier who contributed to the Independence of the United States and is often called the "father of the American Calvary."
March 8th	International Women's Day	The celebration of the economic, political and social achievements of women worldwide.
March 10th and 11th	Isra and Mi'raj	An Islamic holiday that celebrates the night Allah took Mohammad on a journey from Mecca to Jerusalem and then to heaven.
March 11th	Maha Shivaratri	A Hindu holiday which celebrates the grand marriage of lord of destruction, Shiva, with the goddess of fertility, love and beauty, Parvati. The festival is celebrated at the 13th night or 14th day of the waning moon in the Hindu calendar.
March 15th	Clean Monday	The beginning of Great Lent for Eastern Christian churches, which starts 40 days before Orthodox Easter, counting Sundays.
March 17th	St. Patrick's Day	A Christian holiday which is a feast day of hte patron Saint of Ireland. In the United States, a secular version is celerated by peopple of all faiths through appreciation of all things Irish.
March 21st	International Day for the Elimination of Racial Discrimination	A call to action to eliminate all forms of racial discrimination worldwide.

March 27th at sunset - April 4th	Passover	A Jewish festival of Freedom. Passover commemorates the ancient Hebrew's exodus from Egyptian bondage.
March 28 (evening)- March 29th (evening)	Holi	A Hindu celebration of the begnning of good harvest season, or spring.
March 28th	Palm Sunday	A Christian holiday obsevered the Sunday before Easter/Pascha to commorate the entry of Jesus into Jerusalem
March 13th - April 15th	Deaf History Month	
APRIL		
Whole month	Arab American Heritage Month	Celebrates Arab American heritage, culture and contributions.
Whole month	World Autism Month	
Whole month	Genocide Awareness Month	A month that marks important anniversaries for past and contemporary genocides. Throughout the month, individuals, communities and organizations join together to remember and honor victims and survivors of mass atrocities.
April 1st	Holy Thursday	A Christian holiday, also known as Maundy Thursday, is celebrated on the Thursday before Easter commemorating the Last Supper, at which Jesus and the Apostles were together for the last time before the Crucifixion.
April 2nd	Good Friday	A Christian holiday, also known as Holy Friday in Eastern Christianity, it commemorates the Crucifixion of Jesus on the Friday before Easter/Pascha.
April 4th	Easter	Known as Pascha in Eastern Christianity, it celebrates the resurrection of Jesus.

April 5th	Dyngus Day	Dyngus Day is a Polish-American holiday celebrated after Easter Sunday in Buffalo, New York and elsewhere. To mark the end of Lent, the joyful celebration consists of delicious food, entertaining parades, and wonderful music.
April 7th	Day of Rememerance of the Victims of Rwandan Genocide	
April 8th	Yom Hashoah	Holocaust Remembrance Day is a day to reflect and remember the victims, honor the survivors and pay tribute to the liberators.
April 12 (evening) May 11 (evening)	Ramadan	Occurs during the ninth month of the Muslim year, during which strict fasting is observed from sunrise to sunset. It is observed by Muslims worldwide as a month of fasting to commemorate the first revelation of the Qur'an to the Prophet Muhammad.
April 14th	Vaisakhi (Baptism of Sikhism - Creation of Khalsa)	A Sikhism and Hinduism holiday, celebrated as the occasion to transform the Sikhs into a family of soldiersaints, known as the Khalsa Panth.
April 16th (starts at sunset) - April 17th	Yom Ha'atzmaut Israeli Independence Day	Commemorates the declaration of independence of Israel in 1948.
April 21st	Rama Navami	A spring Hindi festival that celebrates the birthday of the Hindu God Lord Rama.
April 23rd	American Indian Heritage Day	Native American gathering of nations where over 500 tribes gather for three days to honor their culture.
April 30th	Orthodox Good Friday	A strict day of fasting for many Greek Orthodox Christians in the United States.
MAY		
Whole Month	Asian Pacific American Heritage Month	It recognizes the contributions and culture of Asians and Pacific Islanders in the United States.

Whole Month	Jewish American Heritage Month	It honors the contributions of American Jews.
Whole Month	Haitian Heritage Month	Haitian Heritage Month is a celebration in the United States of Haitian heritage and culture. It was first celebrated in Boston, Massachusetts, in 1998.
May 1st	International Worker's Day	Also known as May Day, it celebrates the social and economic achievements of workers worldwide. The day commemorates the Hay market Riot of 1886 in Chicago, in which police and protesters clashed following a workers' strike for an eight-hour work day.
May 2nd	Orthodox Easter	Orthodox Christian celebration of the resurrection of Jesus Christ.
May 3rd	World Press Freedom	Serves as an occasion to inform the public of violations of the right to freedom of expression and as a reminder that many journalists brave death or jail to bring people their daily news.
May 3rd	Polish Constitution Day	This holiday celebrates the declaration of the Polish Consitution of May 3, 1791.
May 3rd - May 7th	Teacher Appreciation Week	
May 6th - May 12th	Nurses Week	
May 9th	Mother's Day	Celebration to all Mother's and motherhood.
May 12th	Eid al-Fitr	The "Festival of Breaking the Fast" and is celebrated by Muslims worldwide marking the end of Ramadan. (Islamic)
May 13th	Ascension Day	A Christian holiday, also known as Holy Thursday, celebrated 40 days after Easter/Pascha, it commemorates the ascension of Jesus into Heaven.

May 17-18	Shavuot	A Jewish holiday, also known as “Feast of Weeks,” when the covenant established at Sinai between God and Israel, and the revelation of the Ten Commandments
May 21st	World Day for Cultural Diversity	A day that recognizes cultural diversity as a source of innovation, exchange and creativity.
May 23rd	Pentecost	A Christian holiday, also known as Whitsunday, the seventh Sunday after Easter/Pascha commemorates the descent of the Holy Spirit upon the Apostles and women followers of Jesus. Marks the birth of the Christian Church.
May 26th	Visakha Puja	Also known as Vesak or Buddha Day, it marks the birth, spiritual awakening and death (nirvana) of the historical Buddha.
May 31st	Memorial Day	A federal holiday in the United States for remembering the people who died while serving in the country's armed forces.
JUNE		
Whole month	LGBTQ Pride Month	Commemorates the anniversary of the June 28, 1969 Stonewall riot in New York City, the incident that initiated the modern gay rights movement in the United States.
June 11th	Martyrdom of 5th Guru Arjun Dev (Sikhism)	The commemoration of the martyrdom of Guru Arjan Dev Ji, the 5th Guru and the 1st Sikh Martyr.
June 12th	Anne Frank Day	Birthday of young Jewish girl whose diary describes her family’s experiences hiding from the Nazis through assistance of Gentile friends.

June 12th	Loving Day	Observes the anniversary of the 1967 United States Supreme Court decision Loving v. Virginia which struck down the miscegenation laws remaining in 16 states barring interracial marriage.
June 14th	Flag Day	Flag Day is the day the country celebrates its national flag and holds events related to its flag, such as flag-raising ceremonies, displaying the flag on public buildings and in homes, as well as holding parades and salutes.
June 20th	Father's Day	Children of all ages show appreciation for their fathers and father figures.
June 20th	World Refugee Day	Raises awareness about the plight of refugees and displaced persons.
June 19th	Juneteenth	Originally commemorating the announcement of the abolition of slavery in Texas in 1865, it is now celebrated throughout the U.S. to honor African-American freedom and achievement.
June 26th	Anniversary Of Legalization Of Same-sex Marriage in the US	On June 26, 2015, in the case of Obergefell v. Hodges, the Supreme Court ruled that the fundamental right to marry is guaranteed to same-sex couples.
June 26th	International Day in Support of Victims in Torture	
JULY		
July 4th	Independence Day	It is the anniversary of the signing of the declaration of independence from Great Britain in 1776. Patriotic displays and family events are organized throughout the United States.
July 18th	Nelson Mandela Day	This holisay was created to inspire people to embrace the values of democracy and contribute towards the ideals of ensuring a just an fair society.

July 19th (evening) - July 23 (evening)	Eid-Al-Adha	An Islamic holiday commemorating of Ibrahim's willingness to sacrifice his son in obedience of a command from God. Marks the end of the annual Hajj (pilgrimage to Mecca).
July 24th	Dharma Day	A Buddhist holiday also known as, Asalha Puja, it commemorates the historical Buddha's first discourse following his spiritual awakening.
July 26th	Americans with Disabilities Act Day	Commemorates the 1990 signing of the Americans with Disabilities Act, which guarantees equal opportunity for people with disabilities.
AUGUST		
August 9th	International Day of the World's Indigenus Peoples	Celebrates the richness of indigenous cultures and recognizes the challenges indigenous peoples face today, ranging from poverty and disease to dispossession, discrimination and denial of basic human rights.
August 9th	Muharram	The month of Muharram marks the beginning of the Islamic liturgical year. This first day, al-Hijra, remembers the migration of Muhammad and his followers from Mecca to Medina in 622 CE. It also marks the beginning of the ten-day Shīʿite Remembrance of Muharram, a period of intense grief and martyrdom of Hussein, the son of Ali and grandson of Muhammad.
August 12th	International Youth Day	Celebrates young people and the integral role they play in helping to create a world fit for children.

