

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

**Agenda – 523<sup>rd</sup> Meeting**

**Friday, April 23, 2021-8:30 am**

**James J. Allen Boardroom**

**Agency Offices – 4287 Main Street, Amherst, NY 14226**

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Executive Director's Report
6. Committee Reports
7. Unfinished Business
8. New Business
  - I. Authorization Resolutions
    - a. York Acquisitions, LLC (Aspen Heights)
    - b. Amherst Community Solar LLC
9. Adjournment

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

**Minutes of the 522<sup>nd</sup> Meeting**

**March 19, 2021 – 8:49 am**

**James J. Allen Boardroom**

**Agency Offices, 4287 Main Street**

**Due to the Covid-19 Pandemic and pursuant to Governor Andrew Cuomo’s Executive Order No.202.1, the Amherst IDA Board of Directors meeting was conducted through Zoom.com and live streamed at [www.AmherstIDA.com](http://www.AmherstIDA.com). In physical attendance at the meeting at AIDA offices was Executive Director David Mingoia. A video recording of the meeting can be accessed and viewed at [www.AmherstIDA.com](http://www.AmherstIDA.com).**

PRESENT via Zoom.com: Carlton N. Brock, Jr.  
William Tuyn  
Anthony Agostino  
Hon. Timothy J. Drury  
Philip Meyer  
Frank L. LoTempio  
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Hadar Borden

GUESTS via Zoom.com: Jacqueline Berger, TOA Councilmember  
Justin Reid, The Bonadio Group  
AIDA Staff

Chairman Carlton N. Brock, Jr. called the meeting to order.

**MINUTES**

Executive Director informed the Board that the draft minutes of the January 2021 meeting are to be amended to include Kevin J. Zanner, Esq., and Joseph M. Reynolds being voted in as Assistant Secretaries of the Amherst IDA.

Upon a motion by Anthony Agostino, seconded by Timothy Drury and unanimously carried, the minutes of the January 2021 meeting were approved with the amendment to include Kevin J. Zanner, Esq. and Joseph M. Reynolds as being voted in as Assistant Secretaries.

**BILLS & COMMUNICATIONS**

There were no Bills & Communications presented at this meeting.

**TREASURER’S REPORT**

Upon a motion by Frank LoTempio, seconded by Timothy Drury and unanimously carried, the Treasurer’s Reports for January and February 2021 were approved as presented.

**PUBLIC COMMENT**

There was no Public Comment at this meeting.

Frank Lo Tempio made a motion to move Committee Reports ahead of the Executive Director's Report on the agenda in order to accommodate Justin Reid of the The Bonadio Group, who was presenting the 2020 Audit Report. Judge Drury seconded the motion. The motion to approve passed 6-0 with votes of aye from Brock, Tuyn, Agostino, Meyer, Drury and LoTempio.

## **COMMITTEE REPORTS**

**Audit & Finance Committee** – Anthony Agostino informed the board that the Audit & Finance Committee had met with the Agency's auditor, Justin Reid from The Bonadio Group in February. Mr. Reid was invited to speak to the board. Mr. Reid gave the board a presentation of the 2020 Audited Financial Statements.

There was a brief discussion after the presentation. William Tuyn made a motion to accept the 2020 Audited Financial Statements as presented. Frank LoTempio seconded the motion. Votes of aye to accept the 2020 Audited Financial Statements were made by Brock, Tuyn, Agostino, Drury, Meyer, LoTempio. Motion to approve passed 6-0.

**Governance Committee** – The Governance Committee met earlier in the month and recommended the approval the 2020 Mission Statement and Measurement Report as presented. Frank LoTempio made a motion to approve the 2020 Mission Statement and Measurement Report. Judge Drury seconded the motion. Votes of aye were cast by Brock, Tuyn, Agostino, Drury, Meyer and LoTempio. Motion to approve passed 6-0.

9:02 am – Justin Reid left the meeting

## **EXECUTIVE DIRECTOR'S REPORT**

The Executive Director's Report is attached to these minutes.

## **UNFINISHED BUSINESS**

There was no unfinished business presented at this meeting.

## **NEW BUSINESS**

There was no New Business presented at this meeting.

## **ADJOURNMENT**

9:28 am – William Tuyn made a motion to adjourn the meeting. Judge Drury seconded the motion to adjourn. Votes of aye were cast by Brock, Tuyn, Agostino, Drury, Meyer and LoTempio. Motion to approve passed 6-0.



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***EXAMINATION REPORT***  
***Town of Amherst Industrial Development Agency***  
***Payment In Lieu of Taxes***

***03/23/2021***

**Background:**

On February 4<sup>th</sup>, 2008, the Town Board adopted Resolution 2008-193, "Full Accounting of Amherst IDA PILOT Program Payments".

The Town of Amherst Industrial Development Agency (AIDA) is a public benefit corporation created in 1973 in accordance with Article 18-A of New York State General Municipal Law. The Town of Amherst is the sole member of the corporation and the AIDA is a discretely presented component unit of the Town of Amherst.

The AIDA enters into contractual arrangements with client companies that have outstanding industrial development revenue bonds. The client companies make payments to the AIDA in lieu of taxes. Special District taxes are on the property tax bill sent out by the Town Clerk. The AIDA then collects and remits these payments to the various taxing jurisdictions.

PILOT payments for properties located in the Town of Amherst include the tax rates from the General Fund, Central Alarm, and Highway Fund. For properties located within the Village of Williamsville, the tax rates include the General Fund (Village's Share) and Central Alarm.

**Scope:**

The scope of our exam was to review that the Town of Amherst is receiving in full the PILOTS that are due, the accuracy of such payment calculations, including contractual agreements, and that such PILOT's assessed value agrees with the Town Assessor's records. We reviewed the 2021 AIDA PILOT payments.

The Office of the Town Comptroller in the scope of the work performed did not audit and does not express an opinion on the assessed values of properties in the Town of Amherst.

The Office of the Town Comptroller in the scope of the work performed does not express an opinion on the contractual agreements entered into with client companies and the AIDA.

**Steps and Procedures Performed:**

1. We read the 2020 Audited Financial Statements of the AIDA.
2. Obtain the PILOT listing for the current year from the AIDA.
3. Obtain the RPS Assessor Data Base listing of exemption code 18020 from the Assessor's Department.
4. We selected a sample of PILOT properties for 2021 and performed the following:
  - a. Re-calculated the PILOT and compared the results with the AIDA calculations.
  - b. Compared the assessed value used by the AIDA to the Assessors RPS listing.
  - c. Traced the PILOTS payments to the cash receipts received by the Town of Amherst.
  - d. Reviewed the contracts/property file of AIDA properties in our sample and compared the tax abatement percentage used in the calculation of taxes to the contract/property file.
5. Compared the PILOT listing from the AIDA with the Assessor's RPS listing for completeness.
6. Reviewed and reconciled all cash receipts with the AIDA listing.

**Findings:**

There were no reportable findings for 2021.

93.79% or \$863,069.24 of the \$920,194.76 total PILOTS due were collected by the February 16<sup>th</sup> due date. The balance of \$57,125.52 was collected past the due date with interest. (97.77% or \$804,583.63 of the \$822,915.29 for 2020, the balance of \$18,331.66 was collected past the due date with interest).

**Conclusion:**

It appears that Amherst Industrial Development Agency is calculating the PILOTS correctly based on the contractual requirements and assessed values of record with the Town of Amherst, and are remitting the proper amounts to the Office of the Town Comptroller, except as noted above.

**Recommendation:**

The Office of the Town Comptroller, on an annual basis, will perform the steps and procedures (as per above) of all new PILOTS added in the current year and a random sample of ten (10) existing PILOTS.

**Other:**

The workpapers of this examination are open for review in the Office of the Town Comptroller.

## **Executive Director's Report**

April 23, 2018

### **New York State Budget Finalized**

The Governor and State Legislature agreed to a \$212 Billion Budget that included a number of tax increases, program expansions and legalization of marijuana and mobile sports betting. While most tax increases were concentrated to high earners, this budget solidifies New York State's standing as having one of the top-3 tax burdens in the country.

A number of economic development specific tax credits were expanded or extended, including the Brownfield Tax Credit Program (of interest at Westwood and Amherst Central Park), and the Historic Rehabilitation Credit (of interest to the Boiler House). A \$1 billion fund was established that provides grants and tax credits to small businesses, restaurants, and arts and entertainment venues impacted by COVID-19. There are no details currently on the roll-out of this funding, but the bulk of the funding (\$800 million) is allocated to small business grants.

Childcare is an increasingly becoming an economic development issue and the State budget expands tax credits to employers that provide it for workers and allocates more than \$2 billion in federal funding to increase subsidies for eligible workers and to provide direct grants to childcare providers.

\$50 million is allocated to employer driver training for low-income workers, as well as training for small businesses to hire furloughed, laid-off or new employees. This is important considering that 1 in 4 jobs lost during the pandemic were in hospitality fields and many of these positions are not coming back. Additionally, this provides a path to a higher skilled, higher paying position.

Transportation initiatives are funded at \$1 billion, which is a 32% increase. Most of this funding is allocated to roadway improvements and repairs.

On the Energy front, the State plans to invest over \$2 billion connecting renewable energy generation facilities to the power grid and a number onshore and offshore wind projects. It also requires any solar projects in excess of 5 MW to be constructed with prevailing wage. Language in the budget requires the Department of Taxation and Finance to collaborate with NYSERDA and the NYS Assessors' Association to develop uniform property tax assessment models for wind and solar projects.

The FY 2022 budget did not include specific regulations or general municipal law changes that negatively impact Industrial Development Agencies, we are still awaiting the creation of the Incentives Board, appointed by the Governor and Legislature, that was enacted in the FY 2021 budget whose purpose is to promulgate regulations on the prevailing wage bill for projects over \$5 million in construction and receiving more than 30% in incentives.

Other IDA specific bills are in various committees in the Senate and Assembly and focus on the following topics:

- Prohibit elected officials from serving on IDA Boards
- Modify the procedure for selling property
- Allow IDAs and Local Development Corporations to be audited by the County Comptroller
- Strengthen the power of the Authority Budget Office to allow it suspend board members and annul an agency for a variety of compliance deficiencies
- Prevent the provision of incentives on projects that already started
- Projects failing to meet a material factor must be clawed back on, removing any discretion by the Board

**PROJECT PROFILE:**  
**ASPEN - MUIR WOODS INFRASTRUCTURE DEVELOPMENT**  
**\$83,273,930**  
**April 23, 2021**



**ELIGIBILITY**

- Commercial Project under NYS Law

**COMPANY INCENTIVES (EST.)**

- Property Tax = \$6,507,039
- Sales Tax = \$2,263,000
- Mortgage Tax = \$405,961

**PROJECT BENEFITS (EST.)**

- Property Taxes = \$4,521,841
- Income Taxes = \$2,084,000
- Sales Taxes = \$1,334,000

**EMPLOYMENT**

- 497 Construction Jobs Created
- 9 Full-Time Jobs Created
- 2 Part-Time Jobs Created
- Average Salary of New Jobs = \$40,000

**PROJECT SCHEDULE**

- November 2021- Project Begins
- July 2023 - Project Complete

**Project Address:**

1081 North French Road  
 Amherst, New York 14221  
 (Sweet Home School District)

**Investment:**

Land Acquisition: \$4,500,000  
 Construction: \$68,024,916  
 Soft/Other Costs: \$10,749,014

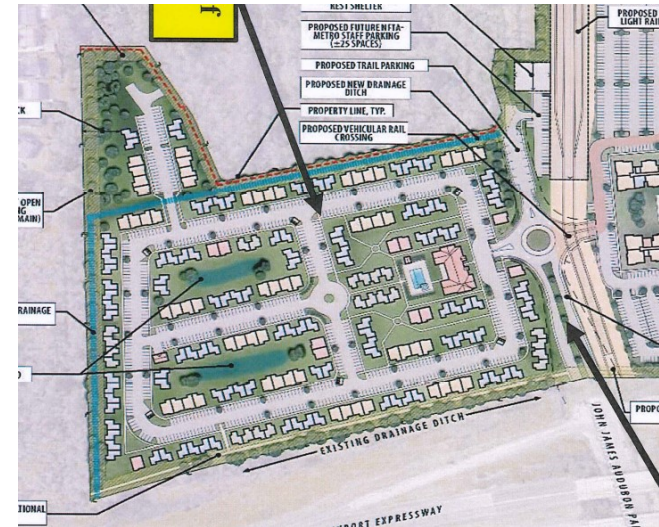
**Company Description:**

The project applicant is Aspen Heights, a national student housing developer based in Austin, Texas with over \$1.6 billion in multifamily residential and student development and management since its founding in 2006. Aspen Heights' focus on quality and construction and development creating designs that integrate into the community has enabled the company to build a strong track record with projects throughout the mid-west and south. The nearest facility is located in Syracuse, New York.

