

BYRON TOWN BOARD MEETING

May 12, 2021

The Byron Town Board Meeting was called to order by Supervisor Yasses at 7:00 p.m. via Zoom with the following people present:

Supervisor.....	Peter Yasses
Councilmen.....	Sue Fuller
	Jeff Thompson
	Josh Kent
	Eric Zuber
Highway Superintendent.....	David Leaton
Town Clerk.....	Debra Buck-Leaton
Invited Guests:.....	Town Attorney Paul Boylan, Esq.

Public (Via Zoom):

Barb Starowitz	George Squires	Pam Lynch	Jim Lamkin
Brian Stacy	Gayla Starowitz	Vic DiGregorio	Jeanne Freeman
Candy Hensel	Michelle Piasecki, Harris Beach		

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Supervisor Yasses.

A **motion** was made by Councilman Kent to open the Public Hearing regarding the adoption of a Local Law known as the Town of Byron Parks Law at 7:06 p.m. The motion was seconded by Councilman Zuber and carried with the following vote:

Vote: Ayes: 5 Nays: 0

*NOTICE OF PUBLIC HEARING
TOWN OF BYRON
MAY 12, 2021
7:00 PM*

PLEASE TAKE NOTICE that the Town Board of the Town of Byron will hold a Public Hearing to consider adopting a Local Law known as TOWN OF BYRON PARKS LAW at the Town Hall, 7028 Byron Holley Road in the Town of Byron at 7:00 p.m. on Wednesday, May 12, 2021.

Copies of the Proposed Law are available on the Town's website and at the Town Clerk's Office during her regular business hours.

*By Order of the Town Board
Town of Byron
Debra Buck-Leaton
Town Clerk*

Public Comments:

Councilman Kent – Is the Town going to enforce 10 mph speed limit for all 4-wheelers, and should signs be posted at all entrances?

Town Attorney Paul Boylan – Yes, the Town would enforce it.

Councilman Thompson – Disagrees with the 10 mph speed limit for snowmobiles, especially on the long stretches of the trail.

Jeanne Freeman – The posted speed limit should not include snowmobiles. The S.O.S. maintains the trail and the NYS Snowmobile Association sets the speed limit for trails under its rules and regulations. Snowmobilers need to be a member of a snowmobile association in order to be covered by liability insurance.

Councilman Kent – His opinion would be to vote on law so at least other parts of the law would go into effect now and not to include sleds over winter in an amendment.

Councilwoman Fuller – Without a Local Law the Sheriffs can't do anything.

A **motion** was made by Councilman Kent to close the Public Hearing regarding the Town of Byron Parks Law at 7:31 p.m. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

TOWN OF BYRON PARKS LAW

RESOLUTION #55:

Councilman Kent offered the following resolution and moved for its adoption:

Resolved, that the Byron Town Board adopt the Town of Byron Parks Law as attached.

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

MINUTES:

A **motion** was made by Councilman Zuber to approve the Byron Town Board minutes of April 14, April 21 and April 28, 2021 as written. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 5 Nays: 0

PLANNING BOARD REPORT – George Squires:

- Discussed proposed hamlet district as part of proposed zoning law
- The next challenge is to determine the boundaries of the hamlet districts.

A **motion** was made by Councilman Kent to approve the Planning Board Report as given. The motion was seconded by Councilman Zuber and carried with the following vote:

Vote: Ayes: 5 Nays: 0

HIGHWAY SUPERINTENDENT'S REPORT – David Leaton:

- Doing road work on Tower Hill Road to prepare for bridge closing
- Doing road work on Caswell Road
- Put flags on poles
- Put the Little Free Library back up across from Post Office

A **motion** was made by Councilman Thompson to approve the Highway Superintendent's Report as given. The motion was seconded by Councilman Zuber and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SOLAR:

·The Town Board passed the Host Community Agreement at the April 28, 2021 Special Town Board meeting. \$300,000 will go to tax relief and \$700,000 will go to whatever the Town decides to use it for over 20 years.

Battery Energy Storage Law – Councilman Kent:

·Councilman Kent has not heard anything back from Ben at Zoghlin Group regarding the technical language.

SEWER REPORT:

Monthly:

- Checked and maintained all filter bed pumps (N, S+C)
- Keeping track of pump hours on all pumps including Old School House, Walkers Corners and McElver Street lift station
- Took monthly samples

Other:

- April 2nd – Dealt with homeowner about septic tank cover
- April 6th –High level alarm at South Byron filter bed - found blown fuse
- April 13th – Worked with homeowner about electric change over
- April 14th – Backup at McElver Street lift station – found loose electrode connections
- April 17th – Call-out at apartment house. Had a backup problem with plugged pipe from house to tank
- April 19th – Putting in new standpipes at South Byron filter bed
- April 26th – Meeting with DEC about permit changes

·Received the following three (3) quotes for repair of McElver Street pump station, copies of which are attached to these minutes:

1. Koester: \$13,131.00
2. Camden: \$15,431.00
3. eProcess Environmental: \$15,801.00

REPAIR OF MCELVER STREET PUMP STATION

RESOLUTION #56:

Councilman Zuber offered the following resolution and moved for its adoption:

Resolved, that the Byron Town Board awards the bid to repair the McElver Street Pump Station to Koester in the amount of \$13,131.00.

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Kent to approve the Sewer Report as written. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

CEO/ZEO REPORT – Mike Morris:

·A copy of the report is on file with the CEO/ZEO

A **motion** was made by Councilman Zuber to approve the CEO/ZEO report as given. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Supervisor Yasses: The property owners at the corner of Walkers Corners Road and Caswell Road are supposedly getting an asbestos survey done.

PARK COMMITTEE REPORT – George Squires:

·There were not enough members present to hold a meeting.

A **motion** was made by Councilman Kent to approve the Park Committee report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

CLEAN ENERGY RESOURCES INFORMATION COMMITTEE – Candace Hensel:

- Will be meeting on Tuesday, May 25th at 6:00 p.m.
- Received certified resolutions
- They will be contacting the utility companies themselves to get the information they need.