August 18th	Ashura	An Islamic holiday consisting of a day of fasting observed on the 10th day of the month of Muharram to celebrate Moses' exodus from Egypt. For Shi'a Muslims, it also marks the climax of the ten-day Remembrance of Muharram, which mourns the martyrdom of Hussein at the Battle of Karbala.
August 21st	Senior Citizen Day	Recognizes the many contributions older adults make in communities across the United States.
August 22nd	Raksha Bandhan	A Hindu holiday, also called Rakhi, this festival celebrates the protective relationship between brothers and their sisters.
August 23rd	International Day for the Rememberance of the Slave Trade and its Abolition	Memorializes the tragedy of the transatlantic slave trade, coinciding with the anniversary of the uprising in Santo Domingo (today Haiti and the Dominican Republic) that initiated its abolition.
August 26th	Women's Equality Day	Commemorates the 1920 passage of the 19th Amendment to the Constitution, granting women the right to vote.
SEPTEMBER		
Whole month	Blindness Awareness Month	
September 15th - October 15th	National Hispanic Heritage Month	Celebrates the contributions, heritage and culture of Hispanic and Latino Americans.
September 5th	International Day of Charity	Recognizes the role of charity in alleviating human suffering, as well as of the efforts of charitable organizations and individuals, including the work of Mother Teresa.
September 6th	Labor Day	Celebrated the first Monday in September in recognition of U.S. workers.

September 6th at sunset - 8th	Rosh Hasanah	Jewish New Year and High Holy Days which marks the beginning of a period of repentance and prayer.
September 15th at sunset - 16th	Yom Kippur	Day of Atonement is the most solemn Holy Day on the Jewish Calendar. It is a day of prayer, reflection, meditation, and fasting.
September 17th	Constitution and Citizenship Day	Commemorating the ratification of the United States Constitution in 1787 and also honors all who have become U.S. citizens.
September 20th - 26th	International Week of the Deaf	Draws attention to the accomplishments of people who are deaf and also promotes their rights.
September 20th at sunset - 27th	Sukkot	A Jewish holiday that is a week-long “Feast of Booths” commemorating the 40-year wandering of the Israelites in the desert on the way to the Promised Land. It is a Harvest Festival of Thanksgiving.
September 27th at sunset - 29th	Shemini Atzeret	“The Eighth (Day) of Assembly” is a Jewish holiday concluding Sukkot.
September 28th at sunset - 29th	Simchat Torah	“Rejoicing in the Torah” is a Jewish holiday that celebrates the Torah (5 Books of Moses).
OCTOBER		
Whole month	Global Diversity Awareness Month	Increasing awareness and acceptance of diverse cultures.
Whole month	Italian Heritage Month	The celebration of the Italian-American culture and the traditions that have come with it.
Whole month	National Disability Employment Awareness Month	Recognizes the contributions of workers with disabilities.

Whole month	LGBT History Month	Marks and celebrates the lives and achievements of lesbian, gay bisexual and transgender people in the United States.
October 1st	Start of Polish American Heritage Month	This is an annual event celebrated in October to honor Polish heritage in the United States. October is notable as the month when the first polish settlers came to Jamestown, Virginia.
October 2nd	International Day of Non-Violence	Marked on the birthday of Mahatma Gandhi, leader of the Indian independence movement and pioneer of the philosophy and strategy of non-violence, a U.N commemoration promoting the principle of non-violence and the desire to secure a culture of peace, tolerance and understanding.
October 5th	World Teachers Day	Held annually to commemorate teacher organizations worldwide.
October 6-14th	Navaratri	A Hindu holiday consisting of a nine-day festival celebrating the triumph of good over evil. It worships God in the form of the universal mother commonly referred to as Durga, Devi or Shakti, and marks the start of fall.
October 11th	Indigenous Peoples Day (Native American Day)	Celebrates and honors Native American history and culture.
October 11th	Dia De La Raza, “Day of the Race”:	Celebrated in Spanish-speaking countries and communities.
October 11th	Coming Out Day	Encourages honesty and openness about being lesbian, gay, bisexual or transgender. Commemorates October 11, 1987, when 500,000 people marched on Washington, DC, for gay and lesbian equality.
October 15th	Dussehra	Anniversary of the day when Rama killed the evil demon Ravana. Also known as Durga Puja, which celebrates the goddess Durga.
October 17th	International Day for the Eradication of Poverty	Call to action for the eradication of poverty and destitution worldwide.

October 18th	Mawlid Al-Nabi	The observance of the birthday of Islam founder Prophet Muhammad, which is celebrated in Rabi' al-awwal, the third month in the Islamic calendar. Shi'a Muslims celebrate it five days later than Sunni Muslims.
October 20th	Transfer Guruship to Guru Granth Sahib (Our Holy Scripture)	Guru Gobind Singh declared that instead of having another human Guru, from now on the Sikhs would regard the scripture, the Guru Granth Sahib, as their Guru.
October 23rd	Mawlid Al-Nabi	The observance of the birthday of Islam founder Prophet Muhammad, which is celebrated in Rabi' al-awwal, the third month in the Islamic calendar. Sunni Muslims celebrate it five days earlier than Shi'a Muslims.
October 31st	Reformation Day	A Christian holiday which commemorates the beginning of the Protestant Reformation in 1517.
NOVEMBER		
Whole month	National American Indian Heritage Month	Honoring the history and culture of Native Americans and indigenous people in the United States.
November 1st	All Saint's Day	Commemorates all known and unknown Christian saints. Eastern Christianity observes it on the first Sunday after Pentecost.
November 4th	Diwali	A Hindu holiday aslo called Deepavali, "Festival of Lights", it celebrates the victory of good over evil, light over darkness, and knowledge over ignorance.
November 9-10th	Krisallnacht	Commemorates the 1938 pogrom against Jews throughout Germany and Vienna.
November 11th	Veteran's Day	Honors military veterans and the U.S. Armed Services.

November 11th	Polish Independence Day	This is a national day in Poland which commemorates the anniversary of the restoration of Poland's sovereignty as the Second Polish Republic in 1918 from the German, Austro-Hungarian, and Russian Empires.
November 15-19th	American Education Week	Celebrates public education and honors individuals who are making a difference in ensuring every child in the U. S. receives a quality education.
November 16th	International Day for Tolerance	Emphasizes the dangers of intolerance and is a call to action for the advancement of human welfare, freedom and progress everywhere, as well as a day to encourage tolerance, respect, dialogue and cooperation among different cultures and peoples.
November 19th	Birthday, 1st Guru Nanak Dev	Commemorates the birth of Guru Nanak, the founder of Sikhism and the first Sikh Guru.
November 20th	Transgender Day of Remembrance	Memorializes those who were killed due to anti-transgender hatred or prejudice.
November 24th	Martyrdom of 9th Guru Teg Bahadur	Marks the day of martyrdom of the 9th Nanak, Guru Tegh Bahadur.
November 28th - December 24th	Advent	Advent is a season of spiritual preparation in observance of the birth of Jesus. In Western Christianity, it starts on the fourth Sunday before Christmas. In Eastern Christianity, the season is longer and begins in the middle of November.
November 28th at sunset - December 6th	Hanukkah	Eight-day Festival of Lights, commemorates the rededication of the Holy Temple in Jerusalem. Commemorates the victory of the Maccabees over the Greek King, Antiochus, who sought to suppress freedom of worship.
DECEMBER		

December 1st	World Aids Day	International day of action on HIV and AIDS.
December 3rd	International Day of Persons with Disabilities	Raises awareness about persons with disabilities in order to improve their lives and provide them with equal opportunity
December 7th	National Pearl Harbor Remembrance Day	
December 10th	Human Rights Day	On this day in 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights.
December 12th	Our Lady Of Guadalupe	A Christian holiday that celebrates the apparition of the Blessed Virgin Mary (by her title, Our Lady of Guadalupe, the Patroness of Mexico and the Americas) before Juan Diego, an indigenous convert to Roman Catholicism, on the Mexican hill of Tepeyac in 1531.
December 24th	Christmas Eve	A Christian celebration of the arrival of Mary and Joseph in Bethlehem for the birth of Jesus
December 25th	Chrismas	A Christian holiday which commemorates the birth of Jesus.
December 26th 2021 - January 1st 2022	Kwanzaa	A seven-day celebration honoring African American heritage and its continued vitality. “Kwanzaa” means “first fruits (of the harvest)” in Swahili.