**Project Description:**

Aspen Heights, through York Acquisitions LLC, is proposing to construct and manage a multi-phase student housing development on the Muir Woods parcel to include 830 beds in cottage/townhome style units.. The developer is faced with preliminary estimates of \$5,000,000 in extraordinary off-site public benefit infrastructure expenses as directed by the New York State Department of Transportation and others. Included in these costs is design allowance for a future NFTA-Metro Light Rail or Enhanced Transit Stop. Construction costs, through material and labor increases caused by the pandemic, impact the feasibility of the project.

The proposed project is a deviation from the uniform tax exemption policy and leverages a payment in lieu of tax (PILOT) arrangement to mitigate extraordinary expenses not limited to roadway widening, traffic circle, water and sewer extensions and electric utility infrastructure. Any project proposed for this site would require similar off-site infrastructure. Upon construction, the public infrastructure improvements will be transferred to the requisite entities.





**PROJECT PROFILE:**  
**ASPEN - MUIR WOODS INFRASTRUCTURE DEVELOPMENT**  
**\$83,273,930**

**Page 2**

**AIDA COMPANY HISTORY:**

None

**MATERIAL TERMS:**

1. Investment of not less than \$70,782,840 at the project location and on off-site infrastructure as noted in the application.
2. Successful completion of construction of off-site infrastructure and transfer of ownership to the requisite entities.
3. Creation and of 9 full time equivalent jobs at the project location and maintaining these jobs for the duration of the PILOT.
4. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project.

**Cost-Benefit Analysis for Aspen Muir Woods Infrastructure Project**

Prepared by this agency using InformAnalytics

# Executive Summary

INVESTOR  
**York Acquisitions, LLC**

TOTAL INVESTED  
**\$83.3 Million**

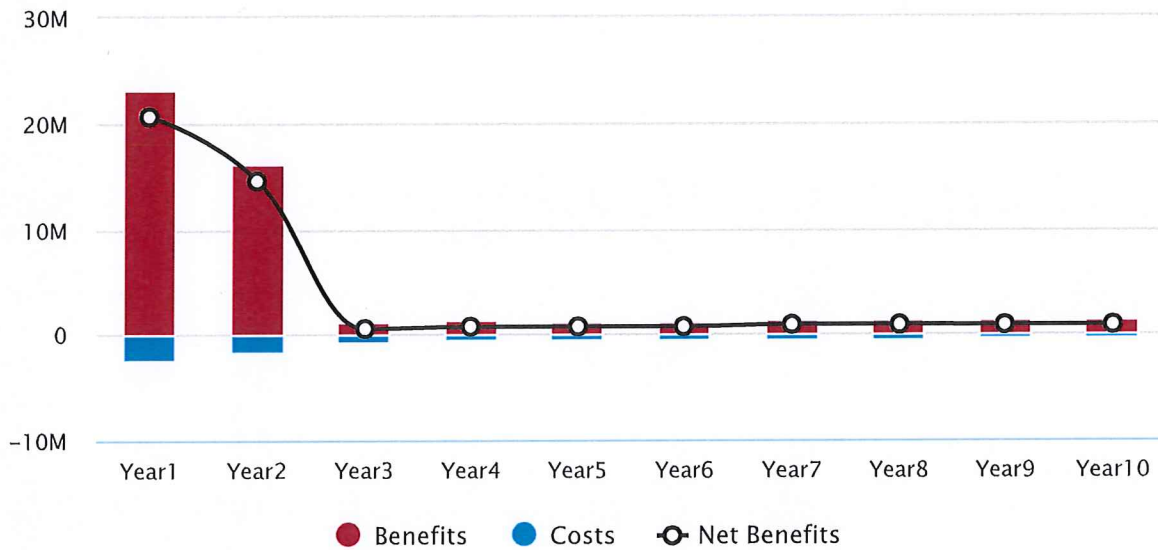
LOCATION  
**1121 North French**

TIMELINE  
**10 Years**

F1 FIGURE 1

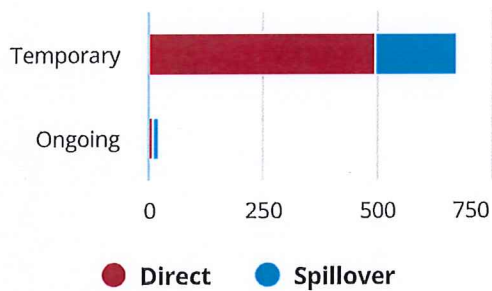
Discounted\* Net Benefits for Aspen Muir Woods Infrastructure Project by Year

Total Net Benefits: **\$41,529,000**



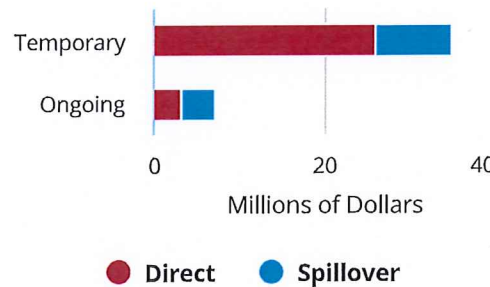
F2 FIGURE 2

Total Jobs



F3 FIGURE 3

Total Payroll



# Proposed Investment

York Acquisitions, LLC proposes to invest \$83.3 million at 1121 North French over 10 years. Agency staff summarize the proposed with the following: Aspen Heights, through York Acquisitions LLC, is proposing to construct and manage a multi-phase student housing development on the Muir Woods parcel to include 830 beds in cottage/townhome style units.. The developer is faced with preliminary estimates of at least \$5,000,000 in extraordinary off-site public benefit infrastructure expenses as directed by the New York State Department of Transportation and others. Included in these costs is design allowance for a future NFTA-Metro Light Rail or Enhanced Transit Stop. Construction costs, through material and labor increases caused by the pandemic, impact the feasibility of the project.

T1 TABLE 1

## Proposed Investments

Description	Amount
<b>CONSTRUCTION SPENDING</b>	
Project Development	\$68,025,000
<b>OTHER SPENDING</b>	
Soft Costs	\$10,749,000
Land Acquisition	\$4,500,000
<b>Total Investments</b>	<b>\$83,274,000</b>
<b>Discounted Total (2%)</b>	<b>\$82,740,000</b>

May not sum to total due to rounding.

F4 FIGURE 4

## Location of Investment



# Cost-Benefit Analysis

A cost-benefit analysis of this proposed investment was conducted using InformAnalytics, an economic impact model developed by CGR. The report estimates the impact that a potential project will have on the local economy based on information provided by the agency. The report calculates the costs and benefits for specified local taxing districts over the first 10 years, with future returns discounted at a 2% rate.

T2 TABLE 2

## Estimated Costs or Incentives

The agency is considering the following incentive package for York Acquisitions, LLC.

Description	Nominal Value	Discounted Value*
Property Tax Exemption	\$5,849,000	\$5,399,000
Sales Tax Exemption	\$2,262,000	\$2,244,000
Mortgage Recording Tax Exemption	\$406,000	\$406,000
Total Costs	\$8,516,000	\$8,049,000

May not sum to total due to rounding.

\* Discounted at 2%

T3 TABLE 3

**State & Regional Impact (Life of Project)**

The following table estimates the total benefits from the project over its lifetime.

Description	Direct	Spillover	Total
<b>REGIONAL BENEFITS</b>	<b>\$34,366,000</b>	<b>\$13,617,000</b>	<b>\$47,982,000</b>
<b>To Private Individuals</b>	<b>\$29,802,000</b>	<b>\$13,392,000</b>	<b>\$43,194,000</b>
Temporary Payroll	\$26,144,000	\$9,074,000	\$35,218,000
Ongoing Payroll	\$3,658,000	\$4,318,000	\$7,977,000
<b>To the Public</b>	<b>\$4,564,000</b>	<b>\$224,000</b>	<b>\$4,788,000</b>
Property Tax Revenue	\$4,064,000	N/A	\$4,064,000
Temporary Sales Tax Revenue	\$438,000	\$152,000	\$590,000
Ongoing Sales Tax Revenue	\$61,000	\$72,000	\$134,000
<b>STATE BENEFITS</b>	<b>\$1,868,000</b>	<b>\$826,000</b>	<b>\$2,694,000</b>
<b>To the Public</b>	<b>\$1,868,000</b>	<b>\$826,000</b>	<b>\$2,694,000</b>
Temporary Income Tax Revenue	\$1,278,000	\$444,000	\$1,722,000
Ongoing Income Tax Revenue	\$170,000	\$193,000	\$362,000
Temporary Sales Tax Revenue	\$369,000	\$128,000	\$497,000
Ongoing Sales Tax Revenue	\$52,000	\$61,000	\$113,000
<b>Total Benefits to State &amp; Region</b>	<b>\$36,234,000</b>	<b>\$14,442,000</b>	<b>\$50,676,000</b>
<b>Discounted Total Benefits (2%)</b>	<b>\$35,646,000</b>	<b>\$13,933,000</b>	<b>\$49,579,000</b>

May not sum to total due to rounding.



T4 TABLE 4

**Benefit to Cost Ratio**

The following benefit to cost ratios were calculated using the discounted totals.

Description	Benefit*	Cost*	Ratio
Region	\$46,947,000	\$6,753,000	7:1
State	\$2,632,000	\$1,297,000	2:1
Grand Total	\$49,579,000	\$8,049,000	6:1

**May not sum to total due to rounding.**

\* Discounted at 2%

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CGR has exercised reasonable professional care and diligence in the production and design of the InformAnalytics™ tool. However, the data used is provided by users. InformAnalytics does not independently verify, validate or audit the data supplied by users. CGR makes no representations or warranties with respect to the accuracy of the data supplied by users.

**RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A RESIDENTIAL STUDENT HOUSING DEVELOPMENT BY YORK ACQUISITIONS, LLC, TO BE LOCATED AT 1081 NORTH FRENCH ROAD, AMHERST, NEW YORK, FOR LEASE OR SALE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO A LEASE OR AN INSTALLMENT SALE CONTRACT TO YORK ACQUISITIONS, LLC, THE EXECUTION OF A MORTGAGE AGREEMENT, LEASE AGREEMENT AND/OR INSTALLMENT SALE CONTRACT, A CUSTOMIZED PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.**

**WHEREAS**, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

**WHEREAS**, York Acquisitions, LLC, for itself or for related individuals or entities (collectively, the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (a) the acquisition of a leasehold interest in a parcel of vacant land located at 1081 North French Road in the Town of Amherst, New York (the “Land”); (b) the construction thereon of a student housing development to include up to 830 beds in cottage/townhome style units, a clubhouse area and related amenities and improvements (the “Improvements”); and (c) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”); and

**WHEREAS**, the Company has submitted an application and other materials and information (collectively, the “Application”) to the Agency to initiate the accomplishment of the above; and

**WHEREAS**, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the construction of an 830+/- bed student housing development, to be located at 1081 North French Road, Amherst, New York, all at a cost of approximately \$83,274,000; that the Company anticipates that nine (9) full-time equivalent (FTE) employment positions will be created; that (i) the Project will provide substantial capital investment, including a commitment from the Company to undertake and complete significant off-site infrastructure improvements; (ii) that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project; and



**WHEREAS**, Section IV of the Countywide Uniform Tax Exemption Policy the (“UTEP”) permits the Agency to deviate from its standard payment in lieu of taxes agreement schedule in accordance with the requirements set forth in the UTEP and applicable provisions of the General Municipal Law; and

**WHEREAS**, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly delivered a notice of deviation on February 16, 2021 to the chief executive officers of each of the affected taxing jurisdictions and the industrial development agencies located in Erie County regarding the proposed non-standard PILOT Agreement for the Project; and

**WHEREAS**, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on March 4, 2021, and has considered all oral and written presentations made at or in connection with said public hearing; and

**WHEREAS**, the Agency has reviewed the Application, prepared a cost-benefit analysis with respect to the Project and considered the extent to which the Project will create and retain permanent, private-sector jobs, the value of tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

**WHEREAS**, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project in the Town of Amherst; and

**WHEREAS**, the Company has determined it will complete the Project by obtaining a conventional loan(s) from a third party, and the Company has requested that the Agency execute any and all documents required by the parties, including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

**WHEREAS**, the Town of Amherst Planning Board (the “Planning Board”) served as lead agency pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) (“SEQRA”) for the Company’s project. The Agency was duly identified as an involved agency in Part 1 of a long-form Environmental Assessment Form (“EAF”) which was completed by the Company, a copy of which was provided to the Agency and is attached hereto as part of Exhibit A; and

**WHEREAS**, on April 15, 2021, the Planning Board made a determination that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment (the “SEQRA Findings”). A copy of the SEQRA Findings is attached hereto as part of Exhibit A.

**NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:**

**Section 1.** Based upon the Agency's review of the Company's Application, the EAF and the SEQRA Findings issued by the Planning Board, the Agency hereby: (a) consents to and affirms the status of the Planning Board as lead agency within the meaning of, and for all purposes of complying with, SEQRA; (b) determines that the proceedings undertaken by the Planning Board as lead agency under SEQRA with respect to the acquisition, construction and equipping of the Project satisfy the requirements of SEQRA, and ratifies and confirms such proceedings by the Planning Board as lead agency; and (c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance (as defined herein) contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

**Section 2.** The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: (i) an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$25,851,573.00, (ii) an exemption from mortgage recording taxes for one or more mortgages having an aggregate principal amount not to exceed \$54,128,260.00, and (iii) an abatement from real property taxes in accordance with a customized ten (10) year payment in lieu of tax schedule as set forth in Exhibit B attached hereto (collectively, the "Financial Assistance"). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the "Compliance Period") to comply with the following covenants and agreements, each of which shall constitute a "Material Factor":

- (a) compliance with the Agency's Local Labor Policy in connection with the construction of the Project;
- (b) achievement of a total of nine (9) full-time equivalent (FTE) jobs at the Project within two years of Project completion and the retention of such jobs throughout the Compliance Period;
- (c) successful completion of construction of all off-site infrastructure and transfer of ownership to the requisite entities; and
- (d) investment of not less than \$70,782,840 in the acquisition, renovation and equipping of the Project.

**Section 3.** The Project is for a commercial purpose within meaning of the Act. The Project will be located in a section of Town of Amherst that is in need of residential housing units of the kind and quality proposed by the Company. The Project is consistent with the Town of Amherst Comprehensive Plan, which provides for additional housing opportunities and choices, including higher density housing. In making this determination, the Agency has also considered the following factors which further support its findings: (i) the Project has the support of the Town of Amherst government; (ii) the Project is compliant with the investment and growth criteria of the Town of Amherst Comprehensive Plan calling for a strong tax base and development in convenient and

accessible locations; (iii) a northerly extension of John James Audubon Parkway has been designated for development for the past 50 years and the Company has agreed to undertake and complete substantial off-site infrastructure improvements in connection with the Project; and (iv) the Company has provided appropriate evidence demonstrating the financial obstacles to the development of the Project without Agency assistance.

**Section 4.** The proposed Financial Assistance for the Project deviates from the UTEP as the proposed payment in lieu of real estate tax arrangement utilizes abatement percentages that differ from the standard abatement percentages under the UTEP. The Agency hereby approves of the deviation from the UTEP and authorizes the provision of the Financial Assistance as described herein. In making this determination, the Agency has considered the following factors as required by the Act and the UTEP, no single one of which is determinative:

1. The extent to which the Project will create or retain permanent private sector jobs. The Project is expected to create nine full-time positions and two part-time positions, with an estimated annual total payroll of \$539,660.00.
2. The estimated value of tax exemptions to be provided. The estimated value of the sales and use tax benefit for the Project is an amount up to \$2,263,013.00. The estimated value of the mortgage recording tax benefit is an amount up to \$405,961.00. The estimated value of the real property tax benefit is \$6,507,039.00.
3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided. The Company will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.
4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity. The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst. The Company has committed to making significant off-site infrastructure improvements that will benefit the Project site and facilitate additional development adjacent to the Project. The Company has identified in its Application the following improvements and associated costs (the aggregate estimated cost of which is \$4,946,871.00):
  - (i) W/S Line Extension to Main at Dodge Road: \$2,051,943.00;
  - (ii) John Jay Audubon Extension w/onsite roundabout: \$876,169.00
  - (iii) National Grid Line Extension to Dodge Road - \$1,198,026.00;
  - (iv) Roundabout at John James Audubon Parkway and 1-990 as required by the NYS Department of Transportation - \$350,000.00;
  - (v) Lane widening for exit ramps of the 1-990 as required by the NYS Department of Transportation - \$275,000.00;

- (vi) Paved secondary emergency access/recreational trail connecting to Dodge Road - \$145,733,00
  - (vii) DOT - Design and Engineering: \$50,000.00
- 5. The amount of private sector investment generated or likely to be generated by the proposed Project. The total private sector investment in the Project is expected to exceed \$83,273,930.00.
- 6. The demonstrated public support for the Project. The Town of Amherst has expressed its support for the Project. The Town Board approved the Company's request for a special use permit for dormitory use on November 12, 2019.
- 7. The likelihood of accomplishing the proposed Project in a timely fashion. The Project is expected to be completed in a timely manner. Construction is expected to begin in the fall of 2021, with completion in late spring of 2023.
- 8. The effect of the proposed Project upon the environment. The Town of Amherst has served as lead agency for the coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA) for the Muir Woods Project, which encompasses 326+/- acres that are located generally north of the I-990, south of North French Road, east of Sweet Home Road and west of Campbell Boulevard. The Project that is the subject of the Company's request for Financial Assistance will be located on Site B, which consists of approximately 46 acres of the Muir Woods Project site. As lead agency, the Town Board evaluated the environmental impacts of the Company's request to amend the SEQRA Findings Statement to permit Site B to be developed as a student housing community to include a maximum of 515 units. On August 5, 2019, the Town approved an amendment to the Findings Statement to permit student housing at the site based on its determination that the potential modifications to the Muir Woods Project would not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007 and the issuance of an Amended Findings Statement on December 7, 2015. On April 15, 2021, the Town of Amherst Planning Board approved the site plan for the project and made a finding that the requirements of SEQRA were complete, and that the project is not expected to have a significant adverse effect on the environment.
- 9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures. The Company is exploring environmentally responsible construction such as green infrastructure and renewable energy systems.
- 10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services. The Project is not expected to require the provision of additional services.

11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts. The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.

**Section 5.** The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

**Section 6.** The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

**Section 7.** The Company is authorized, as agent of the Agency, to initiate the construction of a building(s) or building addition(s) constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$70,550,000 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

**Section 8.** The Agency is hereby authorized to enter into a Project Agreement with respect the provision of the Financial Assistance authorized herein (the "Project Agreement") and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") or Installment Sale Contract (the "Installment Sale Contract") between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in form satisfactory to Agency counsel, are hereby authorized. The PILOT Agreement shall provide for payments in accordance with a customized ten (10) year payment in lieu of tax schedule as set forth on Exhibit B. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed

and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

**Section 9.** In the event the Company obtains one or more conventional loans to finance the cost of the Project or which will otherwise be secured by a lien on the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure such loans, and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$54,128,260.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

**Section 10.** Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

**Section 11.** Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

**Section 12.** In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which

the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement, (y) any exemption from real estate taxes received by reason of the Agency’s leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency’s involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

**Section 13.** The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company’s purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company each hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

**Section 14.** Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any “hazardous substance“ (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party

has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

**Section 15.** No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Mortgage Agreement, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

**Section 16.** Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

**Section 17.** This Resolution shall take effect immediately and shall continue in full force and effect for two (2) years from the date hereof and on or after such two (2) year anniversary, the Agency may, at its option either (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 11, 12 and 16 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency's fee schedule.

**Section 18.** This Resolution is subject to compliance with all local building and zoning requirements.

DATED: April 23, 2021

ACCEPTED AND AGREED TO: \_\_\_\_\_, 2021

**YORK ACQUISITIONS, LLC**

By: \_\_\_\_\_  
Name:  
Title:



**EXHIBIT A**

**EAF and SEQRA Findings**

## Instructions for Completing Part 1

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

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

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

### A. Project and Applicant/Sponsor Information.

Name of Action or Project: Proposed Student Housing Community		
Project Location (describe, and attach a general location map): 1081 and 1121 North French Road [SBL Nos. 40.08-3-1.11/A & 40.08-3-1.11] - Town of Amherst - Erie County [Phase I located on 1081 North French Rd.]		
Brief Description of Proposed Action (include purpose or need): The proposed action consists of Phase 1 of a student housing project at 1081 and 1121 North French Road (the "Project Site"). The project consists of 208 units (830 beds). The project includes necessary clearing of the entire Project Site including the easternmost 17.7 acres to be developed in future as Phase 2 of the project. The action has been defined broadly to include all required discretionary approvals and permits as well as all site improvements including the proposed student housing buildings, an extension of John James Audubon as a public roadway to be dedicated to the Town of Amherst, access aisles, parking spaces, driveways, wetland impacts, lighting, landscaping, on-site storm water management improvements, on-site and off-site sanitary sewer improvements and water lines and connections and all other required utility improvements. The project purpose is to develop Site "B" of overall Muir Woods Project Site as a student housing community in a manner generally consistent with the fully engineered for the student housing community. The project is a Type I action pursuant to SEQRA. The Town of Amherst Town Board issued an Amended Findings Statement pursuant to the State Environmental Quality Review Act ("SEQRA") to allow student housing on the Project Site on August 5, 2019 and the project is consistent with the Amended Findings Statement as well as the adopted Bicentennial Comprehensive Plan.		
Name of Applicant/Sponsor: Aspen Heights Partners c/o Sean Hopkins, Esq.	Telephone: (716) 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role):	Telephone:	
	E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Ciminelli Muir Woods LLC	Telephone: (716) 631-8000 E-Mail: afaeth@ciminelli.com	
Address: 50 Fountain Plaza, Suite 500		
City/PO: Buffalo	State: NY	Zip Code: 14202

## B. Government Approvals

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

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board - PIPs and ownership of off-site sanitary sewer improvements	To be determined
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Planning Board - Site Plan Approval	September 20, 2020 [pending before the Planning Board]
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Eng. Dept. - Storm. Permit; Building Dept. - Build. & Floodplain Permit; AIDA - Financial incentives	To be determined [AIDA Application pending]
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ECWA - Water connection; ECHD - Sanitary Sewer Permit	To be determined
f. Regional agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Potential Extension of NFTA light rail and related on-site improvements [east portion of Project Site]	Not Applicable
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYS DOT - Break-in-Access & Highway Work Permit and NYS DEC - SPDES Permit	Break-in-Access Application pending
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## C. Planning and Zoning

### C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

### C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐ Yes ☒ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☒ Yes ☐ No

If Yes, identify the plan(s):  
NYS Heritage Areas: West Erie Canal Corridor

[Note: The proposed project will not have any adverse impacts on the West Erie Canal Corridor.]

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

### C.3. Zoning

- a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No  
If Yes, what is the zoning classification(s) including any applicable overlay district?

The Project Site is zoned New Community District ("NCD") pursuant to the Town of Amherst Zoning Map.

- b. Is the use permitted or allowed by a special or conditional use permit? [Special use permit for dormitory use issued by the Town Board on November 12, 2019.] ☒ Yes ☐ No

- c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No  
If Yes,

i. What is the proposed new zoning for the site?

### C.4. Existing community services.

- a. In what school district is the project site located? The western portion of the Project Site is located in the Sweet Home Central School District and the eastern portion of the Project Site is located in the Williamsville School District.

- b. What police or other public protection forces serve the project site?

Town of Amherst Police Department.

- c. Which fire protection and emergency medical services serve the project site?

Fire Protection- Getzville Fire Company. Emergency Medical Ambulance Services- Twin City Ambulance Service.

- d. What parks serve the project site?

Walton Woods Park- Town of Amherst (.57 mile); Nature View Park- Town of Amherst (2.0 miles); Ellicott Creek Park- Erie County (2.4 miles); Audubon Municipal Golf Course- Town of Amherst (3.5 miles); Glen Oaks Municipal Golf Course- Town of Amherst (4.7 miles)

### D. Project Details

#### D.1. Proposed and Potential Development

- a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? The proposed project consists of student housing units for lease.