A **motion** was made by Councilman Kent to approve the Clean Energy Resources Information Committee report as given. The motion was seconded by Councilman Zuber and carried with the following vote:

Vote: Ayes: 5 Nays: 0

ABSTRACTS

RESOLUTION #57:

Councilman Kent offered the following resolution and moved for its adoption:

Resolved, that the Byron Town Board pay the following abstracts:

<u>Fund:</u>	<u>Abstract:</u>	<u>Vouchers:</u>	<u>Amount:</u>
General Fund	#5	#99 - #110	\$5,049.14
Highway Fund	#5	#49 - #64	\$5,036.97
Sewer Fund	#5	#14 - #26	\$12,479.06
Water Improv. Bene. Area #1	#5	#10	\$29,615.00
General Post Audit	#4	#22 - #29	\$1,708.63
Sewer Post Audit	#4	#7 - #9	\$829.89

Councilwoman Fuller seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

TOWN CLERK’S REPORT:

Paid to the NYS Ag and Markets for spay/neuter program.....	\$57.00
Paid to NYS DEC for hunting and fishing licenses.....	\$110.54
Paid to the Town of Byron Supervisor.....	<u>\$3,976.36</u>
Total Disbursed for April 2021.....	\$4,143.90

A **motion** was made by Councilman Zuber to approve the Town Clerk’s Report as given for April, 2021. The motion was seconded by Councilwoman Fuller and carried with the following vote:

Vote: Ayes: 5 Nays: 0

FINANCIAL REPORT:

·The April 2021 Financial Report was reviewed.

A **motion** was made by Councilman Zuber to approve the April 2021 Financial Reports. The motion was seconded by Councilman Kent and carried with the following vote:

Vote: Ayes: 5 Nays: 0

SUPERVISOR'S REPORT:

Voluntary Distribution for March 2021:

·The Town of Byron received \$38,578.00 for voluntary distribution for April 2021.

User Agreement/Intermunicipal Agreement with the Town of Elba:

·The Town Board will probably have to hold a Special Meeting to review the User Agreement and Intermunicipal Agreement for Transit Road residents with the Town of Elba.

Street Lights:

·According to National Grid 40% of the streetlights have been changed over to LED. According to the Highway Superintendent only 5 out of 74 have been switched over.

Sewer Testing:

·Held Zoom meeting with Camden Group and DEC regarding testing. The DEC wanted to do testing 7 days a week, but we are trying to get them to only do 5 days a week.

County Leadership Zoom Calls:

·Last Saturday attended Leadership Zoom call with Legislators, Tim Hens (County Highway) and Supervisors regarding the pandemic. If anyone is looking for supplies you can get them through Emergency Management.

COMMUNITY BLOCK GRANT

RESOLUTION #58:

Councilman Kent offered the following resolution and moved for its adoption:

Resolved, that the Byron Town Board authorizes the Supervisor to sign the New York Main Street Technical Assistance Project Grant Agreement, a copy of which is attached hereto, between the Housing Trust Fund Corporation and the Town of Byron.

Councilman Zuber seconded the resolution which was adopted by the following vote:

Vote: Ayes: 5 Nays: 0

A **motion** was made by Councilman Kent to approve the Supervisor's Report as given. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

OTHER BUSINESS:

WATER IMPROVEMENT BENEFIT AREA NO. 1:

·Still waiting to hear from the Comptroller's Office.

·Town Attorney Paul Boylan emailed the attorney that does the review and his secretary and has not heard anything back from them yet.

PUBLIC COMMENTS:

George Squires: Just a reminder that the Boy Scouts will be in Trestle Park June 10th camping and using some equipment to work on trails.

Jim Lamkin: Does the money that the Town will be receiving for solar include the Host and PILOT.

Attorney Paul Boylan: Includes PILOT. Host is \$742,000 for the 1st year

Jim Lamkin: 487 tax law specifies a 15 year term for this agreement, but did you mention it was 20 years

Supervisor Yasses: Yes

Jim Lamkin: Would be to the Town's advantage to have a shorter term

Attorney Paul Boylan: It is the term of the PILOT because a PILOT can go for 20 years

Councilman Kent: The Town only negotiated the Host Agreement and the GCEDC will negotiate the PILOT Agreement

Jim Lamkin: Sent a lot of information to the Town regarding the solar panels and components that flake off. Did anyone look at it?

Councilman Kent: He honestly didn't find anything after doing research on the topic, and didn't understand a lot of the information that he sent.

Jim Lamkin: How do people find out this information. He wants to make sure they're safe.

Attorney Paul Boylan: Attorney for BAAS should have some resources to find answers. The solar law covers screening. The Town will discuss this with The Zoghlin Group, but the implementation is up to the Siting Board.

Councilman Kent: Just because an agreement was reached doesn't mean the Town is rolling over. The Town Board believes the Solar Law needs to be followed as far as the Board is concerned.

Supervisor Yasses: Email your concerns to the Supervisor and he will get them to The Zoghlin Group.

Councilman Zuber: When is the Town going back to regular meeting?

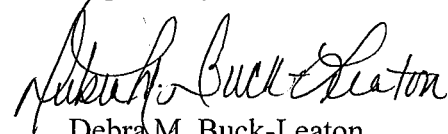
Supervisor Yasses: Hopefully by Fall.

ADJOURN:

A **motion** was made by Councilman Kent to adjourn the Byron Town Board Meeting at 8:36 p.m. The motion was seconded by Councilman Thompson and carried with the following vote:

Vote: Ayes: 5 Nays: 0

Respectfully Submitted,



Debra M. Buck-Leaton
Byron Town Clerk

Local Law No. 2 of 2021

- Title: This Law shall be known as and may be cited as “Town of Byron Park Law”
- Authority: This Law is adopted pursuant to the authority granted to the Town pursuant to the New York State Municipal Home Rule Law Sections 10(i), 10(ii), (a)(6), (a)12 and (a)14 and the Constitution of the State of New York Article IX, Sections 1(a) and 2(c).
- Intent: It is the intent of this Local Law to regulate the use of the parks in the Town of Byron in such a manner as to preserve and protect the land and waters thereof and to regulate the use of the parks for the recreation and enjoyment of all the citizens of Byron and their guests.

I. DEFINITIONS

Authorized Emergency Vehicles	Those vehicles set forth in Section 101 of the NYS Vehicle and Traffic Law hereafter (V&TL).
Bicycle Path	The areas of roadways or other strips of land as set forth in Section 102-b of the V&TL.
Bridle Path	A strip of land designated and maintained for the riding of horses or the driving of horse drawn vehicles.
Crossing	An area of land used and or designated to travel across a road, path, trail from one side thereof to the other.
Curb	As defined in Section 111 of the V&TL.
Driver - Operator	As defined in Section 113 of the V&TL.
Motor Vehicle	As defined in Section 125 of the V&TL.
Park Committee	The Committee formed by the Town Board for the purpose of advising the Board on matters regarding the Town Parks and to carry out the other duties assigned to it by the Town Board by Local Law or otherwise.
Park Committee Member	A person appointed to the Park Committee by the Town Board.
Parking Place	Any part of any drive, lot or space designed or designated as a place for leaving unattended motor vehicles or other means of transportation.