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22668

COMMUNICATION 2021-3

Notice of Claim: Araceli Emerizy & James Emerizy Vs Town of Amherst Et Al.

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In the Matter of the Claim of

ARACELI EMERIZY
and JAMES EMERIZY,

NOTICE OF CLAIM

Claimants,

-against-

TOWN OF AMHERT,
TOWN OF AMHERST HIGHWAY DEPARTMENT,
TOWN OF AMHERST DEPARTMENT OF ENGINEERING,
COUNTY OF ERIE,
and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS
GROUNDS AND HIGHWAYS,

TO: TOWN OF AMHERT,
TOWN OF AMHERST HIGHWAY DEPARTMENT,
TOWN OF AMHERST DEPARTMENT OF ENGINEERING,
COUNTY OF ERIE,
and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS
GROUNDS AND HIGHWAYS

PLEASE TAKE NOTICE, that ARACELI EMERIZY and JAMES AMERIZY, have and hereby make claim against the TOWN OF AMHERT, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST DEPARTMENT OF ENGINEERING, COUNTY OF ERIE, and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS GROUNDS AND HIGHWAYS, and in support of said claim state the following:

DEC12'20 P 3:11 RCVD

Attachment: DOC121420-12142020122816 (COM-2021-3 : NOC: Emerizy Vs TOA)

1. The Post Office address of the claimants is [redacted]

2. The attorneys for the claimants are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202.

3. The claim of ARACELI EMERIZY is for personal injuries, including without limitation, loss of income and medical expenses, and the claim of JAMES EMERIZY is for loss of services, society, companionship and consortium as a result of his spouse's accident, and for consequential damages generally.

4. The claim arose on Maple Road near its intersection with Culpepper Road, in the Town of Amherst, County of Erie and State of New York.

5. The claim arose in substance as follows: On the 29th day of September, 2020, at approximately 2:21 p.m., the claimant, ARACELI EMERIZY, was operating her vehicle on Maple Road, near its intersection with Culpepper Road, when she was struck by a vehicle traveling in the opposite direction through a construction zone, resulting in serious injuries to the claimant.

6. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of TOWN OF AMHERT, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST DEPARTMENT OF ENGINEERING, COUNTY OF ERIE, and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS GROUNDS AND HIGHWAYS, and more particularly, among other things, in failing and omitting to ensure proper and adequate traffic control

Attachment: DOC121420-12142020122816 (COM-2021-3 : NOC: Emerizy Vs TOA)

signs and warnings were placed in and throughout the construction zone; and in failing and omitting to safely direct traffic traveling through the construction zone.

7. Upon information and belief, as a result of the aforesaid incident, the claimant, ARACELI EMERIZY, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to her nerves and nervous system; and more particularly, ARACELI EMERIZY, sustained injuries in the nature of cervical spine, fracture and right foot fractures, as well as other severe injuries. Upon information and belief, these injuries will result in permanent defects.

8. As a result of the aforesaid incident and injuries sustained by ARACELI EMERIZY, the claimant, JAMES EMERIZY, husband of claimant, ARACELI EMERIZY, has suffered the loss of services, society, companionship and consortium of his spouse to which he was fully entitled.

WHEREFORE, claimants requests that the TOWN OF AMHERT, TOWN OF AMHERST HIGHWAY DEPARTMENT, TOWN OF AMHERST DEPARTMENT OF ENGINEERING, COUNTY OF ERIE, and ERIE COUNTY DEPARTMENT OF PUBLIC WORKS GROUNDS AND HIGHWAYS honor and pay the claim on behalf of ARACELI EMERIZY and JAMES EMERIZY.

DATED: Buffalo, New York
~~November~~ December 7, 2020

ARACELI EMERIZY

JAMES EMERIZY

Attachment: DOC121420-12142020122816 (COM-2021-3 : NOC: Emerizy Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22676

COMMUNICATION 2021-4

Notice of Claim: Joanne Barbati Vs Town of Amherst

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ER OF THE CLAIM OF:

E BARBATI,

Claimant,

v.

NOTICE OF CLAIM

TOWN OF AMHERST,

Respondent.

TO: Stanley J. Sliwa, Esq.
Town of Amherst Attorney
5583 Main Street
Amherst, New York 14221

Francine J. Spoth
Town of Amherst Clerk
5583 Main Street
Amherst, New York 14221

PLEASE TAKE NOTICE, that the Claimant, JOANNE BARBATI, by and through his attorneys, the Law Offices of Robert D. Berkun, 350 Main Street, Suite 2150, Buffalo, New York 14202, hereby makes a claim against the Respondent, TOWN OF AMHERST, as follows:

1. The Claimant's full name is JOANNE BARBATI, and her date of birth is [redacted]

2. The Claimant resides at [redacted]

3. That on or about the 9th day of November, 2020, the Claimant was caused to fall in the public road at or near the vicinity of the intersection of Old Oak Post Road and Old Meadow Drive, in the Town of Amherst, New York, due to the dangerous and hazardous condition thereof.

Attachment: DOC121520-12152020104145 (COM-2021-4 : NOC: Barbati Vs TOA)

4. Upon information and belief, said property is owned by the Respondent, TOWN OF AMHERST.

5. That the incident described above was caused by the negligence of the TOWN OF AMHERST, its agents, servants, employees and/or contractors, in that TOWN OF AMHERST did not take all adequate, reasonable, and necessary steps to provide for the safety of the Claimant. That specifically, TOWN OF AMHERST, its agents, servants, employees and/or contractors, were careless, negligent and reckless in the following ways: failing to ensure that the public road at or near the vicinity of the intersection of Old Oak Post Road and Old Meadow Drive, in the Town of Amherst, New York, was in a condition safe for the normal use of persons lawfully on the premises; allowing a hazardous condition to exist on the premises; failing to mark or indicate the uneven, fractured and otherwise dangerous nature of the public roadway (to wit: Old Oak Post Road) when the Respondent knew, or should have known in the exercise of reasonable care, that such a condition would pose a foreseeable risk of bodily harm to persons lawfully thereon; failing to correct the hazardous and dangerous condition of the aforementioned public roadway which was in existence for hours, days and/or weeks prior to the Claimant's fall; Respondent knew, or should have known in the exercise of reasonable care, that the condition of the aforementioned public roadway was not fit for ordinary use and failed to take any measures to block access to the said roadway to prevent injury to those lawfully thereon; Respondent created the hazardous/defective condition complained of through its commissioning of a public works project (to wit: road and/or sewer construction); Claimant was injured as a result of the dangerous condition which was allowed to occur and continue on the premises due to the acts and omissions of the Respondent; Respondent had a non-delegable duty to properly inspect and maintain the premises, and keep the same in a reasonably safe condition to prevent foreseeable injury to other

Attachment: DOC121520-12152020104145 (COM-2021-4 : NOC: Barbati Vs TOA)

persons on the premises; Respondent failed to exercise ordinary and reasonable care in that the Respondent was generally careless and negligent, causing injury to the Claimant, who was lawfully on the premises.

6. That as a result of this fall, the Claimant, JOANNE BARBATI, sustained serious personal injuries, including, but not limited to, a fracture of her right foot/ankle. JMB

7. That the Claimant, JOANNE BARBATI, has incurred various medical expenses and is continuing to treat with medical providers for the injuries she sustained due to the negligence of the Respondent, TOWN OF AMHERST.

8. That the Claimant, JOANNE BARBATI, hereby makes a claim against the Respondent, TOWN OF AMHERST, for her personal injuries, medical expenses, past, present and future pain suffering and loss of enjoyment of life suffered as a result of the incident that occurred on or about November 9, 2020 in the public road in front of or near the vicinity of the intersection of Old Oak Post Road and Old Meadow Drive, in the Town of Amherst, New York.

8. That the Claimant, JOANNE BARBATI, respectfully reserves the right to amend this Notice of Claim if necessary.

PLEASE TAKE NOTICE, that in the event that the Respondent fails to resolve the matter, the Claimant intends to commence an action in the Supreme Court of the State of New York, County of Erie, to recovers damages in an amount which is currently undetermined, together with the costs and disbursements of this action, and for such other and further relief as the Court deems just and proper.