- |  |             |  |
|--|-------------|--|
| b. a. Total acreage of the site of the proposed action?  | 41.4± acres | [Note: The Phase I student housing project will occupy the western 23.7 acres of Site "B" of the Muir Woods Property.] |
| b. Total acreage to be physically disturbed?   | 38.5± acres |  |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | 326± acres  |  |

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

- d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No  
If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☒ No

iii. Number of lots proposed? 2

iv. Minimum and maximum proposed lot sizes? Minimum 23.7 acres Maximum 23.7 acres

- e. Will the proposed action be constructed in multiple phases? ☒ Yes ☐ No

i. If No, anticipated period of construction: \_\_\_\_\_ months

ii. If Yes:

- |  |                    |  |
|--|--------------------|--|
| • Total number of phases anticipated   | 2                  | The timing of the development of the eastern portion of Site B has not yet been determined and will be dependent on numerous factors including market conditions at that time. |
| • Anticipated commencement date of phase 1 (including demolition)  | 03 month 2021 year |  |
| • Anticipated completion date of final phase   | 08 month 2025 year |  |
| • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: |                    |  |

The first phase of the project will include the construction of the proposed extension of Audubon Parkway as public roadway and a gated emergency access only road connecting Site "B" with Sites "C" and "D" of the overall Muir Woods Project as required by Appendix D of the NYS Fire Code.

f. Does the project include new residential uses? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>				
If Yes, show numbers of units proposed.				
<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>	
Initial Phase			220 [Phase I]	
At completion of all phases			503	

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes,	
i. Total number of structures _____	
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length	
iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If Yes,	
i. Purpose of the impoundment: <u>Stormwater detention</u>	
ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input checked="" type="checkbox"/> Other specify: <u>Management of stormwater runoff from impervious surfaces per applicable stringent NYSDEC stormwater quality and quantity standards.</u>	
iii. If other than water, identify the type of impounded/contained liquids and their source. _____	
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ 1.0± acres	
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length	
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): <u>Proposed stormwater facilities will be excavated from existing earth and does not constitute a dam.</u>	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes:	
i. What is the purpose of the excavation or dredging? _____	
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?	
<ul style="list-style-type: none"> <li>• Volume (specify tons or cubic yards): _____</li> <li>• Over what duration of time? _____</li> </ul>	
iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____	
iv. Will there be onsite dewatering or processing of excavated materials? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If yes, describe. _____	
v. What is the total area to be dredged or excavated? _____ acres	
vi. What is the maximum area to be worked at any one time? _____ acres	
vii. What would be the maximum depth of excavation or dredging? _____ feet	
viii. Will the excavation require blasting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
ix. Summarize site reclamation goals and plan: _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): <u>Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) as issued on December 17, 2019 and USACE (Permit No. 2001-00067) as issued by the USACE on December 12, 2019.</u>	

[Note: The project includes the required wetland mitigation for the authorized impacts to wetlands subject to the jurisdiction of the NYSDEC and USACE on Site "B" of the overall Muir Woods Property. A copy of Permit No. 9-1422-0398/00001 as issued by the NYSDEC on December 17, 2019 is attached as Exhibit "11" and a copy of Permit No. 2001-00067 as issued by the USACE on December 12, 2019 is attached as Exhibit "12".]

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres: Wetland impacts associated with the development of Site B have been approved by the NYSDEC (Permit No. 9-1422-0398/00001) and the USACE (Permit No. 2001-00067). The required wetland mitigation for the wetland impacts for the development of Site "B" will be implemented in connection with its development as a student housing project.

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☒ Yes ☐ No  
If Yes, describe: Existing Federal Jurisdictional ditches at the property will be relocated and/or removed in association with approved permitting.

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☒ No

If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water? ☒ Yes ☐ No

If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ 263,250± gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☒ Yes ☐ No

If Yes:

- Name of district or service area: Amherst Water District No. 15
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☐ Yes ☒ No

iii. Will line extension within an existing district be necessary to supply the project? ☒ Yes ☐ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
Public extension of waterline along Audubon Parkway to service the site, private extensions throughout site.
- Source(s) of supply for the district: Erie County Water Authority

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☒ No

If, Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes? ☒ Yes ☐ No

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ 175,500± gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_  
Sanitary wastewater.

iii. Will the proposed action use any existing public wastewater treatment facilities? ☒ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: Amherst Wastewater Treatment Plant #16
- Name of district: Amherst Sewer District 16
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

[Note: In connection with the Site Plan review process, a Downstream Sanitary Sewer Capacity Analysis will be prepared to evaluate downstream sanitary sewer capacity during wet weather conditions.]

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? _____</li> <li>• Will a line extension within an existing district be necessary to serve the project? _____</li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____</li> </ul> <p>Connection of forcemain to the 60" diameter Peanut Line Interceptor from the Project Site and installation of collector sewers in the site. _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____</p> <p>_____</p> <p>_____</p>	
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____</p> <p>_____</p> <p>_____</p>	
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="margin-left: 40px;">_____ Square feet or <u>21.2±</u> acres (impervious surface)</p> <p style="margin-left: 40px;">_____ Square feet or <u>41.4±</u> acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>_____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____</p> <p>Storm flow directed to several on-site storm water management areas prior discharging to on-site ditches. The on-site storm water management system will need to be reviewed and approved by the Engineering Department in connection with the site plan review process.</p> <ul style="list-style-type: none"> <li>• If to surface waters, identify receiving water bodies or wetlands: _____</li> <li style="margin-left: 40px;">Town ditch to Ellicott Creek.</li> <li>• Will stormwater runoff flow to adjacent properties? _____</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)</p> <p style="margin-left: 40px;">The project may have tractor/trailer based deliveries and will include shuttle bus service for students to and from the UB North Campus.</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)</p> <p>Dependent on weather conditions and building construction schedules, there may be stationary combustion based equipment for power and heating on site</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)</p> <p style="margin-left: 40px;">Project may require typical commercial grade generators and on-site mechanical units for emergency power and HVAC.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<h style="margin: 0;">h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?</h> <div style="text-align: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div>	
<p><b>If Yes:</b></p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>	
<h style="margin: 0;">i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?</h> <div style="text-align: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div>	
<p><b>If Yes:</b> Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>	
<h style="margin: 0;">j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?</h> <div style="text-align: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div>	
<p><small>[Note: An updated TIS is being prepared by GPI Engineering for the purpose of evaluating potential traffic impacts of the student housing community based on input received from NYSDOT and copies of the updated TIS will be submitted upon completion.]</small></p> <p><b>If Yes:</b></p> <p>i. When is the peak traffic expected (Check all that apply):    <input type="checkbox"/> Morning    <input type="checkbox"/> Evening    <input type="checkbox"/> Weekend</p> <p>   <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____</p>	
<p>iii. Parking spaces:    Existing _____    Proposed _____    Net increase/decrease _____</p>	
<p>iv. Does the proposed action include any shared use parking? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____</p>	
<p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<h style="margin: 0;">k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?</h> <div style="text-align: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div>	
<p><b>If Yes:</b></p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p>	
<p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<h style="margin: 0;">l. Hours of operation. Answer all items which apply.</h>	
<p><b>i. During Construction:</b></p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ 7:00 a.m. to 7:00 p.m. _____</li> <li>• Saturday: _____ 7:00 a.m. to 5 p.m. _____</li> <li>• Sunday: _____ As needed _____</li> <li>• Holidays: _____ As needed _____</li> </ul>	<p><b>ii. During Operations:</b></p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ 24 hours per day _____</li> <li>• Saturday: _____ 24 hours per day _____</li> <li>• Sunday: _____ 24 hours per day _____</li> <li>• Holidays: _____ 24 hours per day _____</li> </ul>



<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?</p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p style="margin-left: 20px;"><u>Operation of construction vehicles during site construction of the project. This represents a temporary unavoidable impact.</u></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>n. Will the proposed action have outdoor lighting?</p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p style="margin-left: 20px;"><u>The project will utilize standard pole mounted and exterior wall pack lighting for residential buildings and parking areas.</u></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day?</p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?</p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?</p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p style="margin-left: 20px;"><u>Potential use of lawn fertilizer and pesticides on maintained portions of property in accordance with applicable standards for application and use of lawn fertilizer and pesticides.</u></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will the proposed action use Integrated Pest Management Practices?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?</p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_

ii. Anticipated rate of disposal/processing:

- \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or
- \_\_\_\_\_ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_

ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_

iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: \_\_\_\_\_

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: \_\_\_\_\_

## E. Site and Setting of Proposed Action

### E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)  
☒ Forest ☐ Agriculture ☐ Aquatic ☒ Other (specify): Lockport Expressway [I-990]

ii. If mix of uses, generally describe:

The Project Site is located within the Town of Amherst Audubon New Community District, a 3,000 acre planned mixed-use community. The Audubon New Community District features single family residential development, office parks, and major open space in close proximity to the Project Site.

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	-	24.2±	+ 24.2
• Forested	24.3±	1.8±	- 22.5
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	15.7±	0.8±	- 14.9
• Agricultural (includes active orchards, field, greenhouse etc.)	-	-	-
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.3±	0.8±	+ 0.5
• Wetlands (freshwater or tidal)	1.1±	0.2±	- 0.9
• Non-vegetated (bare rock, earth or fill)	-	-	-
• Other Describe: Landscaping & Lawns	-	13.6±	+ 13.6

c. Is the project site presently used by members of the community for public recreation? ☒ Yes ☐ No  
i. If Yes: explain: The property is privately owned but there has been occasional unauthorized recreational use.

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☒ Yes ☐ No  
If Yes,  
i. Identify Facilities:  
1. Heritage Heights Elementary School (Sweet Home School District- 2545 Sweet Home Road); 2. Creative Play Learning Center (Private Day Care Facility- 647 Dodge Road); 3. Four Seasons Child Care & Preschool (Private Day Care Facility- 1639 North French Road).

e. Does the project site contain an existing dam? ☐ Yes ☒ No  
If Yes:  
i. Dimensions of the dam and impoundment:  
• Dam height: \_\_\_\_\_ feet  
• Dam length: \_\_\_\_\_ feet  
• Surface area: \_\_\_\_\_ acres  
• Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
ii. Dam's existing hazard classification: \_\_\_\_\_  
iii. Provide date and summarize results of last inspection: \_\_\_\_\_  
\_\_\_\_\_

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐ Yes ☒ No  
If Yes:  
i. Has the facility been formally closed? ☐ Yes ☐ No  
• If yes, cite sources/documentation: \_\_\_\_\_  
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: \_\_\_\_\_  
\_\_\_\_\_

iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_  
\_\_\_\_\_

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐ Yes ☒ No  
If Yes:  
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: \_\_\_\_\_  
\_\_\_\_\_

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐ Yes ☒ No  
If Yes:  
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No  
☐ Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
☐ Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
☐ Neither database  
ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
\_\_\_\_\_

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☒ No  
If yes, provide DEC ID number(s): \_\_\_\_\_  
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>																			
<ul style="list-style-type: none"> <li>• If yes, DEC site ID number: _____</li> <li>• Describe the type of institutional control (e.g., deed restriction or easement): _____</li> <li>• Describe any use limitations: _____</li> <li>• Describe any engineering controls: _____</li> <li>• Will the project affect the institutional or engineering controls in place? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></li> <li>• Explain: _____</li> </ul>																			
<b>E.2. Natural Resources On or Near Project Site</b>																			
a. What is the average depth to bedrock on the project site? <span style="float: right;">5+ feet</span>																			
b. Are there bedrock outcroppings on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %																			
c. Predominant soil type(s) present on project site: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Cosad loamy fine sand</td> <td style="width: 40%; text-align: right;">80 %</td> </tr> <tr> <td>Cheektowaga fine sandy loam</td> <td style="text-align: right;">20 %</td> </tr> <tr> <td>_____</td> <td style="text-align: right;">%</td> </tr> </table>		Cosad loamy fine sand	80 %	Cheektowaga fine sandy loam	20 %	_____	%												
Cosad loamy fine sand	80 %																		
Cheektowaga fine sandy loam	20 %																		
_____	%																		
d. What is the average depth to the water table on the project site? Average: <span style="float: right;">0.0-1.5 feet</span>																			
e. Drainage status of project site soils: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><input type="checkbox"/> Well Drained:</td> <td style="width: 70%; text-align: right;">_____ % of site</td> </tr> <tr> <td><input type="checkbox"/> Moderately Well Drained:</td> <td style="text-align: right;">_____ % of site</td> </tr> <tr> <td><input checked="" type="checkbox"/> Poorly Drained</td> <td style="text-align: right;">100 % of site</td> </tr> </table>		<input type="checkbox"/> Well Drained:	_____ % of site	<input type="checkbox"/> Moderately Well Drained:	_____ % of site	<input checked="" type="checkbox"/> Poorly Drained	100 % of site												
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f. Approximate proportion of proposed action site with slopes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><input checked="" type="checkbox"/> 0-10%:</td> <td style="width: 70%; text-align: right;">100 % of site</td> </tr> <tr> <td><input type="checkbox"/> 10-15%:</td> <td style="text-align: right;">_____ % of site</td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td style="text-align: right;">_____ % of site</td> </tr> </table>		<input checked="" type="checkbox"/> 0-10%:	100 % of site	<input type="checkbox"/> 10-15%:	_____ % of site	<input type="checkbox"/> 15% or greater:	_____ % of site												
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<input type="checkbox"/> 10-15%:	_____ % of site																		
<input type="checkbox"/> 15% or greater:	_____ % of site																		
g. Are there any unique geologic features on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes, describe: _____																			
h. Surface water features. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?</td> <td style="width: 20%; text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>ii. Do any wetlands or other waterbodies adjoin the project site?</td> <td style="text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table> If Yes to either i or ii, continue. If No, skip to E.2.i. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?</td> <td style="width: 20%; text-align: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table> iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">• Streams:</td> <td style="width: 30%;">Name <u>837-27</u></td> <td style="width: 40%;">Classification <u>C</u></td> </tr> <tr> <td>• Lakes or Ponds:</td> <td>Name _____</td> <td>Classification _____</td> </tr> <tr> <td>• Wetlands:</td> <td>Name <u>Federal Waters, NYS Wetland, Federal Waters, Fe...</u></td> <td>Approximate Size <u>NYS Wetland (in a...</u></td> </tr> <tr> <td>• Wetland No. (if regulated by DEC)</td> <td colspan="2"><u>TE-34, TE-22</u></td> </tr> </table>		i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ii. Do any wetlands or other waterbodies adjoin the project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	• Streams:	Name <u>837-27</u>	Classification <u>C</u>	• Lakes or Ponds:	Name _____	Classification _____	• Wetlands:	Name <u>Federal Waters, NYS Wetland, Federal Waters, Fe...</u>	Approximate Size <u>NYS Wetland (in a...</u>	• Wetland No. (if regulated by DEC)	<u>TE-34, TE-22</u>	
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• Streams:	Name <u>837-27</u>	Classification <u>C</u>																	
• Lakes or Ponds:	Name _____	Classification _____																	
• Wetlands:	Name <u>Federal Waters, NYS Wetland, Federal Waters, Fe...</u>	Approximate Size <u>NYS Wetland (in a...</u>																	
• Wetland No. (if regulated by DEC)	<u>TE-34, TE-22</u>																		
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, name of impaired water body/bodies and basis for listing as impaired: _____ Name - Pollutants - Uses: <u>Ellicott Creek, Lower, and tribs - Nutrients; Silt/Sediment - Aquatic Life</u>																			
i. Is the project site in a designated Floodway? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>																			
j. Is the project site in the 100-year Floodplain? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>																			
k. Is the project site in the 500-year Floodplain? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>																			
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span> If Yes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">i. Name of aquifer: _____</td> <td style="width: 20%;"></td> </tr> </table>		i. Name of aquifer: _____																	
i. Name of aquifer: _____																			