Path	A narrow area of land designed and designated for ingress or egress from one area to another by other than motor vehicles.
Permit	A written permission for the use of a park issued by the Town Clerk pursuant to this law.
Person	Any living human being, company, corporation, association, firm, partnership or other entity.
Pets/Animals	Any living cat, dog, horse, bird, reptile, cattle, and any other creature, other than human beings.
Right of Way	A legal right to pass over land not owned by the person possessing the right.
Rubbish	Refuse, garbage, litter, waste and any material no longer useful and to be discarded.
Safety Zone	As defined by Section 141 of the V&TL.
Service Road	A road, lane, driveway only for the use of authorized vehicles and not for use by the general public.
Standing	When used in relation to vehicles shall mean stopping for an extended period of time.
Stopping	Coming to a complete halt.
Supervisor	Town of Byron Supervisor.
Town Park	Shall mean each and every area designated and dedicated to or by the Town Board as a park and devoted to the recreation of the residents of the Town of Byron and their guests.
Traffic Control Devise	As defined in Section 153 of the V&TL.
Vehicle	A machine or device that transports people and or cargo and includes but is not limited to wagons, bicycles, motorcycles, automobiles, trucks, busses, trains, trams, trailers, boats and ATV's.

II. TERRITORIAL SCOPE

This Law shall be effective throughout the Town of Byron and in all Parks, Trails, Recreation Areas, Open Spaces, Lakes, Ponds owned, leased and/or operated and maintained by the Town of Byron.

III. PERMITS

- a. Permits are required for all pavilion rentals on a first come – first serve basis from the Town Clerk's Office.
- b. Fees for pavilion rental shall be set from time to time by Resolution of the Town Board.

IV. REGULATIONS

- a. Horses
 - i. No person shall ride, drive, lead or keep a horse or other animal within any Town Park except in areas specifically designated as a bridle path.
 - ii. No horse or any other animal shall be tied, tethered, or hitched to any object other than to a post or rail specifically designated for that purpose.
 - iii. The West Shore Trail Park is hereby designated as a bridle path.
- b. Dogs
 - i. Dogs shall be kept on a leash not more than six (6) feet in length.
 - ii. Dog owners shall pick up and remove any and all fecal matter.
- c. Cats
 - i. Cats must be leashed on leashes no more than six (6) feet in length.
 - ii. Owners shall pick up and remove any and all fecal matter.
- d. Rubbish
 - i. No person shall leave any rubbish in any area of any Town Park.
- e. Glass
 - i. All glass containers are prohibited in all Town Parks.
- f. Water Ways
 - i. No person shall cause or allow any foreign substance or object to enter any pond, creek, stream or other water body in any Town Park.
- g. Vegetation
 - i. No person shall disturb, pick, dig, remove or otherwise damage any vegetation in any Town Park.
 - ii. Unless specifically permitted by the Byron Park Committee no person shall plant any vegetation in any Town Park.
- h. Minerals
 - i. Unless specifically permitted by the Park Committee, no person shall remove any dirt, rocks, gravel, stone or other minerals, or any natural substance from any Town Park, except the Town Highway Department may do so as required for maintenance.
- i. Animals
 - i. No person shall feed any animal or waterfowl, or fish in any Town Park.

- j. Fires
 - i. No person shall build, light or maintain a fire in any Town Park except in fireplaces, grills or other structures specifically designed for such purpose.
 - ii. All fires must be thoroughly extinguished before the person lighting such fire leaves the park.
 - iii. Grills or stoves used by the caterers shall be permitted if specifically listed on the permit application and ignited only by the caterer in his/her facility.
 - iv. Any and all fireworks and any other explosives are specifically prohibited in all Town Parks.
 - v. Any tobacco smoking materials used in a Town Park shall be extinguished and deposited in a proper and safe manner in receptacles designated for that purpose.
- k. Hunting/Trapping
 - i. Firearms of any and every type are prohibited in all Town Parks.
 - ii. Trapping of any animal, bird or reptile is prohibited in all Town Parks.
- l. Fishing
 - i. Any person fishing in any Town Park must possess a valid New York State Fishing License
 - ii. All persons fishing in any Town Park shall be permitted to do so only so long as he or she does so in strict obedience to "Fishing Rules" promulgated by the Byron Park Committee.
- m. Alcohol
 - i. All alcohol beverages are prohibited except beer in cans.
- n. Restricted Areas
 - i. The Town Board shall adopt by Resolution, from time to time, designating certain areas of Town Parks which are not for public use and any use in any such area is prohibited
 - ii. All areas in which all activities are prohibited shall be clearly marked as such and signs designating the area as restricted shall be posted at regular intervals around said area.
- o. General Restrictions
 - i. Carnival rides, enclosed forced air jumping rooms and petting zoos are prohibited.
 - ii. Baseball, basketball, football, soccer, golf and lacrosse may be played only in areas specifically designed and designated for such activities.
 - iii. Swimming is prohibited in all Town Park ponds, streams and waterways except in areas specifically designated and designated for such use.
 - iv. Ice Skating and hockey are prohibited on all Town Park ponds except at such times and places as specifically permitted by the Park Committee.
 - v. Solicitation of money, goods or services is prohibited in all Town Parks except pursuant to Section "o" below.
 - vi. The driving of off-road vehicles, ATV's, and similar vehicles are prohibited in all Town Parks except the West Shore Trail Park and then only in accordance with the Rules and Regulations provided in this Law at Section (q)i,ii,iii below.

- vii. The Superintendent of Highways is hereby designated and authorized to close any Town Park or portion thereof when, in his or her opinion, the area is dangerous to the public or an emergency exists.
- p. Non-Profit Organizations
 - i. Non Profit Organizations, service clubs and organizations which qualify under section 501(c) (3) of the Internal Revenue Code shall be permitted to conduct activities to raise funds for the organization's purpose in Town Parks at such times and places as do not conflict with other organizations.
 - 1. The service of any food or drink shall be done in accordance with the rules of the Genesee County Health Department.
 - ii. Beer is permitted only in cans.
 - iii. All materials and equipment brought into the park shall be removed and the area restored to the condition which existed before the activity by the organization.
 - iv. Games of Chance are permitted only by organizations duly licensed pursuant to the town of Byron Games of Chance Law.
- q. Vehicles
 - i. The New York State Vehicle and Traffic Law shall apply to all vehicles and in all areas of all Town Parks where vehicles are permitted.
 - ii. The speed limit for all vehicles is ten (10) miles per hour.
 - iii. Off road vehicles, ATV's and similar vehicles are permitted only in areas designated for that purpose.
 - iv. No commercial or other vehicle in excess of five (5) tons shall be permitted in any area of a Town Park, unless the owner has applied for a permit pursuant to Section III of this Law and has specifically listed any such vehicle on his or her application and the Town Highway Superintendent has been informed and has consented to the use of the Vehicle in the Park.
 - v. The cleaning, washing, waxing or repairing any vehicle is prohibited in all Town Parks.
 - vi. No person shall obstruct the passing of people or vehicles on any road or trail path or lane in any Town Park.
 - vii. No vehicle shall be operated on any foot path.
 - viii. The Westshore Trail Park may be used by vehicles to access the parking lot at Trestle Park between Batavia-Byron Road and the Parking Lot.
 - ix. Towing of vehicles is not permitted in any Town Park except in an emergency.
 - x. Authorized emergency vehicles are exempt from any regulation in this law.
 - xi. Snowmobiles may be operated on the Westshore Trail Park between December 1 and March 31 and in any other area which is designated by the Park Committee and which is clearly marked for such purpose subject to all other provisions of this Law.