Attachment: DOC121520-12152020104145 (COM-2021-4 : NOC: Barbati Vs TOA)

DATED: Buffalo, New York
December 10, 2020

Michael C. Lancer, Esq.
LAW OFFICES OF ROBERT D. BERKUN
Attorneys for Claimant
Office and P.O. Address
350 Main Street, Suite 2150
Buffalo, New York 14202
(716) 856-4080

Attachment: DOC121520-12152020104145 (COM-2021-4 : NOC: Barbati Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22689

COMMUNICATION 2021-5

Notice of Claim: Jacqueline Culliton Vs. Town of Amherst Et Al.

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JACQUELINE CULLITON,

Claimant,

v.

ERIE COUNTY WATER AUTHORITY and TOWN OF AMHERST,

Respondents.

NOTICE OF CLAIM

PLEASE TAKE NOTICE Claimant, JACQUELINE CULLITON, by and through her attorneys at Gomez & Becker, LLP, hereby makes a claim against the Erie County Water Authority and Town of Amherst, and respectfully submit the following in accordance and compliance with General Municipal Law §50-e and all other applicable statutes of the State of New York.

1. The post office address of the Claimant, Jacqueline Culliton, is [redacted] and she was, and is, a resident of the [redacted] and State of [redacted]

2. Claimant is represented by Rafael O. Gomez, Esq. with an office located at 2746 Delaware Avenue, Buffalo, NY, 14217.

3. This Notice of Claim is for personal injuries suffered by Jacqueline Culliton regarding an accident on or about September 21, 2020 located at or about the sidewalk area in front of 22 Collins Court, Getzville, New York, 14068.

4. Claimant asserts that Respondents were careless, reckless, and negligent, resulting in a dangerous, hazardous and defective condition to exist on the sidewalk in front of 22 Collins Court, and resulting in her being caused to trip and fall.

DEC16'20 PM 2:41 RCVD

Attachment: DOC121720-12172020145127 (COM-2021-5 : NOC: Culliton Vs TOA)

5. The trip and fall was solely the result of the carelessness, negligence and recklessness of Respondents, without any such carelessness, negligence or recklessness on the part of Claimant.

6. Respondents caused, created, and/or failed to maintain the sidewalk creating a dangerous, hazardous and defective condition, failed to warn of said condition, and through its acts and/or omissions allowed a pipe with a cover to protrude from the sidewalk in a dangerous, hazardous and defective manner.

7. Respondents knew, or should have known, this dangerous, hazardous and defective condition existed on the sidewalk in front of 22 Collins Court, and failed to remedy said condition, and failed to warn of same.

8. Respondents' carelessness, negligence and recklessness resulted in Claimant suffering personal injuries requiring medical treatment, pain-and-suffering, and loss of enjoyment of life.

9. Claimant will be seeking damages in a sum of money to be determined by a jury, which shall include all damages to which she is entitled under New York State Law as a result of the claim herein against Respondent.

Dated: November 25, 2020
Buffalo, New York

RAFAEL O. GOMEZ, ESQ.
GOMEZ & BECKER, LLP
Attorneys for Complainant
2746 Delaware Avenue
The Eberhardt Mansion
Buffalo, New York 14217
(716) 873-0333
rgomez@gomezbecker.com

Attachment: DOC121720-12172020145127 (COM-2021-5 : NOC: Culliton Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22708

COMMUNICATION 2021-6

Notice of Claim: Jamelah Samaha Vs Town of Amherst

.

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

JAMELAH SAMAHA,

Claimant,

v.

NOTICE OF CLAIM

TOWN OF AMHERST,

Respondent.

PLEASE TAKE NOTICE, that JAMELAH SAMAHA, the Claimant, by her attorney, Jill Wnek, Esq. of Feroleto Law, with offices located at 438 Main Street, Buffalo, New York 14202, hereby makes claim against the TOWN OF AMHERST, for damages sustained as follows:

1. Claimant JAMELAH SAMAHA, resides at [redacted]

2. The date upon which the incident complained of occurred was September 29, 2020 at approximately 2:21pm.

3. The nature of the claim is for medical bills, loss of wages, pain and suffering and for injuries, all in an amount not yet determined.

4. On September 29, 2020, at approximately 2:21 pm, the Claimant, JAMELAH SAMAHA was driving on Maple Road, near the vicinity of 1419 Maple Road, in the Town of Amherst, County of Erie, State of New York, and was involved in a collision with another vehicle being operated by Araceli Emerizy. Claimant, JAMELAH SAMAHA sustained severe injuries.

5. That at the time herein mentioned, the portion of said highway in the Town of Amherst was undergoing construction and had been constructed several years prior to this action and has since been maintained by Town of Amherst, their officers, agents or employees and that

DEC21'20 PM 2:03 RSD

Attachment: DOC122320-12232020095424 (COM-2021-6 : NOC: Samaha Vs TOA)

the Town of Amherst, their officers, agents or employees duly undertook to design, construct, light, repair, keep in repair, maintain, rebuild, properly mark, create and control the roadway and traffic patterns, and assume all charge of such portion of said highway over a period of several years and during the course of construction.

6. The Town of Amherst created said dangerous condition, and thereby had prior notice of such dangerous conditions on this road in the same vicinity at times no currently available to Claimant.

7. That the crash aforesaid and the injuries of the Claimant were sustained by reason of the negligence and misconduct of said Town of Amherst, their officers, agents or employees in that, among other things the said municipalities, their officers, agents or employees in allowing dangerous conditions to exist, to continue to exist, and allowing said highway to be constructed and continue to remain in an unreasonably dangerous, unsafe, and defective condition.

8. As a result of the above, the Claimant suffered injuries to her left hip and pelvis including fracture, suffered a fractured left clavicle and right ankle, and injury to her small intestine, all requiring surgical intervention and injury to her back.

WHEREFORE, the Claimant requests compromise of this claim and if such claim is not paid within a reasonable period of time, it is the intention of the Claimant to commence an action against the Town of Amherst.

DATED: Buffalo, New York
December 17, 2020

JILL WNEK, ESQ.
FEROLETO LAW
Attorney for Claimant
438 Main Street, Suite 910
Buffalo, New York 14202
Phone: (716) 854-0700

Attachment: DOC122320-12232020095424 (COM-2021-6 : NOC: Samaha Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22669

COMMUNICATION 2021-7

Summons & Complaint: Mary Devaney Vs Town of Amherst Et Al.

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13.7.a

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

MARY DEVANEY
[redacted]

Plaintiff,

vs.

TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221,

BRENNA SULLIVAN,
[redacted]

MARK G. SULLIVAN,
[redacted]

Defendants.

SUMMONS

Index No.:

Plaintiff designates Erie County as the place of trial.

The basis of venue is the place of the tort.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your Answer, or if the Complaint is not served with a Summons, to serve a Notice of Appearance on the plaintiff's attorney within **twenty (20) days** after the service of this Summons, exclusive of the date of service, or within **thirty (30) days** after the service is complete if this Summons is not personally delivered to you within the State of New York; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

DEC 10 '20 PM 2:55 ERIE

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

DATED: Buffalo, New York
November 16, 2020

GIBSON, McASKILL & CROSBY, LLP

By: *s/ Charles S. Desmond*
Charles S. Desmond, II, Esq.
Attorneys for Plaintiff
69 Delaware Avenue, Suite 900
Buffalo, New York 14202
Telephone: (716) 856-4200

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

13.7.a

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

MARY DEVANEY
[redacted]

Plaintiff,

COMPLAINT

vs.

Index No.:

TOWN OF AMHERST
5583 Main Street
Williamsville, New York 14221,

BRENNA SULLIVAN,
[redacted]

MARK G. SULLIVAN,
[redacted]

Defendants.

Plaintiff, MARY DEVANEY, by her attorneys, GIBSON, McASKILL & CROSBY, LLP, for her causes of action against the defendants, TOWN OF AMHERST and BRENNA SULLIVAN, herein alleges as follows:

1. At all times hereinafter mentioned, plaintiff, MARY DEVANEY, was and still is a resident of the County of [redacted] and State [redacted]

2. At all times hereinafter mentioned, the defendant, TOWN OF AMHERST, was and is a municipal corporation, duly licensed and authorized to transact business in the County of Erie and State of New York, maintaining offices at 5583 Main Street, Williamsville, New York.

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

3. At all times hereinafter mentioned, the defendant, BRENNA SULLIVAN, was and is a resident of the County of [redacted] State of [redacted].

4. That upon information and belief, on or about January 31, 2020, at approximately 11:57 p.m., Town of Amherst Police Officer, John T. Rusch, was operating a 2017 Ford motor vehicle, bearing New York State POLICE license plates.