<b>m. Identify the predominant wildlife species that occupy or use the project site:</b>		
Birds- The FGEIS identifies the complete list of birds species noted at the subject property.	Mammals- The FGEIS identifies the complete list of mammal species noted at the subject property.	Reptiles, Amphibians & Fish - The FGEIS identifies the complete list noted at the subject property.
<b>n. Does the project site contain a designated significant natural community?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If Yes:		
i. Describe the habitat/community (composition, function, and basis for designation): _____		
ii. Source(s) of description or evaluation: _____		
iii. Extent of community/habitat:		
<ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>		
<b>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If Yes:		
i. Species and listing (endangered or threatened): _____		
_____		
<b>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?</b> <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>		
If Yes:		
i. Species and listing: _____		
Spiny Softshell		
<b>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If yes, give a brief description of how the proposed action may affect that use: _____		
_____		
<b>E.3. Designated Public Resources On or Near Project Site</b>		
<b>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If Yes, provide county plus district name/number: _____		
<b>b. Are agricultural lands consisting of highly productive soils present?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
i. If Yes: acreage(s) on project site? _____		
ii. Source(s) of soil rating(s): _____		
<b>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If Yes:		
i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature		
ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____		
_____		
<b>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area?</b> <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>		
If Yes:		
i. CEA name: _____		
ii. Basis for designation: _____		
iii. Designating agency and date: _____		

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District</li> <li>ii. Name: _____</li> <li>iii. Brief description of attributes on which listing is based: _____</li> </ul>	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
<div style="text-align: right; font-size: small;">[No impact letter issued by SHPO on October 10, 2001.]</div>	
g. Have additional archaeological or historic site(s) or resources been identified on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Describe possible resource(s): _____</li> <li>ii. Basis for identification: _____</li> </ul>	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Identify resource: <u>Nature View Park (1,254 acre natural park owned by the Town of Amherst)</u></li> <li>ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): <u>Local Park that is permanently preserved via a conservation easement held by the Western New York Land Conservancy.</u></li> <li>iii. Distance between project and resource: <u>0.6 miles.</u></li> </ul>	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Identify the name of the river and its designation: _____</li> <li>ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></li> </ul>	

#### F. Additional Information

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

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

#### G. Verification

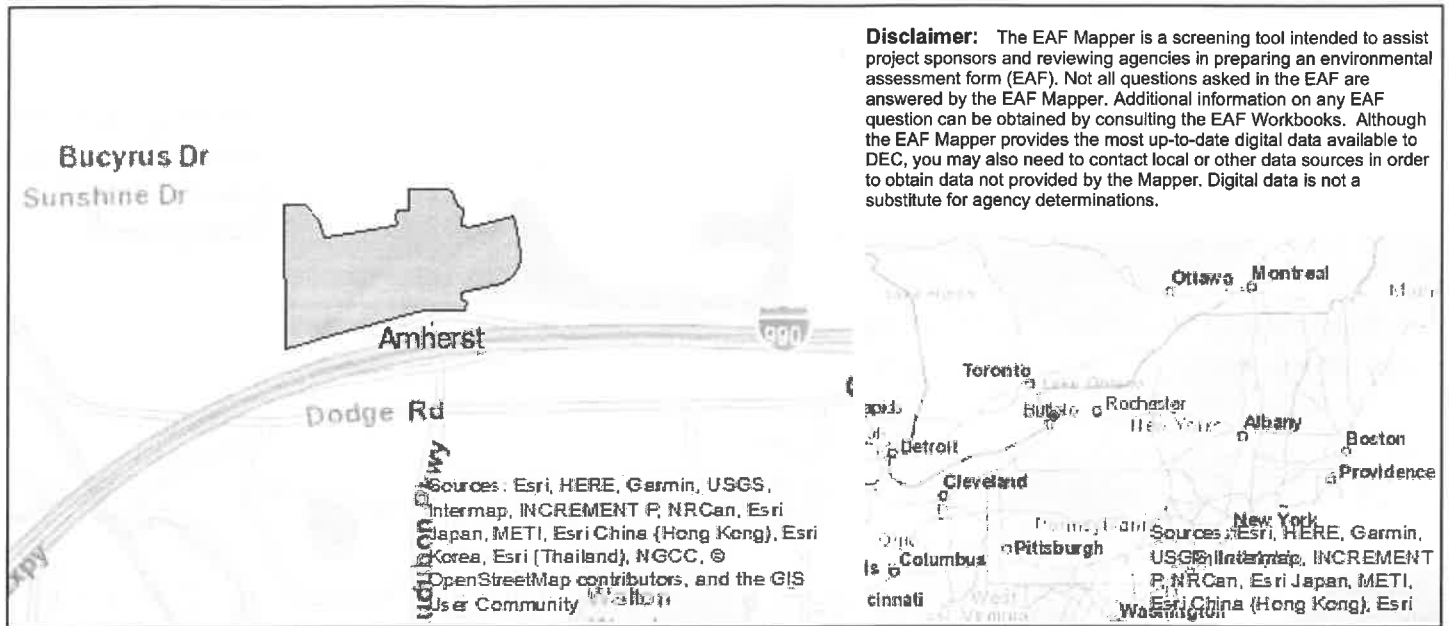
I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Aspen Heights Partners Date March 6, 2021

Signature  Title Counsel for Project Sponsor

Sean W. Hopkins, Esq.

**PRINT FORM**



B.1.i [Coastal or Waterfront Area]	No
B.1.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-27
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres): 42.2, NYS Wetland (in acres): 54.3
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	TE-34, TE-22

E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Ellicott Creek, Lower, and tribs – Nutrients;Silt/Sediment – Aquatic Life
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	Yes
E.2.p. [Rare Plants or Animals - Name]	Spiny Softshell
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



**DRAFT (04/15/21)**  
**TOWN OF AMHERST**  
**PLANNING BOARD**  
**SITE PLAN RESOLUTION**  
**SP-2020-13**

PETITIONER

Aspen Heights Student VI, LLC  
 c/o Sean Hopkins, Esq.  
 Hopkins Sorgi & McCarthy  
 5500 Main St., Suite 343  
 Williamsville, NY 14221

PROPERTY LOCATION

1081 North French Road

WHEREAS, the Town of Amherst Planning Board on Thursday, April 15, 2021 held a remote public hearing on a Site Plan for a student housing development, and

WHEREAS, the Planning Board reviewed the plans and specifications for the proposed project, and

WHEREAS, the Site Plan was referred to the Town's various review agencies, and

WHEREAS, in accordance with Section 8-7-8 of the Zoning Ordinance, the Planning Board finds that:

- A. The site plan includes usable space for active and passive recreation, including pedestrian connections.
- B. The site plan does not include open space lands for public ownership but does include a 10-ft. wide public trail offered for dedication or other disposition to the Town or other public entity.
- C. School sites and facilities are adequate to accommodate the proposed site plan.
- D. The site plan includes the extension of roadways to adjacent property.

WHEREAS, in accordance with Section 8-7-9 of the Zoning Ordinance, the Planning Board finds that:

- A. The proposed site plan is consistent with the development plan if one is required.
- B. The proposed site plan is consistent with the purpose and specific requirements of the Zoning Ordinance and generally consistent with the policies of the Comprehensive Plan.
- C. Adequate services and utilities will be available prior to occupancy.
- D. The site plan is consistent with all other applicable laws.

Attachment: SP-2020-13\_draft resolution\_041521 (22899 : Sp-2020-13)

**DRAFT (04/15/21)**  
**TOWN OF AMHERST**  
**PLANNING BOARD**  
**SITE PLAN RESOLUTION**  
**SP-2020-13**

PETITIONER

Aspen Heights Student VI, LLC

PROPERTY LOCATION

1081 North French Road

- E. Pursuant to Local Law #3-82, as amended, the Planning Board has determined that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment.
- F. Wetland permits were issued for this project by NYSDEC on December 17, 2019 and the US Army Corps of Engineers under Section 404 of the Clean Water Act on December 12, 2019. Both permits authorize work on the project until November 30, 2024.

NOW THEREFORE BE IT RESOLVED that pursuant to Local Law #3-82, as amended, the Planning Board determines that the requirements of SEQR are complete and that the subject proposal is not expected to have a significant adverse effect on the environment, and

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Board, in accordance with Section 8-7 of the Zoning Ordinance **approves/denies** said Site Plan subject to the following conditions:

1. That the consideration of signs is specifically excluded from this approval as they require a separate review and approval by the Town.
2. That all dumpsters/trash containers and all mechanical equipment, utility structures, multiple meter boards, generators, and similar appurtenances, including those which are mounted on any part of a primary structure shall be appropriately screened with a fence, wall, and/or landscaping. Provide gate on dumpster enclosure that shall be closed whenever dumpster is not being serviced, enclosure shall be high enough to screen the dumpster(s) within.
3. That as-built record drawings, including location of utilities, be provided to the Engineering Department prior to issuance of a Certificate of Occupancy by the Building Department.

The foregoing resolution was adopted by the Town of Amherst Planning Board, \_\_\_\_\_; moved by - \_\_\_\_\_; seconded by - \_\_\_\_\_; ayes \_\_, noes \_\_; absent - \_\_\_\_.

\_\_\_\_\_  
 Robert J. Gilmour, Chair

\_\_\_\_\_  
 Date

Attachment: SP-2020-13\_draft resolution\_041521 (22899 : Sp-2020-13)

**DRAFT (04/15/21)**  
**TOWN OF AMHERST**  
**PLANNING BOARD**  
**SITE PLAN RESOLUTION**  
**SP-2020-13**

PETITIONER

Aspen Heights Student VI, LLC

PROPERTY LOCATION

1081 North French Road

EK/ac

X:\Current\_Planning\Files\Site Plans\2020\SP-2020-13\_(1081\_North\_French\_Rd)\_2020\SP-2020-13\_Blurb\_041521.doc\_

cc: Town Clerk

Approved Plan: \_\_\_\_\_

Commissioner of Building

Received: \_\_\_\_\_

Town Engineer

Fire Chiefs

Traffic/Safety

Highway Superintendent

ECDEP

NYSDOT

NYSDEC

Aspen Heights Partners, c/o Sean Hopkins, 5500 Main St., Suite 343, Williamsville, NY 14221

Greenman-Pedersen, Ken Zollitsch, 4950 Genesee St., Suite 100, Cheektowaga, NY 14225

Attachment: SP-2020-13\_draft resolution\_041521 (22899 : Sp-2020-13)

## **EXHIBIT B**

### **PILOT Schedule**

The Agency and the Company propose to enter into a PILOT Agreement with annual abatement percentages in accordance with the following schedule:

<b>Year</b>	<b>Abatement Percentage</b>
1	70%
2	70%
3	70%
4	60%
5	60%
6	60%
7	50%
8	50%
9	50%
10	50%

The PILOT Agreement will have a term of ten (10) years.

PILOT Payments shall be calculated as follows:

With respect to the assessed value of the land and any pre-Project improvements (the “Pre-Project Assessment”), payments by the Company shall be in an amount equal to the amount of taxes that would have been paid were there no exemption based on the Agency’s leasehold interest in the Project.

With respect to the assessed value added by the Project, payments by the Company shall in an amount equal to the assessed value added by the Project multiplied by the abatement percentage set forth in the PILOT schedule above.