- r. Parking
 - i. Parking is permitted only in areas designed and designated for that purpose.
 - ii. No person shall use any parking place for any purpose other than parking vehicles.
- s. Disorderly Persons
 - i. No person shall conduct themselves in any manner that would cause another person to become frightened or afraid.
 - ii. No person shall cause or permit any device which amplifies sound to be operated in such a manner as to cause discomfort or annoyance to another person.
 - iii. No person shall obstruct the passage of another person from going from one area to another.
 - iv. No person shall be charged with a violation of this Section "s" unless and until they have been requested to cease any of the behaviors set forth in subdivisions "i, ii and iii" above and have refused to cease the behavior.
- V. Hours of Operation
 - a. Parks shall be open from dawn to dusk unless specific exceptions are made by the Park Committee.
 - b. No person or vehicle shall remain in any Town Park before or after hours set forth in subsection "a" above.
- VI. Penalties
 - a. Pursuant to the Municipal Home Rule Law all violations of this Local Law shall constitute Misdemeanors except:
 - i. A first violation shall constitute an offense and be punishable by a fine not to exceed Two Hundred Dollars (\$200.00), community service not to exceed twenty (20) hours.
 - ii. A second violation shall constitute a Class B Misdemeanor and be punishable as provided in the New York Penal Law.
 - iii. Third and subsequent violations shall constitute Class A Misdemeanor and be punishable as provided in the New York Penal Law.
- VII. Promulgation
 - a. This Local Law shall be published on the Town Website.
 - b. All persons receiving a Permit to use any Town park pursuant to Section III above shall receive a copy of this Law.
- VIII. Effective Date
 - a. This Law shall take effect after adoption by the Town Board and filing with the Secretary of State.



K O E S T E R[®]

PROPOSAL #: 2021-2565

DATE: 2-15-21

Page 1 of 3

Customer: Al Graham, Camden Group
Site Location: Byron SD – Pump Station Repair

Fax/E-mail: pemcoach@rochester.rr.com
Phone: 585-409-0785

We are pleased to offer the following proposal:

Koester Associates Scope of Supply:

- (2) Barnes Model 2SEV1522L Pumps
- (2) BAF 2020 Guide Rail Systems
- (1) Duplex Control Panel
- (2) Lifting Ropes
- (1) Lot of valves, fittings, & pipe

Koester Associates Scope of Service:

- Remove pumps, guide rails systems, and discharge valves & piping.
- Install new discharge valves and piping from pumps to existing 4" Check valves.
- Install new bases and guide rail assemblies.
- Remove & replace control panel.
- Complete all required piping & wiring.
- Start-up & test.
- Train personnel.

Note: Owner responsible for flow control.

Thank you for the opportunity to be of service.

All services will be performed by confined space trained, OSHA certified technicians.

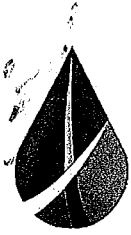
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- Total Price: \$13,131.00, includes all travel & expenses.
 - Standard Terms and Conditions, on the attached page, are incorporated in this quotation. Prices quoted shall remain firm 60 days from date of issuance. Payment is due net 30 days.
-

Supplying Equipment, Solutions and Service for Water and Wastewater

3101 Seneca Turnpike • Canastota • NY • 13032

Phone 315.697.3800 • Fax 315.697.3888 • koesterassociates.com

sales@koesterassociates.com • service@koesterassociates.com • parts@koesterassociates.com



KOESTER®

PROPOSAL #: 2021-2565

DATE: 2-15-21

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If you wish to proceed with this proposal, please sign and return.

If you have any questions, please feel free to contact me.

Sincerely,

Eric

Eric Koester
Service & Retrofit Manager
Koester Associates, Inc.
Phone: (315) 697- 3800
Fax: (315) 697- 3888
Cell: (315) 395 - 5804
ekoester@koesterassociates.com

Date accepted on:

Purchaser/Name (sign):

Purchaser/Name (print):

Billing Address:

Phone:

P.O.#:

Supplying Equipment, Solutions and Service for Water and Wastewater

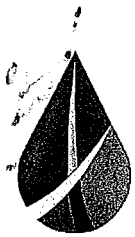
Terms and

Conditions

3101 Seneca Turnpike • Canastota • NY • 13032

Phone 315.697.3800 • Fax 315.697.3888 • koesterassociates.com

sales@koesterassociates.com • service@koesterassociates.com • parts@koesterassociates.com



K O E S T E R[®]

PROPOSAL #: 2021-2565

DATE: 2-15-21

Page 3 of 3

An order will constitute a contract between the Company and the Buyer when accepted in writing by the Company at its home office in Canastota, NY. A contract resulting from the acceptance of an order may be canceled or altered by the Buyer only if agreed to in writing by the Company at its home office, subject to payment of reasonable charges necessary to protect the Company from loss. Until accepted, as provided herein, an order shall constitute an offer to purchase. Neither the acceptance of any deposit made with an order nor the cashing of any check or other instrument therefore, nor the holding of such deposit by the Company shall be deemed an acceptance of an order, but if the order is not accepted, the Company will promptly refund such deposit.

The Company shall not be liable for any failure to make delivery, for late delivery, or other default by reason of any occurrence or contingency beyond the reasonable control of the Company or of any of its sources of supply or for failure to give notice of any delay. In the event of any such occurrence or contingency, the Company may extend delivery schedules or may, at its option, cancel the order in whole or in part without the liability other than to return any deposit or pre-payment should the whole order be canceled.

The Buyer will reimburse the Company for all taxes, excises and similar charges based upon or measured by the production, storage, sale, transportation or use of the products described herein.

The Company warrants that the products (except products made by the Company to drawings or specifications of the Buyer) will not in themselves infringe any United States patent, but the Company assumes no obligation in regard to patent infringement resulting from the use of the products in combination with equipment or other products not furnished by the Company. Liability under this warranty is limited to the aggregate amount (exclusive of taxes and transportation) to be paid hereunder and is conditioned upon the Buyer's giving the Company prompt written notice of any claim of patent infringement and granting the Company exclusive control of the settlement or litigation thereof.