5. That on or about January 31, 2020, and for some time prior to January 31, 2020, the aforementioned 2017 Ford motor vehicle, bearing New York State POLICE license plates, was owned by and registered to the defendant, TOWN OF AMHERST.

6. That on or about January 31, 2020, at approximately 11:57 p.m., Town of Amherst Police Officer, John T. Rusch, was operating the aforementioned 2017 Ford motor vehicle, bearing New York State POLICE license plates, owned by and registered to defendant, TOWN OF AMERHERST, in a westbound direction on Sheridan Drive, at or near its intersection with Sweet Home Road, in the Town of Amherst, County of Erie, State of New York.

7. That at all times hereinafter mentioned, Town of Amherst Police Officer, John T. Rusch, was operating the aforementioned 2017 Ford motor vehicle within the course and scope of his employment with defendant, TOWN OF AMHERST.

8. That at all times hereinafter mentioned, Town of Amherst Police Officer, John T. Rusch, was operating the aforementioned 2017 Ford motor vehicle with the consent and permission of defendant, TOWN OF AMHERST, express and/or implied.

9. That on or about January 31, 2020, at approximately 11:57 p.m., defendant, BRENNA SULLIVAN, was operating a 2012 Chevrolet motor vehicle, bearing New York State license plate number JFK9213.

Attachment: DOC121420-1214202012402 9 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

10. That on or about January 31, 2020, and for some time prior to January 31, 2020, the aforementioned 2012 Chevrolet motor vehicle, bearing New York State license plate number JFK9213, was owned by and registered to defendant, MARK G. SULLIVAN.

11. That at all times hereinafter mentioned, Town of Amherst Police Officer, John T. Rusch, was operating the aforementioned 2017 Ford motor vehicle with the consent and permission of defendant, TOWN OF AMHERST, express and/or implied.

12. That on or about January 31, 2020, at approximately 11:57 p.m., the plaintiff, MARY DEVANEY, was a passenger in the 2012 Chevrolet motor vehicle being operated by defendant, BRENNA SULLIVAN, and owned and registered to defendant, MARK G. SULLIVAN.

13. That on or about January 31, 2020, at approximately 11:57 p.m., defendant, BRENNA SULLIVAN, was operating the aforementioned 2012 Chevrolet motor vehicle, owned by and registered to defendant, MARK G. SULLIVAN, in the northbound direction on Sweet Home Road, at or near its intersection with Sheridan Drive, in the Town of Amherst, County of Erie, State of New York.

14. That upon information and belief, on January 31, 2020, at approximately 11:57 p.m., at the intersection of Sheridan Drive and Sweet Home Road, in the Town of Amherst, County of Erie, State of New York, the aforesaid motor vehicle registered and owned by defendant, TOWN OF AMHERST, and being operated by Town of Amherst Police Officer, John T. Rusch, came into collision with and struck the 2012 Chevrolet motor vehicle owned by defendant, MARK G. SULLIVAN, and operated by defendant, BRENNA SULLIVAN.

15. That upon information and belief, Town of Amherst Police Officer, John T. Rusch and defendant, TOWN OF AMHERST, were negligent, careless and reckless in operating the aforementioned 2017 Ford motor vehicle at an unreasonable and excessive rate of speed; in

Attachment: DOC121420-1214202012402 9 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

operating said motor vehicle at an excessive rate of speed in view of the conditions and circumstances present at the time and place aforementioned; in failing to keep said motor vehicle under control at all times; in failing to keep a sufficient and proper lookout; in failing to yield the right of way; in failing to use reasonable care in controlling the operation and direction of said motor vehicle; in failing to obey the traffic control devices, signs and/or pavement markings provided for motor vehicle traffic at or near the scene of this accident; in failing to keep a proper lookout; in failing to take evasive action in the operation and direction of said motor vehicle to avoid said collision with the vehicle the plaintiff was operating; in failing to see that which through the proper and reasonable use of one's senses should have been seen; in failing to proceed through the aforementioned intersection with caution; in failing to properly and adequately slow down prior to entering the intersection; in failing to provide the plaintiff and those similarly situated with any warning of the approach of said motor vehicle and its proximity to the motor vehicle the plaintiff was a passenger in; failure to properly and adequately train its employees; in failing to properly and adequately use caution lights and sirens; in failing to make the necessary observations, to take proper precautions and to give adequate warnings to the plaintiff and those similarly situated; in driving in an unsafe and imprudent manner in light of the conditions and circumstances present at the time and place aforementioned; in failing to properly and adequately maintain said motor vehicle while driving the same upon the highways of the State of New York; and in maintaining and operating said motor vehicle while the same was defective, unsafe, unfit, in a state of disrepair and/or lacking the proper, necessary and lawfully required equipment for the safe operation and use of motor vehicles upon the roadways of the State of New York, thereby causing the plaintiff to sustain injuries and damages as hereinafter set forth.

Attachment: DOC121420-1214202012402 9 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

Further, pursuant to relevant sections of the New York State Vehicle and Traffic Law, defendant, TOWN OF AMHERST, as the owner of the aforementioned 2017 Ford motor vehicle, is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by Town of Amherst Police Officer, John T. Rusch, during his operation of said vehicle. Similarly, defendant, TOWN OF AMHERST, as the employer of Town of Amherst Police Officer, John T. Rusch, is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by Town of Amherst Police Officer, John T. Rusch, while within the course and scope of his employment with defendant, TOWN OF AMHERST.

18. That upon information and belief, defendants, BRENNA SULLIVAN and MARK G. SULLIVAN, were negligent, careless and reckless in operating the aforementioned 2012 Chevrolet motor vehicle at an unreasonable and excessive rate of speed; in operating said motor vehicle at an excessive rate of speed in view of the conditions and circumstances present at the time and place aforementioned; in failing to keep said motor vehicle under control at all times; in failing to keep a sufficient and proper lookout; in failing to yield the right of way; in failing to use reasonable care in controlling the operation and direction of said motor vehicle; in failing to obey the traffic control devices, signs and/or pavement markings provided for motor vehicle traffic at or near the scene of this accident; in failing to keep a proper lookout; in failing to take evasive action in the operation and direction of said motor vehicle to avoid said collision with the Town of Amherst police vehicle; in failing to see that which through the proper and reasonable use of one's senses should have been seen; in failing to proceed through the aforementioned intersection with caution; in failing to provide the plaintiff and those similarly situated with any warning of the approach of the Town of Amherst police vehicle; in failing to make the necessary observations, to take proper precautions and to give adequate warnings to the plaintiff and those similarly situated; in driving in an unsafe and imprudent

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

manner in light of the conditions and circumstances present at the time and place aforementioned; in failing to properly and adequately maintain said motor vehicle while driving the same upon the highways of the State of New York; and in maintaining and operating said motor vehicle while the same was defective, unsafe, unfit, in a state of disrepair and/or lacking the proper, necessary and lawfully required equipment for the safe operation and use of motor vehicles upon the roadways of the State of New York, thereby causing the plaintiff to sustain injuries and damages as hereinafter set forth.

Further, pursuant to relevant sections of the New York State Vehicle and Traffic Law, defendant, MARK G. SULLIVAN, as the owner of the aforementioned 2012 Chevrolet motor vehicle, is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by defendant, BRENNA SULLIVAN, during her operation of said vehicle.

19. That as a result of the negligence, recklessness and carelessness of the defendants, plaintiff, MARY DEVANEY, was injured externally, internally and permanently in and about the head, body, limbs and nervous system so that she became and will continue to be disabled and will continue to suffer pain, discomfort, disfigurement, and distress. That by reason of the aforesaid injuries the plaintiff required the services of physicians, surgeons, nurses, hospitals, therapy, manipulations and medicines and will continue to incur such expenses in the future; that as a result of the aforesaid injuries and resulting permanent disabilities, the plaintiff was incapacitated from her educational pursuits, profession and/or employment, and will continue to be incapacitated from her educational pursuits, profession and/or employment in the future; and as a result of the aforesaid injuries and permanent disabilities, the future earning capacity, profession, livelihood and social and personal endeavors, hobbies and activities of the plaintiff will be partially and/or permanently impaired; and as a result of all of the aforesaid, the plaintiff has otherwise been damaged in a sum

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction and as may be awarded by the trier of facts herein.

20. That if it be determined that all or any part of the within action is subject to the provisions of Section 5104(a) of the Insurance Law of the State of New York, then and in that event, the plaintiff has sustained a serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and has sustained economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law of the State of New York.