In accordance with Section 858(15) of the General Municipal Law, PILOT payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the agency involved in the project.

**PROJECT PROFILE:**  
**AMHERST COMMUNITY SOLAR, LLC**  
**\$8,568,400**  
**April 23, 2021**



**ELIGIBILITY**

- Commercial Project under NYS Law
- Renewable Energy Project

**COMPANY INCENTIVES (EST.)**

- Sales Tax = \$166,250

**PROJECT BENEFITS (EST.)**

- Property Taxes = \$720,682 (\$4,500 per MW increasing 2% a year for 25 years)

**EMPLOYMENT**

- 14 Construction and Related Jobs Created
- 2 Part-Time Jobs Created
- Total Payroll of New Jobs = \$10,000

**PROJECT SCHEDULE**

- May 2021 - Work Begins
- October 2021 - Project Complete

**Project Address:**

595 Schoelles Road  
 Amherst, New York 14221  
 (Williamsville School District)

**Investment:**

Land Lease: \$368,400  
 Construction: \$1,394,000  
 Equipment: \$6,658,400  
 Soft/Other costs: \$147,600



**Company Description:**

The project developer is Amherst Community Solar LLC, a Limited Liability Corporation established in 2019. The company is based in Boulder CO with offices in Marlborough MA and develops solar farms and on behalf of investment groups.

**Project Description:**

The applicant is seeking to install and operate a 5 MW community solar farm on 22 acres of leased land at 595 Schoelles Road. The renewable electricity generated by the system is fed directly into the local utility distribution system, where it can then be purchased by area homes and businesses as credits against their electricity bill. The expected electric generation capacity of this project is enough to power approximately 850 homes.

This project meets NY's Climate Leadership and Community Protection Act which includes 70% renewable energy generation by 2030 with a goal of a zero emissions electricity sector by 2040. General Municipal Law contains language specifically to IDAs and renewable sources as eligible projects. The New York State Energy Research and Development Authority issued a guidebook and guidelines for siting and incentivizing solar facilities. The town introduced solar law zoning and determined which sites were suitable, mainly properties that have little market value for other uses. Solar on this site also allows other agricultural related uses such as sheep grazing and pollinating plants.

IDAs play an important role as we manage the project on behalf of all taxing jurisdictions. Under state law, solar projects are exempt from property taxes but for negotiated local PILOTS. The Amherst IDA is managing this on behalf of the taxing jurisdictions for the term of the tariff agreement. Amherst Community Solar is required per the Town's Zoning Approval to provide a performance bond to remove the solar panels after the useful life of the project is complete.

**PROJECT PROFILE:**  
**AMHERST COMMUNITY SOLAR, LLC**  
**\$8,568,400**

**Page 2**

**AIDA COMPANY HISTORY:**

None

**MATERIAL TERMS:**

1. Investment of not less than \$7,283,140 at the project location as noted in the application.
2. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project
3. Execution and delivery of Community Benefit Agreement with Town of Amherst
4. Creation within two (2) years of Project completion of two new part-time jobs and retention of such jobs throughout the Compliance Period

# **Cost-Benefit Analysis for Amherst Community Solar - Catalyze**

Prepared by this agency using InformAnalytics

# Executive Summary

INVESTOR  
**Amherst Community  
Solar, LLC**

TOTAL INVESTED  
**\$8.6 Million**

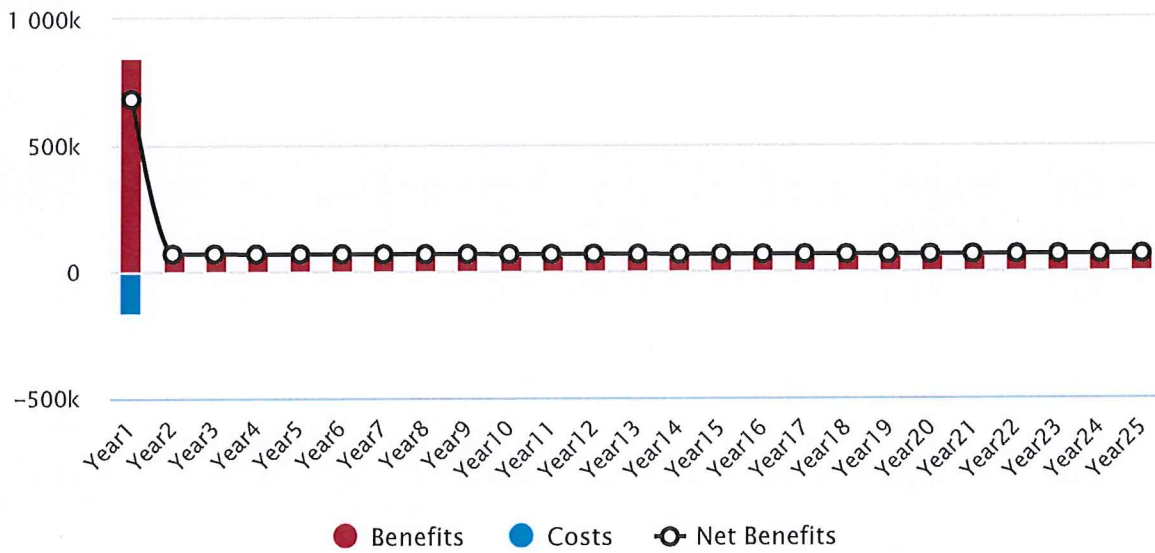
LOCATION  
**595 Schoelles**

TIMELINE  
**25 Years**

F1 FIGURE 1

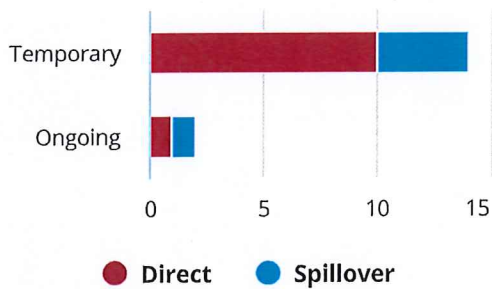
Discounted\* Net Benefits for Amherst Community Solar - Catalyze by Year

Total Net Benefits: \$2,295,000



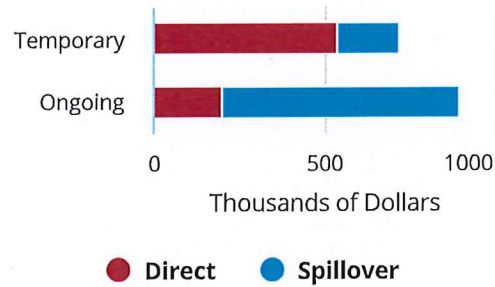
F2 FIGURE 2

Total Jobs



F3 FIGURE 3

Total Payroll





# Proposed Investment

Amherst Community Solar, LLC proposes to invest \$8.6 million at 595 Schoelles over 25 years. Agency staff summarize the proposed with the following: Amherst Community Solar, LLC is seeking to install and operate a 5 MW ground mount community solar farm on approximately 22 acres of leased land at 595 Schoelles Road. The renewable electricity generated by the system is fed directly into the local utility distribution system, where it can then be purchased by area homes and businesses as credits against their electricity bill.

T1 TABLE 1

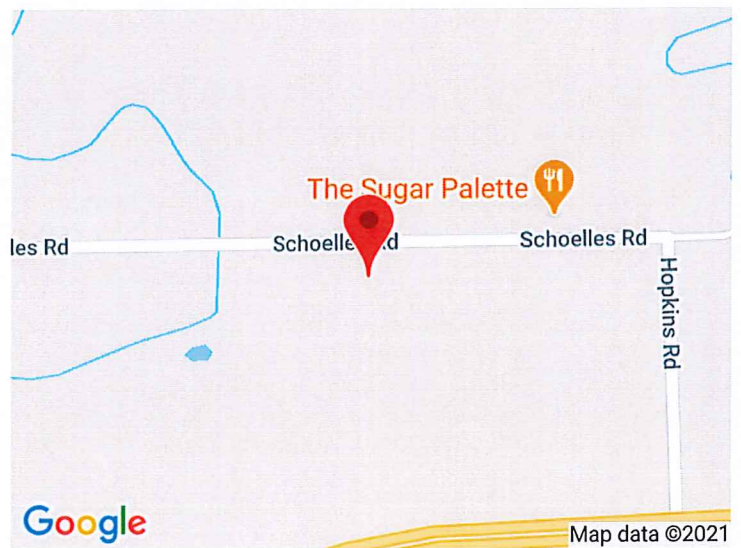
## Proposed Investments

Description	Amount
<b>CONSTRUCTION SPENDING</b>	
Solar Development	\$1,394,000
<b>OTHER SPENDING</b>	
Soft Costs	\$148,000
Land Lease	\$368,000
Solar Equipment	\$6,658,000
<b>Total Investments</b>	<b>\$8,568,000</b>
<b>Discounted Total (2%)</b>	<b>\$8,568,000</b>

May not sum to total due to rounding.

F4 FIGURE 4

## Location of Investment



# Cost-Benefit Analysis

A cost-benefit analysis of this proposed investment was conducted using InformAnalytics, an economic impact model developed by CGR. The report estimates the impact that a potential project will have on the local economy based on information provided by the agency. The report calculates the costs and benefits for specified local taxing districts over the first 25 years, with future returns discounted at a 2% rate.

T2 TABLE 2

## Estimated Costs or Incentives

The agency is considering the following incentive package for Amherst Community Solar, LLC.

Description	Nominal Value	Discounted Value*
Sales Tax Exemption	\$167,000	\$167,000
Total Costs	\$167,000	\$167,000

May not sum to total due to rounding.

\* Discounted at 2%

T3 TABLE 3

**State & Regional Impact (Life of Project)**

The following table estimates the total benefits from the project over its lifetime.

Description	Direct	Spillover	Total
<b>REGIONAL BENEFITS</b>	<b>\$1,520,000</b>	<b>\$1,080,000</b>	<b>\$2,599,000</b>
<b>To Private Individuals</b>	<b>\$786,000</b>	<b>\$1,062,000</b>	<b>\$1,848,000</b>
Temporary Payroll	\$536,000	\$186,000	\$722,000
Ongoing Payroll	\$250,000	\$876,000	\$1,126,000
<b>To the Public</b>	<b>\$734,000</b>	<b>\$18,000</b>	<b>\$752,000</b>
Property Tax Revenue	\$721,000	N/A	\$721,000
Temporary Sales Tax Revenue	\$9,000	\$3,000	\$12,000
Ongoing Sales Tax Revenue	\$4,000	\$15,000	\$19,000
<b>STATE BENEFITS</b>	<b>\$41,000</b>	<b>\$67,000</b>	<b>\$109,000</b>
<b>To the Public</b>	<b>\$41,000</b>	<b>\$67,000</b>	<b>\$109,000</b>
Temporary Income Tax Revenue	\$26,000	\$9,000	\$35,000
Ongoing Income Tax Revenue	\$4,000	\$43,000	\$48,000
Temporary Sales Tax Revenue	\$8,000	\$3,000	\$10,000
Ongoing Sales Tax Revenue	\$4,000	\$12,000	\$16,000
<b>Total Benefits to State &amp; Region</b>	<b>\$1,561,000</b>	<b>\$1,147,000</b>	<b>\$2,708,000</b>
<b>Discounted Total Benefits (2%)</b>	<b>\$1,508,000</b>	<b>\$955,000</b>	<b>\$2,462,000</b>

May not sum to total due to rounding.

T4 TABLE 4

**Benefit to Cost Ratio**

The following benefit to cost ratios were calculated using the discounted totals.

Description	Benefit*	Cost*	Ratio
Region	\$2,366,000	\$91,000	26:1
State	\$96,000	\$76,000	1:1
Grand Total	\$2,462,000	\$167,000	15:1

**May not sum to total due to rounding.**

\* Discounted at 2%

CGR has exercised reasonable professional care and diligence in the production and design of the InformAnalytics™ tool. However, the data used is provided by users. InformAnalytics does not independently verify, validate or audit the data supplied by users. CGR makes no representations or warranties with respect to the accuracy of the data supplied by users.

**RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE CONSTRUCTION AND EQUIPPING OF A 5.0 MEGAWATT (MW) AC COMMUNITY SOLAR ELECTRIC GENERATING FACILITY BY AMHERST COMMUNITY SOLAR LLC TO BE LOCATED IN THE TOWN OF AMHERST, NEW YORK, FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASE TO AMHERST COMMUNITY SOLAR LLC, THE EXECUTION OF LEASE AGREEMENTS, THE EXECUTION OF A NON-STANDARD PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.**

**WHEREAS**, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

**WHEREAS**, Amherst Community Solar LLC, for itself or for related individuals or entities (the “Company”), has submitted to the Agency an application and other material information in connection therewith (collectively, the “Application”) with respect to the construction and equipping by the Agency without the proceeds of a bond issue of an approximately 5.0 megawatt (MW) AC community solar electric generating facility comprised of panels, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, screening and related improvements (collectively, the “Improvements”), and the acquisition of and installation in and around the Premises and Improvements machinery, equipment, fixtures and other items of tangible personal property (together, the “Project”) and conveyance of the Project pursuant to a lease of the Project to the Company, such Project to be located on a 21.5+/- acre parcel of land located at 595 Schoelles Road (SBL No. 28.00-1-1.11) in the Town of Amherst, New York (the “Premises”); and

**WHEREAS**, the Agency has reviewed the Application as necessary to afford a reasonable basis to decide whether to provide financial assistance for the Project; and

**WHEREAS**, the Agency has prepared a written cost-benefit analysis that identifies the extent to which the Project will create permanent, private-sector jobs, the estimated value of any tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and any other public benefits that might occur as a result of the Project; and

**WHEREAS**, the Company has requested that the Agency consider entering into a non-standard agreement for payment in lieu of real estate taxes (“PILOT”) which will provide for payment by the Company of an annual PILOT equal to \$4500.00 per megawatt (MW) AC installed capacity, subject to an annual increase of two percent (2%), over a term of twenty-five (25) years,

which agreement deviates from the Agency's standard PILOT schedule as set forth in the Countywide Uniform Tax Exemption Policy (the "UTEP"); and

**WHEREAS**, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly delivered a Notice of Deviation on March 23, 2021 to the chief executive officers of each of the affected taxing jurisdictions and the industrial development agencies located in Erie County, New York regarding the proposed non-standard PILOT agreement for the Project; and

**WHEREAS**, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on April 8, 2021, and has considered all oral and written presentations made at or in connection with said public hearing; and

**WHEREAS**, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project; and

**WHEREAS**, it is anticipated that the Company and the Town of Amherst will enter into a host community agreement in connection with the Project (the "Host Community Agreement"); and

**WHEREAS**, the Town of Amherst Planning Board (the "Planning Board") acted as "lead agency" under the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) ("SEQRA") for the project, and determined that the Project was a Type I action, and the Company provided to the Agency a copy of the Company's completed Part 1 of the long-form Environmental Assessment Form ("EAF"); and

**WHEREAS**, on January 21, 2021, the Planning Board issued a negative declaration under SEQRA with respect to the Project. A copy of the EAF and the negative declaration is attached hereto as Exhibit A (the "Negative Declaration").

**NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:**

**Section 1.** Based upon a review of the Application, the EAF and the Negative Declaration issued by the Planning Board, the Agency hereby: (a) consents to and affirms the status of the Planning Board as lead agency within the meaning of, and for all purposes of complying with, SEQRA; (b) determines that the proceedings undertaken by the Planning Board as lead agency under SEQRA with respect to the acquisition, construction and equipping of the Project satisfy the requirements of SEQRA, and ratifies and confirms such proceedings by the Planning Board as lead agency; (c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance (as defined herein) contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

**Section 2.** The Project is described in the recitals to this Resolution. The financial assistance to be provided by the Agency in connection with the Project includes: (i) an exemption



from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$1,900,000.00; and (ii) a twenty-five (25) year partial abatement from real property taxes in accordance with the non-standard payment in lieu of tax schedule set forth in Exhibit B attached hereto (the “Financial Assistance”). The payment in lieu of tax arrangement shall be set forth in a Payment in Lieu of Real Estate Taxes Agreement to be entered into between the Agency and the Company (the “PILOT Agreement”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency’s Local Labor Policy in connection with the construction of the Project;
- (b) creation within two (2) years of Project completion of two new part-time jobs and retention of such jobs throughout the Compliance Period; and
- (c) investment of not less than 85% of the total Project cost of \$8,568,400.00 in the renovation and equipping of the Project prior to Project completion;
- (d) execution and delivery of a Host Community Agreement between the Company and the Town of Amherst, as may be required by the Town.

**Section 3.** The Agency hereby determines that the Project and the financing thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act.

**Section 4.** The proposed Financial Assistance to the Project deviates from the terms of the Agency’s UTEP to the extent that the Company has requested a PILOT Agreement with a term of twenty-five (25) years that provides for a payment of \$4500.00 per megawatt (MW) AC installed capacity, subject to an annual increase of two percent (2%). The Agency hereby approves of the deviation from the UTEP and authorizes the provision of the Financial Assistance as described herein. In making this determination, the Agency has considered the following factors as required by the Act and the UTEP, no single one of which is determinative:

1. The extent to which the Project will create or retain permanent private sector jobs: The Applicant has represented that construction jobs will be created during the construction time period, and that two (2) part-time positions relating to the operation of the Facility will be created.
2. The estimated value of tax exemptions to be provided: The estimated value of the sales and use tax benefit for the Project is an amount up to \$166,250.00. Given the uncertainty regarding the manner by which the Facility will be assessed as a solar generating facility and the uncertainty regarding the affected taxing jurisdictions’ future tax rates, it is difficult to quantify at this time the estimated value of the real property tax exemption. It is anticipated that the PILOT Agreement will generate approximately \$720,682.00 in payments over the twenty-five (25) year term of the PILOT Agreement.

3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided: The Applicant will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.
4. The impact of the proposed Project on existing and proposed businesses and economic development projects in the vicinity: The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst and in addition, the Project will help fulfill alternative, renewable, green energy needs of the State of New York.
5. The amount of private sector investment generated or likely to be generated by the proposed Project: The total private sector investment in the Project is expected to exceed approximately \$8,568,400.00.
6. The demonstrated public support for the Project: The Town of Amherst has expressed its support for the Project. The Town of Amherst Planning Board approved the Site Plan for the Project on January 21, 2021. The Amherst Town Board approved Applicant's request for a special use permit on February 21, 2021.
7. The likelihood of accomplishing the proposed Project in a timely fashion: The Project is expected to be completed in a timely manner. Construction is expected to be completed by September 30, 2021.
8. The effect of the proposed Project upon the environment: The Town of Amherst Planning Board issued a negative declaration pursuant to SEQRA that the Project will not have a significant adverse effect on the environment. The production of alternative, renewal, green energy is consistent with New York State energy goals and policies.
9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures: The Project involves the construction and equipping of a solar electricity generating facility, which constitutes a renewable energy project.
10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services: The Project is not expected to require the provision of additional services.
11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts: The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.



**Section 5.** The Agency hereby authorizes the Company, as agents for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to construct or make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Assistance Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

**Section 6.** The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

**Section 7.** The Company is authorized, as agents of the Agency, to initiate the construction of the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$1,900,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

**Section 8.** The Agency is hereby authorized to enter into a project assistance agreement with respect the provision of the Financial Assistance authorized herein (the "Project Assistance Agreement"), to acquire an interest in the Project site and construct a facility thereon, and execute and deliver a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") or Installment Sale Contract (the "Installment Sale Contract") between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in a form satisfactory to Agency counsel. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Assistance Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

**Section 9.** Reserved.

**Section 10.** Any such action heretofore taken by the Company initiating the acquisition,

installation and construction of the Project is hereby ratified, confirmed and approved.

**Section 11.** Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

**Section 12.** In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements to the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company is in violation of a material term, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (y) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-

contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Assistance Agreement, and/or (z) any exemption from real property taxes received by reason of the Agency's leasehold interest in the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

**Section 13.** The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

**Section 14.** Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any "hazardous substance" (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

**Section 15.** No covenant, stipulation, obligation or agreement herein contained or contained in the Project Documents, or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

**Section 16.** Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect (except for the obligations in this Section 16), and the Agency shall have no liability to the Company hereunder or otherwise.

**Section 17.** This Resolution shall take effect immediately and shall continue in full force

and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 11, 12 and 16 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions.

DATED: April 23, 2021

ACCEPTED AND AGREED TO: \_\_\_\_\_, 2021.

**AMHERST COMMUNITY SOLAR LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Town of Amherst  
EAF and Negative Declaration**

See attached.

**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

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

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

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

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project:		
Project Location (describe, and attach a general location map):		
Brief Description of Proposed Action (include purpose or need):		
Name of Applicant/Sponsor:		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

## B. Government Approvals

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

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, or Village Board of Trustees <input type="checkbox"/> Yes <input type="checkbox"/> No		
b. City, Town or Village Planning Board or Commission <input type="checkbox"/> Yes <input type="checkbox"/> No		
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources. <i>i.</i> Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>ii.</i> Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>iii.</i> Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input type="checkbox"/> No		

## C. Planning and Zoning

### C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☐ No

- **If Yes**, complete sections C, F and G.
- **If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

### C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☐ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☐ No

If Yes, identify the plan(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ No disturbance anticipated to Heritage Area.

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☐ No

If Yes, identify the plan(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☐ Yes ☐ No  
If Yes, what is the zoning classification(s) including any applicable overlay district?

\_\_\_\_\_

\_\_\_\_\_

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☐ No

If Yes,

i. What is the proposed new zoning for the site? \_\_\_\_\_

### C.4. Existing community services.

a. In what school district is the project site located? \_\_\_\_\_

b. What police or other public protection forces serve the project site?

\_\_\_\_\_

c. Which fire protection and emergency medical services serve the project site?

\_\_\_\_\_

d. What parks serve the project site?

\_\_\_\_\_

\_\_\_\_\_

### D. Project Details

#### D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

\_\_\_\_\_

b. a. Total acreage of the site of the proposed action? \_\_\_\_\_ acres

b. Total acreage to be physically disturbed? \_\_\_\_\_ acres

c. Total acreage (project site and any contiguous properties) owned  
or controlled by the applicant or project sponsor? \_\_\_\_\_ acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☐ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☐ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

\_\_\_\_\_

ii. Is a cluster/conservation layout proposed?

☐ Yes ☐ No

iii. Number of lots proposed? \_\_\_\_\_

iv. Minimum and maximum proposed lot sizes? Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☐ No

i. If No, anticipated period of construction: \_\_\_\_\_ months

ii. If Yes:

- Total number of phases anticipated \_\_\_\_\_

- Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year

- Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



f. Does the project include new residential uses? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: <span style="float: right;"><input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify:</span> _____ iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____	

*ii.* Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action cause or result in disturbance to bottom sediments? Yes ☐ No ☐  
If Yes, describe: \_\_\_\_\_

*iv.* Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No ☐  
If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

*v.* Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

---

*c.* Will the proposed action use, or create a new demand for water? ☐ Yes ☐ No ☐  
If Yes:

*i.* Total anticipated water usage/demand per day: \_\_\_\_\_ gallons/day

*ii.* Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No ☐  
If Yes:

- Name of district or service area: \_\_\_\_\_
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No ☐
- Is the project site in the existing district? ☐ Yes ☐ No ☐
- Is expansion of the district needed? ☐ Yes ☐ No ☐
- Do existing lines serve the project site? ☐ Yes ☐ No ☐

*iii.* Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No ☐  
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_
- Source(s) of supply for the district: \_\_\_\_\_

*iv.* Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No ☐  
If, Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

*v.* If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

*vi.* If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

---

*d.* Will the proposed action generate liquid wastes? ☐ Yes ☐ No ☐  
If Yes:

*i.* Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

*ii.* Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

\_\_\_\_\_

*iii.* Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No ☐  
If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of district: \_\_\_\_\_
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No ☐
- Is the project site in the existing district? ☐ Yes ☐ No ☐
- Is expansion of the district needed? ☐ Yes ☐ No ☐

<ul style="list-style-type: none"> <li>• Do existing sewer lines serve the project site? _____</li> <li>• Will a line extension within an existing district be necessary to serve the project? _____</li> </ul> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Describe extensions or capacity expansions proposed to serve this project: _____            _____            _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> <li>• Applicant/sponsor for new district: _____</li> <li>• Date application submitted or anticipated: _____</li> <li>• What is the receiving water for the wastewater discharge? _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____            _____            _____</p>		
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____            _____            _____</p>		
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="padding-left: 40px;">_____ Square feet or _____ acres (impervious surface)</p> <p style="padding-left: 40px;">_____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____            _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____            _____</p> <ul style="list-style-type: none"> <li>• If to surface waters, identify receiving water bodies or wetlands: _____              _____</li> <li>• Will stormwater runoff flow to adjacent properties? _____</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>		
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> <li>• _____ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)</li> <li>• _____ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)</li> <li>• _____ Tons/year (short tons) of Perfluorocarbons (PFCs)</li> <li>• _____ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)</li> <li>• _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)</li> <li>• _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)</li> </ul>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>			
<p>i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>			
<p>j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. When is the peak traffic expected (Check all that apply): <input type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend  <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____</p> <p>iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____</p> <p>iv. Does the proposed action include any shared use parking? <span style="float: right;">Yes No</span></p> <p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____</p> <p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p> <p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>			
<p>l. Hours of operation. Answer all items which apply.</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> <td style="width: 50%; vertical-align: top;"> <p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul> </td> </tr> </table>		<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>
<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____</li> <li>• Saturday: _____</li> <li>• Sunday: _____</li> <li>• Holidays: _____</li> </ul>		