The Company shall not be bound by any terms, conditions, or representations, which are not stated herein.

The Company shall not be obligated to perform hereunder if, at any time, Buyer's credit rating becomes impaired.

The Company shall retain a security interest in the products supplied hereunder to secure performance of Buyer's obligations and Buyers shall execute all financing statements and other instruments that the Company deems necessary to protect its security interest. If the Buyer defaults in any of its obligations hereunder or is unable to pay its debts as they mature, the Company shall have the right to repossess the products, exercise all legal options to collect the debt and cancel unshipped balances with or without resort to legal process, and Buyer agrees to pay all reasonable collection costs (including reasonable attorney fees) incurred by Company.

All material is sold F.O.B. shipping point and title and risk of loss passes to Buyer on delivery to the common carrier at shipping point. Orders for replacement material must be a new purchase order.

The Buyer shall have the right to inspect the products prior to payment and acceptance and if Buyer's inspection reveals any defects in the products, Buyer shall notify the Company within thirty (30) days after receipt of the products of any claim Buyer might have concerning such defects. Buyer's failure to notify the Company within such thirty-day period shall constitute a waiver by Buyer of all claims covering such defects in the products.

The Company's acceptance of order cancellation or order reduction requests is conditioned upon receiving Buyer's written agreement to assume termination charges.

The Company reserves the right to refuse to accept any order which does not meet quantity requirements which the Company may establish for any given product or group of products.

Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify the requirements and pay any additional costs that may be applicable.

The Company reserves the right to correct clerical or stenographic errors or omissions.

THE PRODUCT WARRANTY IS AS SUBMITTED HERewith. NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WILL APPLY.

The terms of this agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York. The foregoing terms and conditions will prevail notwithstanding any variance with the terms and conditions of Buyer's order for the product.



**NY: 9008 State Route 13, Camden NY 13316
315.245.4444**

**NJ: 118 Main Street, Butler NJ 07405
973.850.6604**

Customer: Town of Byron

PROPOSAL: 04212021

DATE: April 21, 2021

Contact: Shaun Dempsey

Site Location: Byron SD

Re: Repair Pump Station

Email: info@camdengroupusa.com

Office Contact: All contractual requirements e.g., insurance requirements, contracts, signature documents, are to be emailed to: admin@camdengroupusa.com

NY Office- 315 245 4444

NJ Office- 973 850 0557

We are pleased to offer the following proposal:

WORK SCOPE: Supply and install two (2) Barnes Pumps Model 2SEV1522L. Includes Guide Rail Assemblies, lifting ropes and new control panel. Installation of new piping and valves to connect to existing 4 inch check valves. Includes pumps, materials, labor and start up.

PRICE: \$15,431.00



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315.245.4444**

**NJ: 118 Main Street, Butler NJ 07405
973.850.6604**

***Standard Terms and Conditions**, on the attached page, are incorporated in this quotation, Prices quoted shall remain firm 60 days from date of issuance. Payment is due net 10 days.

TERMS and CONDITIONS

An order will constitute a contract between the Company and the Buyer when accepted writing by the Company at its home office in Camden, NY. A contract resulting from the acceptance of an order may be canceled or altered by the Buyer only if agreed to in writing by the Company at its home office, subject to payment of reasonable charges necessary to protect the Company from loss. Until accepted, as provided herein, an order shall constitute an offer to purchase. Neither the acceptance of any deposit made with an order nor the cashing of any check or other instrument therefore, nor the holding of such deposit by the Company shall be deemed an acceptance of an order, but if the order is not accepted, the Company will promptly refund such deposit.

The Company shall not be liable for any failure to make delivery, for late delivery, or other default by reason of any occurrence or contingency beyond the reasonable control of the Company or of any of its sources of supply or for failure to give notice of any delay. In the event of any such occurrence or contingency, the Company may extend delivery schedules or may, at its option, cancel the order in whole or in part without the liability other than to return any deposit or prepayment should the whole order be canceled.

The Buyer will reimburse the Company for all taxes, excises and similar charges based upon or measured by the production, storage, sale, transportation or use of the products described herein.

The Company shall not be bound by any terms, conditions, or representations, which are not stated herein.

The Company shall not be obligated to perform hereunder if, at any time, Buyer's credit rating becomes impaired.

The Company shall retain a security interest in the products supplied hereunder to secure performance of the Buyer's obligations and Buyer shall execute all financing statements and other instruments that the Company deems necessary to protect its security interest. If the Buyer defaults in any of its obligations hereunder or is unable to pay its debts as they mature, the Company shall have the right to lien the project, require payment from the Bond Company or cancel unshipped balances with or without resort to legal process.

The Company's acceptance of order cancellation or order reduction requests is conditioned upon receiving Buyer's written agreement to assume termination charges.

The Company reserves the right to refuse to accept any order which does not meet quantity requirements which the Company may establish for any given product or groups of products.



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Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify the requirements and pay any additional costs that may be applicable.

The Company reserves the right to correct clerical or stenographic errors or omissions.

The product warranty is as submitted herewith. A 1-year warranty on workmanship and material on all products installed by CAMDEN GROUP is provided. No other warranties express or implied, including implied warranties or merchantability and fitness for a particular purpose, will apply.

Contractor will provide Camden Group with a secure place for storing equipment and clean water at no charge.

Consents, Permits and Taxes:

CAMDEN GROUP will not be responsible for any permits. Permits are solely the responsibility of the General Contractor.

Cancellation:

CAMDEN GROUP may issue a STOP WORK if the General Contractor/Owner

1. Has not made payments according to this proposal.
2. Is involved in a Bankruptcy.
3. There is unsafe work conditions.

Buried Utilities:

CAMDEN GROUP will not be responsible for any buried utilities including but not limited too electrical lines, water pipes or gas pipes or drains that may get clogged with chemical grout, due to unforeseen broken pipes under the concrete surface.

Moving/Preparation of Work Area:

All areas to be treated by CAMDEN GROUP must be cleared and accessible. CAMDEN GROUP is not responsible for any areas that we cannot gain access to.

Changes or Extras:

Any changes to this proposal by anyone other than CAMDEN GROUP will make this proposal void. Any extra work added to the project must be accompanied by a change order signed prior to the additional work being started.