21. That the limitations on joint and several liability established under Article 16 of the Civil Practice Laws and Rules of the State of New York do not apply herein on the grounds that the exception enumerated under CPLR Sections 1602(6) and (7) are applicable to the plaintiff's claims in the within action.

22. That a Notice of Claim has been duly made and served upon the defendant, TOWN OF AMHERST, pursuant to §50-e of the General Municipal Law of the State of New York; that at least thirty (30) days have elapsed since the date of such notice; and that the within action was commenced within one (1) year and ninety (90) days after the happening of the collision.

23. That the defendant, TOWN OF AMHERST, has refused payment of Plaintiffs' claim.

WHEREFORE, plaintiff, MARY DEVANEY, demands judgment against the defendants, TOWN OF AMHERST, BRENNA SULLIVAN and MARK G. SULLIVAN, for her causes of action alleged herein for a sum which exceeds jurisdictional limits of all lower Courts which would otherwise have jurisdiction and as may be awarded by the trier of facts herein; together with the costs and disbursements of this action, and for such other and further relief as to this Court may seem just and proper.

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

DATED: Buffalo, New York
November 16, 2020

GIBSON, McASKILL & CROSBY, LLP

By: *s/ Charles S. Desmond*
Charles S. Desmond, II, Esq.
Attorneys for Plaintiff
69 Delaware Avenue, Suite 900
Buffalo, New York 14202
Telephone: (716) 856-4200

Attachment: DOC121420-12142020124029 (COM-2021-7 : Summons & Complaint: Devaney Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22699

COMMUNICATION 2021-8

Summons & Verified Complaint: Cara Wojtach Vs. Town of Amherst Et Al.

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13.8.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

CARA WOJTACH,

Plaintiff,

- against -

JOHN T. RUSCH, TOWN OF AMHERST, AMHERST POLICE DEPARTMENT, BRENNA N. SULLIVAN, and MARK C. SULLIVAN,

Defendants.

----------X

Index No.:
Date purchased:

Plaintiff designates ERIE ***County as the place of trial***

The basis of the venue is Location of Accident

SUMMONS

Plaintiff resides at [redacted]

County of **Suffolk**

To the above named Defendants.

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
December 10, 2020

Yours, etc.

Pursuant to 22 NYCRR § 130-1.1a
LAW OFFICES OF MARK E. ALTER
By: ERICA L. ALTER, ESQ.
Attorneys for Plaintiff
CARA WOJTACH
320 Old Country Road, Suite 103
Garden City, New York 11530
(516) 747-2200

Defendant(')s(') address(es):

JOHN T. RUSCH
500 John James Audubon Parkway
Amherst, New York 14228

TOWN OF AMHERST
Office of the Town Attorney
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST
Office of the Town Clerk
5583 Main Street
Williamsville, New York 14221

AMHERST POLICE DEPARTMENT
500 John James Audubon Parkway
Amherst, New York 14228

BRENNA N. SULLIVAN
[redacted]

DEC18'20 AM11:34 RCVD

MARK G. SULLIVAN
[redacted]

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

13.8.a

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

CARA WOJTACH,

Plaintiff,

-against-

VERIFIED COMPLAINT

Index No.:

JOHN T. RUSCH, TOWN OF AMHERST,
AMHERST POLICE DEPARTMENT,
BRENNA N. SULLIVAN, and MARK C. SULLIVAN,

Defendants.

----------X

Plaintiff, by her attorneys, LAW OFFICES OF MARK E. ALTER, as and for her Verified Complaint, herein alleges as follows, upon information and belief:

1. That plaintiff was, at all times hereinafter mentioned, a resident of Suffolk County, State of New York.

2. Upon information and belief, the defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, a resident of [redacted].

3. That at all times hereinafter mentioned, the defendants, BRENNA N. SULLIVAN and MARK C. SULLIVAN, were residents of [redacted]

4. That, defendant, TOWN OF AMHERST, (hereinafter "TOWN") was at all times hereinafter mentioned a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

5. That, at all times hereinafter mentioned, defendant, TOWN, maintained a Police Department and during all such times hereinafter mentioned, the defendants, their agents, servants, employees and police officers acted in the scope of their employment with defendant, TOWN.

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

6. That, defendant, AMHERST POLICE DEPARTMENT, (hereinafter "POLICE DEPARTMENT") was and still is an Agency of the defendant, TOWN.

7. That, defendant, POLICE DEPARTMENT, was and still is a Department of the defendant, TOWN.

8. That defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, employed by the defendant, TOWN, as an Amherst Police Officer and was so acting under his official capacity and within the scope of his employment at all times hereinbefore and hereinafter mentioned.

9. That defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, employed by the defendant, POLICE DEPARTMENT, as an Amherst Police Officer and was so acting under his official capacity and within the scope of his employment at all times hereinbefore and hereinafter mentioned.

10. That on or about March 13, 2020, and within ninety (90) days of the occurrence herein, plaintiff served upon the governing bodies of the defendants, Clerk of the Town of Amherst, The Town Attorney's Office, and the Amherst Police Department written *Notices of Claim* setting forth the time, place, nature and manner in which said claim arose.

11. That more than thirty (30) days have elapsed from the date said *Notice of Claim* was served.

12. That defendants, TOWN and POLICE DEPARTMENT, through their agents, officers, or bodies having power to adjust said claim, have refused and/or neglected to make payment and/or adjustment on said claim.

13. That this action is being commenced within one (1) year and ninety (90) days of the date of the occurrence herein, and the plaintiff has complied with all statutory condition precedents to the commencement of this action.

14. That on August 12, 2020, a hearing was held on behalf of defendants

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

13.8.a

pursuant to Section 50-H of the General Municipal Law.

15. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the owner of a police motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted]

16. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the Certificate of Title holder of an Amherst Police Department vehicle, bearing plate number "113" and Vehicle Identification Number [redacted].

17. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the registrant of an Amherst Police Department vehicle, bearing plate number "113" and Vehicle Identification Number [redacted]

18. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, controlled the aforementioned vehicle.

19. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, repaired the aforementioned vehicle.

20. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, maintained the aforementioned vehicle.

21. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, inspected the aforementioned vehicle.

22. That at all times hereinafter mentioned, defendant, TOWN was the owner of an Amherst Police Department vehicle bearing plate number "113" and Vehicle Identification Number [redacted]

23. That at all times hereinafter mentioned, defendant, TOWN was the Certificate of Title holder of an Amherst Police Department vehicle bearing plate number "113" and Vehicle Identification Number [redacted]

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

13.8.a

24. That at all times hereinafter mentioned, defendant, TOWN was the registrant of an Amherst Police Department Vehicle bearing plate number "113" and Vehicle Identification Number [redacted].

25. That at all times hereinafter mentioned, defendant, TOWN, controlled the aforementioned vehicle.

26. That at all times hereinafter mentioned, defendant, TOWN, repaired the aforementioned vehicle.

27. That at all times hereinafter mentioned, defendant, TOWN, maintained the aforementioned vehicle.

28. That at all times hereinafter mentioned, defendant, TOWN, inspected the aforementioned vehicle.

29. That, at all times hereinafter mentioned, defendant, MARK C. SULLIVAN, was the owner of a certain motor vehicle bearing New York State Registration Number [redacted] for the year 2020.

30. That at all times hereinafter mentioned, the defendant, MARK C. SULLIVAN, was the Certificate of Title holder for a 2012 Chevrolet bearing New York State Registration Number [redacted], for the year 2020.

31. That at all times hereinafter mentioned, the defendant, MARK C. SULLIVAN, was the registrant of a 2012 Chevrolet bearing New York State Registration Number [redacted], for the year 2020.

32. That, at all times hereinafter mentioned, the defendant, BRENNA N. SULLIVAN, was the operator of the aforementioned motor vehicle bearing New York State Registration Number [redacted], for the year 2020.

33. That, at all times hereinafter mentioned, the defendant, BRENNA N. SULLIVAN, was the operator of the aforementioned motor vehicle bearing New York State

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

13.8.a

Registration Number [redacted] for the year 2020, with the knowledge and consent of its owner.

34. That all times hereinafter mentioned, the plaintiff, CARA WOJTACH, was a lawful passenger in the aforementioned motor vehicle, bearing New York State License Plate [redacted] for the year 2020.

35. Upon information and belief, at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was the operator of the aforementioned Amherst Police Department motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted].

36. Upon information and belief, at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was the operator of the aforementioned police motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted] with the knowledge and consent of its owner.

37. That at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was an employee of defendant, POLICE DEPARTMENT and, at the time of the accident herein, was operating the subject police vehicle during the course of his employment.

38. That at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was an employee of defendant, TOWN and, at the time of the accident herein, was operating the Amherst Police Department vehicle during the course of employment.