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>n. Will the proposed action have outdoor lighting? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p>_____</p> <p>_____</p>	
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>Describe: _____</p> <p>_____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p> <p>_____</p> <p>_____</p>	
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p> <p>_____</p>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>_____</li> <li>• Operation: _____</li> <li>_____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>_____</li> <li>• Operation: _____</li> <li>_____</li> </ul>	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☐ No  
 If Yes:  
 i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_  
 ii. Anticipated rate of disposal/processing:  
     • \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or  
     • \_\_\_\_\_ Tons/hour, if combustion or thermal treatment  
 iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☐ No  
 If Yes:  
 i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_  
 \_\_\_\_\_  
 ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month  
 iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No  
 If Yes: provide name and location of facility: \_\_\_\_\_  
 \_\_\_\_\_  
 If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:  
 \_\_\_\_\_  
 \_\_\_\_\_

## E. Site and Setting of Proposed Action

<b>E.1. Land uses on and surrounding the project site</b>			
a. Existing land uses. i. Check all uses that occur on, adjoining and near the project site. <input type="checkbox"/> Urban <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Rural (non-farm) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ ii. If mix of uses, generally describe: _____ _____			
b. Land uses and coverytypes on the project site.			
Land use or Coverytype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____ _____			

<p>c. Is the project site presently used by members of the community for public recreation? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>i. If Yes: explain: _____</p>	
<p>d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes,</p> <p>i. Identify Facilities: _____</p> <p>_____</p>	
<p>e. Does the project site contain an existing dam? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Dimensions of the dam and impoundment:</p> <ul style="list-style-type: none"> <li>• Dam height: _____ feet</li> <li>• Dam length: _____ feet</li> <li>• Surface area: _____ acres</li> <li>• Volume impounded: _____ gallons OR acre-feet</li> </ul> <p>ii. Dam's existing hazard classification: _____</p> <p>iii. Provide date and summarize results of last inspection: _____</p> <p>_____</p>	
<p>f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Has the facility been formally closed? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <ul style="list-style-type: none"> <li>• If yes, cite sources/documentation: _____</li> </ul> <p>ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____</p> <p>_____</p> <p>iii. Describe any development constraints due to the prior solid waste activities: _____</p> <p>_____</p>	
<p>g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____</p> <p>_____</p>	
<p>h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Yes – Spills Incidents database  <input type="checkbox"/> Yes – Environmental Site Remediation database  <input type="checkbox"/> Neither database         </div> <div>           Provide DEC ID number(s): _____            Provide DEC ID number(s): _____         </div> </div> <p>ii. If site has been subject of RCRA corrective activities, describe control measures: _____</p> <p>_____</p> <p>iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes, provide DEC ID number(s): _____</p> <p>iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____</p> <p>_____</p>	

v. Is the project site subject to an institutional control limiting property uses? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> <ul style="list-style-type: none"> <li>• If yes, DEC site ID number: _____</li> <li>• Describe the type of institutional control (e.g., deed restriction or easement): _____</li> <li>• Describe any use limitations: _____</li> <li>• Describe any engineering controls: _____</li> <li>• Will the project affect the institutional or engineering controls in place? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></li> <li>• Explain: _____  _____</li> </ul>	
<b>E.2. Natural Resources On or Near Project Site</b>	
a. What is the average depth to bedrock on the project site? _____ feet	
b. Are there bedrock outcroppings on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %	
c. Predominant soil type(s) present on project site: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>_____</div> <div>_____ %</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>_____</div> <div>_____ %</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>_____</div> <div>_____ %</div> </div>	
d. What is the average depth to the water table on the project site? Average: _____ feet	
e. Drainage status of project site soils: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input type="checkbox"/> Well Drained: _____ % of site <input type="checkbox"/> Moderately Well Drained: _____ % of site <input type="checkbox"/> Poorly Drained: _____ % of site </div>	
f. Approximate proportion of proposed action site with slopes: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input type="checkbox"/> 0-10%: _____ % of site <input type="checkbox"/> 10-15%: _____ % of site <input type="checkbox"/> 15% or greater: _____ % of site </div>	
g. Are there any unique geologic features on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes, describe: _____ _____	
h. Surface water features. <div style="margin-top: 10px;"> i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> </div> <div style="margin-top: 5px;"> ii. Do any wetlands or other waterbodies adjoin the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> </div> <div style="margin-top: 5px;"> If Yes to either <i>i</i> or <i>ii</i>, continue. If No, skip to E.2.i. </div> <div style="margin-top: 5px;"> iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> </div> <div style="margin-top: 5px;"> iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <ul style="list-style-type: none"> <li>• Streams: Name _____ Classification _____</li> <li>• Lakes or Ponds: Name _____ Classification _____</li> <li>• Wetlands: Name _____ Approximate Size _____</li> <li>• Wetland No. (if regulated by DEC) _____</li> </ul> </div>	
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If yes, name of impaired water body/bodies and basis for listing as impaired: _____ _____	
i. Is the project site in a designated Floodway? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
j. Is the project site in the 100-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
k. Is the project site in the 500-year Floodplain? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes: <div style="margin-top: 5px;"> i. Name of aquifer: _____ </div>	



<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <p>_____</p> <p>_____</p>	
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p> <p>_____</p>	
<p><b>E.3. Designated Public Resources On or Near Project Site</b></p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <span style="margin-left: 20px;"><input type="checkbox"/> Biological Community</span> <span style="margin-left: 20px;"><input type="checkbox"/> Geological Feature</span></p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes: i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>
g. Have additional archaeological or historic site(s) or resources been identified on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>

#### F. Additional Information

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

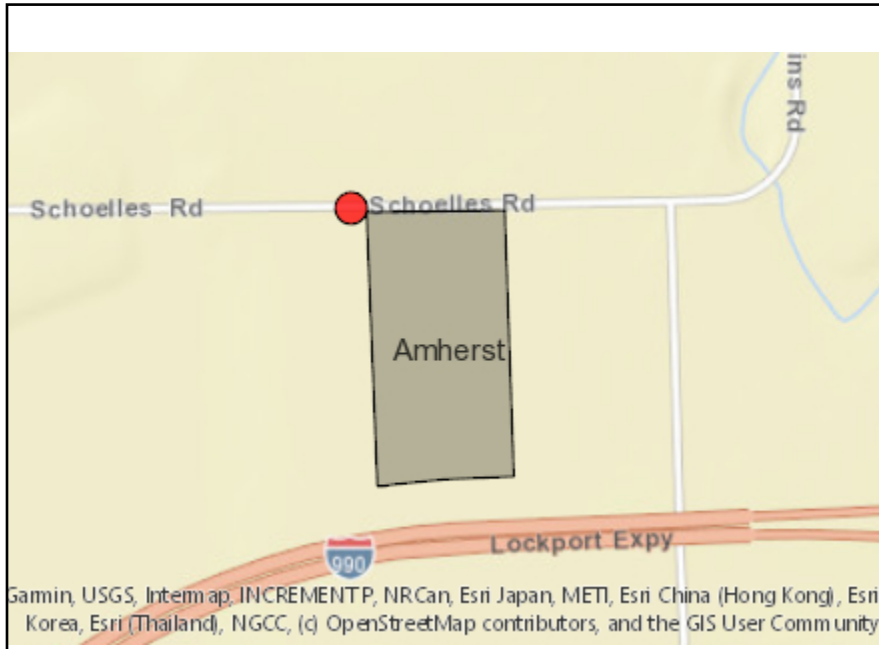
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

#### G. Verification

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

Applicant/Sponsor Name \_\_\_\_\_ Date \_\_\_\_\_

Signature *Elisha Schecter* Title \_\_\_\_\_



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



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

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ERIE017
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



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

**SEQR**  
**Negative Declaration**

JAN22'21 PM 2:49 RC

**NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

**Lead Agency:** Town of Amherst  
Planning Board

**Project:** SP- 2020-14

**Address:** 5583 Main Street  
Williamsville, NY 14221  
(716) 631-7051

**Date:** January 21, 2021

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

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

**Title of Action:** Site Plan Review

**SEQR Status:** Type I Action

**Description of Action:** Proposed development of a 15± acre solar energy development on a 21.5± acre parcel. A maximum of 13,260 solar panels will be post mounted in a southerly orientation facing I-990, with a potential output of 3.5-4 mw of energy. A 75 ft. paved access driveway will be located at the west end of the frontage along Schoelles Road. A 6 ft. tall fence and high impact screening will be installed on all four sides of the buildable area- 50 feet on the east, west and south boundaries, and 100 feet from Schoelles Road. Energy collecting equipment is to be located on pads within the fence line to the north of the property along Schoelles Road. An additional agricultural use, to be determined at a later date, will be included with this project. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

**Location:** 595 Schoelles Road, Amherst, Erie County

**Petitioner:** Amherst Community Solar, LLC

**Reasons Supporting This Determination**

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

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on November 24, 2020 reviewed the Grading, Drainage and Utility Plans, Erosion and Control Plans, and the Engineer's Report submitted on November 16, 2020.

The Stormwater Pollution Prevention Plan (SWPPP) submitted on November 16, 2020 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.

2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. The Planning Department reviewed a Landscape Plan submitted on November 16, 2020 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping.
3. The project is not expected to create any material conflict with the Town Comprehensive Plan. The Building Department in their review of December 9, 2020 and the Planning Department in their review of December 14, 2020 determined that the subject project has or will have met all International Building Code – 2015 and Zoning Ordinance regulations.
4. The project is within an area identified by the State as having potentially archaeological or historical significance. A report by PanAmerican Consultants, Inc. and received by the Planning Department on January 21, 2021 concluded that the project will not have a significant impact on historical or cultural resources.
5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is located in the Suburban Agriculture (SA) zoning district; neighboring uses are agricultural uses and single family homes and zoned Suburban Agriculture (SA); therefore, the project is consistent with surrounding land use since it complies with the Town's adoption of local laws that strongly emphasize mitigation measures (e.g. landscaping, inclusion of agricultural use) to allow renewable energy developments to be compatible with the surrounding rural character in the area.

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6. The proposed subject development will include a 15± acre solar energy development which will increase energy output at this location.
7. The project will not create any hazard to human health. The Fire Chief's Association on December 3, 2020 has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.
8. The project will change the use, and the intensity of the use, of land at this location, from open farmland to a field of solar arrays, however, the proposed 15± acre solar energy development will include a co-located agricultural use and will be consistent with the scale of surrounding land uses.
9. The function of the proposed 15± acre solar energy development will not significantly increase the number of people using the site over its previous level of use. A maintenance plan will provide the minimum access by individuals needed to maintain the equipment and uses on the site.
10. Reviews by the Town Traffic/Safety Board dated December 3, 2020, and NYSDOT dated January 21, 2021 indicate that significant negative traffic impacts are not expected to result from the proposed project.
11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Highway on December 5, 2020, Assessor on December 1, 2020, Plumbing Division on December 1, 2020, and Right-of-Way Agent on November 25, 2020. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.
12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

Negative Declaration SP-2020-14  
January 21, 2021  
Page 4

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Planning Board Approval

Moved by: Giuliani; Seconded by: Penberthy

Ayes 7; Noes 0; Absent 0

*Ellen M. Hoot* *Asst. Planning Director*  
signature & title of preparer

*1/22/21*  
Date

*Robert J. Gilmour*  
Robert J. Gilmour, Planning Board Chair

*1/22/21*  
Date

RR/ac

X:\Current\_Planning\Files\Site Plans\2020\SP-2020-14\_(595\_Schoelles\_Rd)\_2020\SP-2020-14\_neg\_dec\_012121.doc

cc: Amherst Town Clerk  
Building Department  
Engineering  
Fire Chiefs'  
Highway  
Traffic/Safety  
NYSDOT

Amherst Community Solar, LLC, 412 S. 13<sup>th</sup> St, Unit 607, Philadelphia, PA 19147

Greenman-Pedersen, Inc, 4950 Genesee St. Suite 100, Buffalo, NY 14225

Jeff Palumbo, Barclay Damon LLP, 9276 Main Street, Suite 3, Clarence, New York 14031



**EXHIBIT B**  
**PILOT Schedule**

PILOT Payments shall be calculated as follows:

With respect to the assessed value of the land and any pre-Project improvements, payments by the Company shall be in an amount equal to the amount of taxes that would have been paid were there no exemption based on the Agency's leasehold interest in the Project. In the alternative, the assessed value of the land and any pre-Project improvements will continue to be paid as real property taxes outside of the PILOT Agreement.

With respect to the assessed value added by the Project, the PILOT Agreement between the Agency and the Company will provide for payments by the Company of \$4,500.00 per megawatt (MW) AC installed capacity, subject to an annual increase of two percent (2%). The PILOT Agreement will have a term of twenty-five (25) years.

In accordance with Section 858(15) of the General Municipal Law, PILOT payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the Agency involved in the Project.