Payment Obligations:

Customer shall be obligated to make any and all payments due as per the contract and agree that payments shall not be withheld pending any claimed warranty or repair work that may be necessary as a result of work that CAMDEN GROUP has already completed or performed. CAMDEN GROUP shall have the right to terminate the contract upon Customer's failure to promptly make payments (within five days of progress milestones as set forth herein). In such case where the CAMDEN GROUP terminates the contract, CAMDEN GROUP shall be entitled



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to all amounts due for work completed and shall be entitled to profit it would have recovered on the uncompleted work. Warranted work does not come into effect until full payment has been made.

Invoicing:

Payment of invoices is due within ten (10) days from the date of invoice unless otherwise agreed on by CAMDEN GROUP and said contractor. Amounts not paid within 30 days of invoice date are subject to service charges of 1.25% per month (15%APR), plus any reasonable cost of collection services, inclusive of attorneys' fees. Billing rates are in accordance with CAMDEN GROUP current SCHEDULE OF FEES and are subject to change periodically thereafter. The Customer expressly acknowledges that payment of CAMDEN GROUP invoices is not contingent upon receipt by Customer of funds from outside sources (lenders, owners, etc.).

Note:

CAMDEN GROUP expressly reserves the right to cease providing services (other than that which we, in our sole discretion, deem necessary for the protection of the public) due to any delinquency of payment of any invoice for services performed on the project or project site, whether for the Customer and/or any entity with any relationship to the Customer. "Services", as used herein, shall mean not only performance of field-work but also preparation and/or revision of "instruments of service" (as defined hereinafter). In addition to cessation of services, any uncured failure or delinquency of payment, will entitle CAMDEN GROUP to withhold delivery or refuse turnover of all Instruments of Service to the Customer, or any third-party, or any successor in interest. CAMDEN GROUP shall have no obligation to provide advance notice that it has ceased providing services under the terms of this paragraph.

Right To Repair/Limitations Period:

Any claim by Customer for faulty performance, non-performance, or breach under this contract shall be made in writing to Service Provider within Sixty (60) days after the earlier of completion of the work or date any such performance, non-performance, or breach would have been discovered exercising reasonable diligence. Failure to make such a written claim for any matter which could have been corrected by Service Provider shall be deemed waived by Customer. No action, regardless of form, relating to the subject matter of this contract may be brought more than six months after such date

Disputes:

Any dispute between CAMDEN GROUP and Customer arising from or relating to this Agreement shall be determined by arbitration pursuant to the American Arbitration Association's Construction Industry Dispute Resolution Procedures. Any claim brought by either party shall be submitted to the American Arbitration Association for Arbitration under said rules. This includes any claim brought under a federal to state statute. The governing law shall be the laws of the State of New York

Right to Recoup Legal Fees:

In the event it becomes necessary for CAMDEN GROUP to bring an action to enforce compliance with the terms and conditions of this agreement, customer agrees to pay all expenses of any such successful action including attorney's fees, court costs and expert fees etc.



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The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work specified.

CAMDEN GROUP Authorized Signature

Client Signature

Printed Name: _____ Date: _____

Kenneth G Scherrieble

Title: President

Printed Name: _____ Date: _____

Title: _____

The above signed represents that he (she) has read, understands, and accepts this proposal entirely. PLEASE NOTE that any permit fees and or fines imposed by regulatory bodies for clients' and or for third parties' actions or whether they are a direct result of CAMDEN GROUP, INC. errors or omissions shall be paid by Client. Further, the above signed attests and represents that he (she) has the authority to enter into this agreement on behalf of the client named above.

eProcess Environmental

Quotation

Date : 2-16-21

To: Shaun Dempsey

For: Byron SD

Info: Repair Pump Station

Email: sewerdept@byronny.com

Prepared By: Kaylee Greene

e-Process Environmental

PO Box 591

Fayetteville, NY 13066

Phone: (315) 510-3633

Fax: (315) 510-3692

kaylee@eprocessenvironmental.com

Services Provided:

Supply & install (2) Barnes Pumps Model 2SEV1522L including guide rail assemblies, new control panel & lifting ropes. Install new discharge valves and piping to connect to existing 4" check valves. Includes start-up.

Total Price: \$15,801.00

- Shipment 4-6 weeks after approval of submittal data.
 - Standard Terms and Conditions, on the attached page, are incorporated in this quotation. Except for shipping charges, which may be subject to change at date of shipment, prices quoted shall remain firm 60 days. Payment is due net 30 days after shipment. No holdbacks or credits will be allowed.
-

We hope you find your quote satisfactory and look forward to hearing from you.

eProcess Environmental

Terms and Conditions

An order will constitute a contract between the Company and the Buyer when accepted in writing by the Company at its home office in Syracuse, NY. A contract resulting from the acceptance of an order may be canceled or altered by the Buyer only if agreed to in writing by the Company at its home office, subject to payment of reasonable charges necessary to protect the Company from loss. Until accepted, as provided herein, an order shall constitute an offer to purchase. Neither the acceptance of any deposit made with an order nor the cashing of any check or other instrument therefore, nor the holding of such deposit by the Company shall be deemed an acceptance of an order, but if the order is not accepted, the Company will promptly refund such deposit.

The Company shall not be liable for any failure to make delivery, for late delivery, or other default by reason of any occurrence or contingency beyond the reasonable control of the Company or of any of its sources of supply or for failure to give notice of any delay. In the event of any such occurrence or contingency, the Company may extend delivery schedules or may, at its option, cancel the order in whole or in part without the liability other than to return any deposit or pre-payment should the whole order be canceled.

The Buyer will reimburse the Company for all taxes, excises and similar charges based upon or measured by the production, storage, sale, transportation or use of the products described herein.

The Company warrants that the products (except products made by the Company to drawings or specifications of the Buyer) will not in themselves infringe any United States patent, but the Company assumes no obligation in regard to patent infringement resulting from the use of the products in combination with equipment or other products not furnished by the Company. Liability under this warranty is limited to the aggregate amount (exclusive of taxes and transportation) to be paid hereunder and is conditioned upon the Buyer's giving the Company prompt written notice of any claim of patent infringement and granting the Company exclusive control of the settlement or litigation thereof.

The Company shall not be bound by any terms, conditions, or representations, which are not stated herein. The Company shall not be obligated to perform hereunder if, at any time, Buyer's credit rating becomes impaired.

The Company shall retain a security interest in the products supplied hereunder to secure performance of Buyer's obligations and Buyers shall execute all financing statements and other instruments that the Company deems necessary to protect its security interest. If the Buyer defaults in any of its obligations hereunder or is unable to pay its debts as they mature, the Company shall have the right to repossess the products or cancel unshipped balances with or without resort to legal process.

All material is sold F.O.B. shipping point and title and risk of loss passes to Buyer on delivery to the common carrier at shipping point. Orders for replacement material must be a new purchase order.