39. That on or about January 31, 2020, at or about 11:57 p.m., the aforementioned motor vehicle operated by the defendant, BRENNA N. SULLIVAN, and while the plaintiff, CARA WOJTACH, was a passenger therein, was in a collision with the aforementioned police vehicle operated by JOHN T. RUSCH, at the intersection of Sweet Home Road and Sheridan Drive, Town of Amherst, County of Erie, State of New York.

40. That said collision resulted solely from the negligence, recklessness and

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

carelessness of the defendants without any negligence on the part of the plaintiff contributing thereto.

41. That said collision resulted from the defendants' reckless disregard for the safety of others and more particularly, that of CARA WOJTACH, the plaintiff herein.

42. That defendant, TOWN is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by its employee, defendant, OFFICER JOHN T. RUSCH while within the course and scope of his employment with defendant, TOWN.

43. That defendant, POLICE DEPARTMENT is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by its employee, defendant, OFFICER JOHN T. RUSCH while within the course and scope of his employment with defendant, POLICE DEPARTMENT.

44. That defendant, OFFICER JOHN T. RUSCH, violated various sections of the Vehicle and Traffic Law including but not limited to section 1104.

45. That defendant, BRENNA N. SULLIVAN, violated various sections of the Vehicle and Traffic Law.

46. That the plaintiff, CARA WOJTACH, sustained a serious injury or injuries and/or economic loss greater than the basic economic loss, as same are defined in Section 5102 of the Insurance Law of the State of New York.

47. That this action falls within one or more of the exemptions contained in CPLR Section 1602.

48. That as a result of this collision, the plaintiff, CARA WOJTACH, sustained serious personal injuries causing said plaintiff to obtain medical attention and incapacitating the plaintiff, all to her damage in an amount to be determined at the trial of this action and which exceeds the jurisdictional limits of all lower courts which would otherwise

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

have jurisdiction over this matter.

WHEREFORE, plaintiff demands judgment against defendants, in an amount to be determined at the trial of this action and which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this matter, together with interest from the date of the accident; costs and disbursements of this lawsuit; and such other and further relief as this Court may deem just and proper.

Dated: Garden City, New York
December 10, 2020

Yours, etc.

LAW OFFICES OF MARK E. ALTER
By: ERICA L. ALTER, ESQ.
Attorneys for Plaintiff
CARA WOJTACH
320 Old Country Road, Suite 103
Garden City, New York 11530
(516) 747-2200

Attachment: DOC121820-12182020135452 (COM-2021-8 : Summons & Complaint: Wojtach Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Town Clerk
DOC ID: 22700

COMMUNICATION 2021-9

Summons & Verified Complaint: Savanna Hinten Vs. Town of Amherst Et Al.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

SAVANNA HINTEN,

Plaintiff,

- against -

JOHN T. RUSCH, TOWN OF AMHERST, AMHERST POLICE DEPARTMENT, BRENNA N. SULLIVAN, and MARK C. SULLIVAN,

Defendants.

Index No.:
Date purchased:

Plaintiff designates ERIE ***County as the place of trial***

The basis of the venue is Location of Accident

SUMMONS

Plaintiff resides at [redacted]

County of **Suffolk**

To the above named Defendants.

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
December 10, 2020

Yours, etc.

Pursuant to 22 NYCRR § 130-1.1a
LAW OFFICES OF MARK E. ALTER
By: ERICA L. ALTER, ESQ.
Attorneys for Plaintiff
SAVANNA HINTEN
320 Old Country Road, Suite 103
Garden City, New York 11530
(516) 747-2200

Defendant(')s(') address(es):

JOHN T. RUSCH
500 John James Audubon Parkway
Amherst, New York 14228

TOWN OF AMHERST
Office of the Town Attorney
5583 Main Street
Williamsville, New York 14221

TOWN OF AMHERST
Office of the Town Clerk
5583 Main Street
Williamsville, New York 14221

AMHERST POLICE DEPARTMENT
500 John James Audubon Parkway
Amherst, New York 14228

BRENNA N. SULLIVAN
[redacted]

MARK G. SULLIVAN
[redacted]

DEC18'20 AM11:34 RCVD

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

----------X

SAVANNA HINTEN,

Plaintiff,

-against-

VERIFIED COMPLAINT

Index No.:

JOHN T. RUSCH, TOWN OF AMHERST,
AMHERST POLICE DEPARTMENT,
BRENNA N. SULLIVAN, and MARK C. SULLIVAN,

Defendants.

----------X

Plaintiff, by her attorneys, LAW OFFICES OF MARK E. ALTER, as and for her Verified Complaint, herein alleges as follows, upon information and belief:

1. That plaintiff was, at all times hereinafter mentioned, a resident of [redacted] State of [redacted]

2. Upon information and belief, the defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, a resident of [redacted].

3. That at all times hereinafter mentioned, the defendants, BRENNA N. SULLIVAN and MARK C. SULLIVAN, were residents of [redacted]

4. That, defendant, TOWN OF AMHERST, (hereinafter "TOWN") was at all times hereinafter mentioned a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

5. That, at all times hereinafter mentioned, defendant, TOWN, maintained a Police Department and during all such times hereinafter mentioned, the defendants, their agents, servants, employees and police officers acted in the scope of their employment with defendant, TOWN.

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6. That, defendant, AMHERST POLICE DEPARTMENT, (hereinafter "POLICE DEPARTMENT") was and still is an Agency of the defendant, TOWN.

7. That, defendant, POLICE DEPARTMENT, was and still is a Department of the defendant, TOWN.

8. That defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, employed by the defendant, TOWN, as an Amherst Police Officer and was so acting under his official capacity and within the scope of his employment at all times hereinbefore and hereinafter mentioned.

9. That defendant, JOHN T. RUSCH, was at all times hereinafter mentioned, employed by the defendant, POLICE DEPARTMENT, as an Amherst Police Officer and was so acting under his official capacity and within the scope of his employment at all times hereinbefore and hereinafter mentioned.

10. That on or about March 13, 2020, and within ninety (90) days of the occurrence herein, plaintiff served upon the governing bodies of the defendants, Clerk of the Town of Amherst, The Town Attorney's Office, and the Amherst Police Department written *Notices of Claim* setting forth the time, place, nature and manner in which said claim arose.

11. That more than thirty (30) days have elapsed from the date said *Notice of Claim* was served.

12. That defendants, TOWN and POLICE DEPARTMENT, through their agents, officers, or bodies having power to adjust said claim, have refused and/or neglected to make payment and/or adjustment on said claim.

13. That this action is being commenced within one (1) year and ninety (90) days of the date of the occurrence herein, and the plaintiff has complied with all statutory condition precedents to the commencement of this action.

14. That on August 12, 2020, a hearing was held on behalf of defendants

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

pursuant to Section 50-H of the General Municipal Law.

15. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the owner of a police motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted].

16. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the Certificate of Title holder of an Amherst Police Department vehicle, bearing plate number "113" and Vehicle Identification Number [redacted]

17. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT was the registrant of an Amherst Police Department vehicle, bearing plate number "113" and Vehicle Identification Number [redacted]

18. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, controlled the aforementioned vehicle.

19. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, repaired the aforementioned vehicle.

20. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, maintained the aforementioned vehicle.

21. That at all times hereinafter mentioned, defendant, POLICE DEPARTMENT, inspected the aforementioned vehicle.

22. That at all times hereinafter mentioned, defendant, TOWN was the owner of an Amherst Police Department vehicle bearing plate number "113" and Vehicle Identification Number [redacted]

23. That at all times hereinafter mentioned, defendant, TOWN was the Certificate of Title holder of an Amherst Police Department vehicle bearing plate number "113" and Vehicle Identification Number [redacted]

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

24. That at all times hereinafter mentioned, defendant, TOWN was the registrant of an Amherst Police Department Vehicle bearing plate number "113" and Vehicle Identification Number [redacted]

25. That at all times hereinafter mentioned, defendant, TOWN, controlled the aforementioned vehicle.

26. That at all times hereinafter mentioned, defendant, TOWN, repaired the aforementioned vehicle.

27. That at all times hereinafter mentioned, defendant, TOWN, maintained the aforementioned vehicle.

28. That at all times hereinafter mentioned, defendant, TOWN, inspected the aforementioned vehicle.

29. That, at all times hereinafter mentioned, defendant, MARK C. SULLIVAN, was the owner of a certain motor vehicle bearing New York State Registration Number [redacted] for the year 2020.