The Buyer shall have the right to inspect the products prior to payment and acceptance and if Buyer's inspection reveals any defects in the products, Buyer shall notify the Company within thirty (30) days after receipt of the products of any claim Buyer might have concerning such defects. Buyer's failure to notify the Company within such thirty-day period shall constitute a waiver by Buyer of all claims covering such defects in the products.

The Company's acceptance of order cancellation or order reduction requests is conditioned upon receiving Buyer's written agreement to assume termination charges.

The Company reserves the right to refuse to accept any order which does not meet quantity requirements which the Company may establish for any given product or group of products.

Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify the requirements and pay any additional costs that may be applicable.

The Company reserves the right to correct clerical or stenographic errors or omissions.



eProcess Environmental

THE PRODUCT WARRANTY IS AS SUBMITTED HERewith. NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WILL APPLY.

The terms of this agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York.

The foregoing terms and conditions will prevail notwithstanding any variance with the terms and conditions of Buyer's order for the products.

NEW YORK MAIN STREET TECHNICAL ASSISTANCE PROJECT
GRANT AGREEMENT

This **AGREEMENT** is made effective as of the 1st day of April 2021, by and between the Housing Trust Fund Corporation ("Corporation"), a public benefit corporation created and existing as a subsidiary of the New York State Housing Finance Agency pursuant to Section 45-a of the New York Private Housing Finance Law (the "PHFL"), with an office at 38-40 State Street, Hampton Plaza, 4th Floor, Albany, New York 12207, and Town of Byron ("Recipient"), a not-for-profit corporation organized pursuant to the Not-For-Profit Corporation Law of the State of New York or a unit of local government, having its principal place of business at 7028 Byron-Holley Road, Byron, New York 14422.

WITNESSETH:

WHEREAS, pursuant to PHFL Article XXVI and the regulations promulgated thereunder ("Statute"), the Corporation is authorized to enter into contracts to provide grants to qualified community based not-for-profit corporations and units of local government for the revitalization of eligible main street and surrounding downtown areas under the New York Main Street program ("NYMS"); and

WHEREAS, the Recipient has applied to the Corporation for NYMS funds to administer a local NYMS technical assistance program ("Program") as described in the Recipient's application ("Application"); and

WHEREAS, the Corporation has selected the Recipient to receive an award of NYMS funds to be used for eligible costs to complete the Program ("Project Costs"), in consideration of, among other things, the Recipient undertaking to comply with all the terms and conditions of this Agreement, the Statute, and the Corporation's applicable rules, regulations, policies and procedures, as amended from time to time.

NOW, THEREFORE, in furtherance of the Program, and for the consideration herein provided, the parties do mutually covenant and agree as follows:

1. **Scope of Work.**

The Recipient shall: a) complete the Program in accordance with its Application, which is incorporated herein by this reference and summarized in Awarded Budget & Projected Accomplishments (attached as **Schedule A**) and b) adhere to the Awarded Budget & Projected Accomplishments reflected in **Schedule A**. The Recipient represents that it has obtained the managerial and technical capability necessary to undertake and perform the Program activities described in **Schedule A**.

2. **Term.**

The period of performance for all Program activities assisted pursuant to this Agreement shall be twelve (12) months commencing on the effective date of this Agreement and ending on **March 31, 2022**, ("Term"), unless sooner terminated as provided for herein. Any modification or amendment of the Term must be requested in writing, and approved in writing by the Corporation.

3. **Project Costs.**

The maximum amount of NYMS funds to be provided to the Recipient is Nineteen Thousand Nine Hundred Fifty dollars (\$19,950) ("Award"). The Corporation agrees to reimburse the Recipient for Project Costs outlined in **Schedule A**. Reimbursable Project Costs shall not exceed the amount of the Award. Any modification, amendment or rescission of Project Costs must be requested in writing, and approved in writing

by the Corporation. The Corporation reserves the right to reduce the Award: a) to conform to any revision to which the parties may agree in writing with respect to eligible projects; or b) if the actual costs for the approved activities are less than those budgeted for in Schedule A. The Corporation shall have no obligation to make disbursements for items other than the eligible items set forth in Schedule A.

4. **Forms and Instructions.**

Forms and instructions required for the administration of the Program described in this Agreement, and attached schedules, are available online at the following website: <https://hcr.ny.gov/new-york-main-street>

5. **Environmental Review.**

Prior to the formal commitment or expenditure of the Award, the environmental effects of each Program activity must be assessed in accordance with the State Environmental Quality Review Act (SEQRA) at 6 NYCRR Part 617. An environmental review process must be conducted to identify specific environmental factors that may be encountered during Program activities, and to develop procedures to ensure compliance with regulations pertaining to these factors. The Recipient must submit Environmental Review documents as required by the Corporation and outlined in the Environmental Compliance Handbook following the execution of this Agreement. The Corporation will issue a notice to proceed with Program activities following the submission of complete and accurate Environmental Review documents. No Program activities shall occur prior to receipt of this notice.

6. **Reports.**

During the Term the Recipient shall, at such times and in such form as the Corporation may require, furnish the Corporation with periodic reports pertaining to the Program, and the costs and obligations incurred in connection therewith, and any other matters covered by this Agreement.

7. **Records.**

The Recipient shall keep and maintain complete and accurate books, records and other documents as shall be required under applicable State and Federal rules and regulations, and as may be requested by the Corporation to reflect and fully disclose all transactions relating to the receipt and expenditure of the Award and administration of the Program. All such books, records and other documents shall be available for inspection, copying and audit during the Term and for seven (7) years following the final disbursement of the Award by any duly authorized representative of the State or Federal Government.

8. **Performance Review.**

The Corporation will conduct periodic reviews in such manner and at such times as it shall determine for the purpose, among other things, of ascertaining the quality and quantity of the Recipient's Program activities, as well as their conformity to the provisions of this Agreement, and the financial integrity and efficiency of the Recipient. Such reviews may be conducted without prior notice.

9. **Notice of Investigation or Default.**

The Recipient shall notify the Corporation within five (5) calendar days after obtaining knowledge of: a) the commencement of any investigation or audit of its activities by any governmental agency; or b) the alleged default by the Recipient under any mortgage, deed of trust, security agreement, loan agreement or credit instrument executed in connection with the Program; or c) the allegation of ineligible activities, misuse of the Award, or failure to comply with the terms of the Recipient's Application. Upon receipt of such notification, the Corporation may, in its discretion, withhold or suspend payment of some or all of the Award for a reasonable period of time while it conducts a review of the Program activities and expenditures.

10. **Supporting Documentation.**

All expenditures made from the Award pursuant to this Agreement shall be supported by written bids, written contracts, billings, bank documents and any other documentation as required by the Corporation. The

Corporation may request or review the documentation at any time during the Term or Regulatory Period to establish that the Award has been used in accordance with the terms of this Agreement.