30. That at all times hereinafter mentioned, the defendant, MARK C. SULLIVAN, was the Certificate of Title holder for a 2012 Chevrolet bearing New York State Registration Number [redacted] for the year 2020.

31. That at all times hereinafter mentioned, the defendant, MARK C. SULLIVAN, was the registrant of a 2012 Chevrolet bearing New York State Registration Number [redacted] for the year 2020.

32. That, at all times hereinafter mentioned, the defendant, BRENNA N. SULLIVAN, was the operator of the aforementioned motor vehicle bearing New York State Registration Number [redacted] for the year 2020.

33. That, at all times hereinafter mentioned, the defendant, BRENNA N. SULLIVAN, was the operator of the aforementioned motor vehicle bearing New York State

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

Registration Number [redacted] for the year 2020, with the knowledge and consent of its owner.

34. That all times hereinafter mentioned, the plaintiff, SAVANNA HINTEN, was a lawful passenger in the aforementioned motor vehicle, bearing New York State License Plate [redacted] for the year 2020.

35. Upon information and belief, at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was the operator of the aforementioned Amherst Police Department motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted]

36. Upon information and belief, at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was the operator of the aforementioned police motor vehicle, bearing plate number "113" and Vehicle Identification Number [redacted] with the knowledge and consent of its owner.

37. That at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was an employee of defendant, POLICE DEPARTMENT and, at the time of the accident herein, was operating the subject police vehicle during the course of his employment.

38. That at all times hereinafter mentioned, defendant, JOHN T. RUSCH, was an employee of defendant, TOWN and, at the time of the accident herein, was operating the Amherst Police Department vehicle during the course of employment.

39. That on or about January 31, 2020, at or about 11:57 p.m., the aforementioned motor vehicle operated by the defendant, BRENNA N. SULLIVAN, and while the plaintiff, SAVANNA HINTEN, was a passenger therein, was in a collision with the aforementioned police vehicle operated by JOHN T. RUSCH, at the intersection of Sweet Home Road and Sheridan Drive, Town of Amherst, County of Erie, State of New York.

40. That said collision resulted solely from the negligence, recklessness and

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

carelessness of the defendants without any negligence on the part of the plaintiff contributing thereto.

41. That said collision resulted from the defendants' reckless disregard for the safety of others and more particularly, that of SAVANNA HINTEN, the plaintiff herein.

42. That defendant, TOWN is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by its employee, defendant, OFFICER JOHN T. RUSCH while within the course and scope of his employment with defendant, TOWN.

43. That defendant, POLICE DEPARTMENT is vicariously liable for any and all acts of negligence, carelessness and recklessness committed by its employee, defendant, OFFICER JOHN T. RUSCH while within the course and scope of his employment with defendant, POLICE DEPARTMENT.

44. That defendant, OFFICER JOHN T. RUSCH, violated various sections of the Vehicle and Traffic Law including but not limited to section 1104.

45. That defendant, BRENNA N. SULLIVAN, violated various sections of the Vehicle and Traffic Law.

46. That the plaintiff, SAVANNA HINTEN, sustained a serious injury or injuries and/or economic loss greater than the basic economic loss, as same are defined in Section 5102 of the Insurance Law of the State of New York.

47. That this action falls within one or more of the exemptions contained in CPLR Section 1602.

48. That as a result of this collision, the plaintiff, SAVANNA HINTEN, sustained serious personal injuries causing said plaintiff to obtain medical attention and incapacitating the plaintiff, all to her damage in an amount to be determined at the trial of this action and which exceeds the jurisdictional limits of all lower courts which would otherwise

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

have jurisdiction over this matter.

WHEREFORE, plaintiff demands judgment against defendants, in an amount to be determined at the trial of this action and which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this matter, together with interest from the date of the accident; costs and disbursements of this lawsuit; and such other and further relief as this Court may deem just and proper.

Dated: Garden City, New York
December 10, 2020

Yours, etc.

LAW OFFICES OF MARK E. ALTER
By: ERICA L. ALTER, ESQ.
Attorneys for Plaintiff
SAVANNA HINTEN
320 Old Country Road, Suite 103
Garden City, New York 11530
(516) 747-2200

Attachment: DOC121820-12182020150516 (COM-2021-9 : Summons & Complaint: Hinten Vs TOA)

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

Francina J. Spoth
Town Clerk

Meeting: 01/04/21 07:00 PM
Department: Engineering
Initiated by: **Jeffrey S. Burroughs**
Co-Sponsored by:

DOC ID: 22732

RESOLUTION 2021-74

PIP 3073 - Auden Amherst Development - Sanitary Sewer

Attached please find an application for a Sanitary Sewer Public Improvement Permit properly filled out. Permit fee and inspection cost amount to $7,339.50.

Three (3) checks will be sent to the Town Clerk, one for $150.00 to be retained as a Permit Fee, one (1) in the amount of $6,673.00 which will be sent to the Comptrollers Office by the Town Clerk and will be held in escrow to cover the inspection cost, and one (1) in the amount of $516.50 which will be deposited in the SS District 16 account G9000-02377 to cover the televising cost.

At this time we are asking for your approval of the application for PIP No. 3073

FINANCIAL IMPACT:

G9000-02377; $7,339.50

APPLICATION FOR PERMIT TO CONSTRUCT A PUBLIC/PRIVATE IMPROVEMENT

Date December 18th 2020

TO THE HONORABLE TOWN BOARD:

Gentlemen: ***Town of Amherst, Erie County, N.Y.***

Application is Hereby Made for Permission to Construct

	Public	Private
Pavement and Curbs	☐	☐
Water Line	☐	☐
Sanitary Sewer	☒	☐
Storm Sewer	☐	☐
Backyard Drainage	☐	☐

Estimated Cost of Improvement $ $66,730

DESCRIPTION OF PROPOSED PUBLIC/PRIVATE IMPROVEMENT

Subdivision Name, Street Name(s), Quantity, Description and Location of Improvement: Town of Amherst Job 2018-035

1033 LF, 8-inch Public Sanitary Extension along N Forest Road right of way to service the proposed Auden Amherst Development

Supporting Data:

Consulting Engineer's Name Joseph Mayer, Kimley-Horn

Contractor's Name Trinity Building & Construction Management Corp. Phone 518-209-9884

Contractor's Address 621 Columbia Street Cohoes, NY 12047

Maintenance (2 yr.) bond by

This application must be submitted in quadruplicate along with 4 copies of construction drawings showing the extent of the improvements which will be incorporated into and made a part of this application. In the event the drawing submitted contains other facilities not covered by this permit, then those covered by this permit must be designated by coloring so that a clear-cut picture of the work under this permit is easily determined.

Work under this permit shall be started within 60 days from the date of approval thereof. Work under this permit shall be completed within 1 year from the date of approval thereof. Any request for extension shall be addressed in writing to the Town Board of the Town of Amherst.

Fees from this permit and cost of inspection shall be covered by separate checks made payable to the Town of Amherst at amounts set forth by the Town Board. The inspection fee is to cover all work under this permit and shall be at no additional cost to the Town of Amherst. The inspection fee may be increased by a commercially reasonable amount during or after implementation of the improvement at the discretion of the Town Engineer due to unforeseen field conditions or complexity of design. All construction work is to be carried on during normal and usual working hours. Any deviation from this must be compensated by the payment of additional fees.

In consideration of the granting of the permit hereby petitioned for, the undersigned hereby agrees that if such a permit is granted he/she will comply with the terms thereof, the Laws off the State of New York, the Ordinances of the Town of Amherst and Regulations of the various departments of the Town and the State of New York, and that he/she shall notify the Engineering Department forty-eight (48) hours in advance of commencing any work under this permit.

The undersigned hereby certifies that all of the information contained in this petition is correct and true.

ITEM		FEE
PERMIT		$150.00
INSPECTION	10% of Estimated Cost of Construction	$6,673.00
VIDEO INSPECTION SANITARY		$516.50
$0.50/Linear Foot		
TOTAL FEE		$7,339.50

Owner Sign Here

Please Print Name

Address

Phone

Zip

Subscribed and sworn to before me this 23rd day of December 20 20

Indira Basu

Notary Public, Erie County, New York

INDRA BASU
NOTARY PUBLIC
State of New Jersey
ID # 50117765

I do certify that I have examined the foregoing petition and Survey Sketch and certify that they conform to Ordinances of the Town of Amherst.

Town Engineer

Receipt is hereby acknowledged of the sum of $, being the required fees established by the Town Board of the Town of Amherst, N.Y.

Town Clerk

Public/Private Improvement Permit No. 3073

Attachment: DOC123020 (RES-2021-74 : PIP 3073 - Auden Amherst Development - Sanitary Sewer)