11. Disbursement.

- (a) The Recipient shall request disbursement of funds under this Agreement only for reimbursement of Costs, or with written approval, payment of incurred Project Costs. The Corporation shall have no obligation to make disbursements for items other than eligible Project Costs, as defined in Schedule A. In-kind services and cash payments are not eligible Project Costs. Activities occurring prior to Corporation's issuance of a notice to proceed are not eligible Project Costs and will not be reimbursable hereunder.
- (b) The Recipient shall submit to the Corporation requests for disbursements in such form and manner and at such times as the Corporation may require following procedures outlined in Schedule A and the Commitment & Disbursement Procedures for Local Program Administrators document made available on the Corporation's website. Each such request shall
 - be submitted electronically to Disbursements@nyshcr.org with forms and supporting documentation;
 - be certified by an officer of the Recipient and, where required by the Corporation, by a licensed architect or engineer retained by the Recipient; and
 - constitute an affirmation that the representations and warranties contained in Section 12 hereof remain true and correct on the date thereof.
- (c) Funds shall be transferred to the Recipient through an Automated Clearing House (ACH), i.e. direct deposit, procedure. As the Award is paid to the Recipient it shall be disbursed to the owner, contractor or vendor within five (5) business days of electronic deposit, except where such funds are to reimburse the Recipient for payments already disbursed to the contractor or vendor. In its discretion, the Corporation may make such disbursements directly to the contractor or vendor, and the execution of this Agreement by the Recipient shall constitute an irrevocable direction and authorization to so disburse the Award. No further direction or authorization from the Recipient shall be necessary to warrant such direct disbursement, and all such disbursements shall satisfy, pro tanto, the obligations of the Corporation.

12. Representations and Warranties.

The Recipient represents and warrants to the Corporation that:

- (a) It is, as of the date hereof, and has been for at least one (1) year prior to the execution of this Agreement, duly organized, validly existing and in good standing under the Not-for-Profit Corporation Law of the State of New York and is authorized to enter into this Agreement and the transactions contemplated hereby; or it is, as of the date hereof, a unit of local government duly organized and validly existing under the laws of the State of New York and is authorized to enter into this Agreement and the transaction contemplated hereby.
- (b) If applicable, it has secured commitments for any such additional funds sufficient to complete the Program.
- (c) There is no pending or threatened litigation that might affect the Recipient's ability to comply with this Agreement or complete the Program.
- (d) The transactions contemplated hereby do not violate any applicable law or the certificate of incorporation, charter, by-laws or any other legal instrument affecting the Recipient.
- (e) The Program, to the extent necessary, has been approved by all governmental authorities which have jurisdiction over the Recipient, the Program or any activities performed in connection therewith.
- (f) The Schedule A and any other information contained herein or heretofore provided to the Corporation by the Recipient is true and correct in all respects, and accurately represent the condition of the Program and of the Recipient as of the respective dates thereof, no materially adverse change has occurred in the condition of the Program or the financial conditions of the Recipient since the respective dates thereof, and the Recipient has neither received, nor made application for nor received commitments for, any additional grants or loans, other than those specified in Schedule A.
- (g) There is no default on the part of the Recipient under this Agreement or under any other instrument executed in connection with the Program or with any other program funded by New York State Homes

and Community Renewal or the Corporation, and no event has occurred and is continuing which notice or the passage of time would constitute an event of default thereunder.

- (h) This Agreement and all other instruments executed in connection with the Program will be, upon execution thereof, legal, valid and binding instruments enforceable against the Recipient in accordance with its terms.

13. Covenants of the Recipient.

The Recipient covenants as follows:

- (a) It will comply promptly with any requirement and furnish the Corporation, upon request, with official searches made by any governmental authority.
- (b) It will cause all conditions hereof to be satisfied in a timely manner and will comply with all Program requirements and guidelines, as well as any applicable State and Federal laws and regulations, as amended.
- (c) It will, upon demand, correct any defect in the Program or any departure from Schedule A not approved in writing. The disbursement of any Award funds shall not constitute a waiver of the Corporation's rights to require compliance or the Corporation's right to recapture any funds disbursed inadvertently for ineligible expenditures.
- (d) It will execute all such instruments and documents that the Corporation may require for the purpose of effectuating the provisions of this Agreement.

14. Insurance.

During the Term, the Recipient shall take all adequate measures to safeguard against the risk of liability for injuries or death of employees of the Recipient, contractors and subcontractors, and of any other persons. The Recipient shall provide the Corporation with an insurance certificate for comprehensive general liability coverage in a minimum amount of one million dollars naming the Corporation and the State of New York as additional insureds, together with certificates for automobile insurance, fire insurance, workers' compensation and disability benefits. All certificates shall be with a New York State licensed carrier of insurance. Within two (2) business days of having received any notice of non-renewal, cancellation, termination, or rescindment for any type of insurance required herein, the Recipient shall provide the Corporation with a copy of such notice, either by facsimile or email (in pdf format) to the signatory hereof, together with an explanation of any efforts taken to reinstate such coverage. The Recipient may not cancel, terminate or fail to renew any insurance policy required herein, unless and until the Recipient has received the Corporation's written consent thereto.

15. Contract Supervision.

It is agreed that the services to be performed under this Agreement shall be subject to the overall administration, supervision and direction of the Corporation and that the Corporation may periodically call meetings which shall be attended by Recipient.

16. Required Cooperation.

The Recipient agrees to cooperate with the Corporation for all of the purposes of this Agreement to assure the expeditious and satisfactory completion of the Program. The Recipient also agrees to complete promptly all forms and reports as may from time to time be required by the Corporation and/or the State of New York in the proper administration and performance of said services. The Recipient further agrees that the Corporation may modify this Agreement as may be deemed necessary by the Corporation, to best make use of the Corporation's funding sources available for this Program.

17. Default.

- (a) If an Event of Default as defined below shall occur, all obligations on the part of the Corporation to make any further payment of the Award shall, if the Corporation so elects, terminate and the Corporation may, in its discretion, exercise any of the remedies set forth herein; provided, however, that the Corporation may

make any payments after the happening of an Event of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment.

(b) The following shall constitute an Event of Default hereunder:

- (i) if the Recipient fails, in the reasonable opinion of the Corporation, to comply with or perform any provision, condition or covenant contained in this Agreement, any applicable State or Federal law or regulation, or the NYMS policies and procedures established by the Corporation;
- (ii) if at any time any representation or warranty made by the Recipient shall be incorrect or materially misleading;
- (iii) if the Recipient has failed to commence the Program in a timely fashion or has failed to complete the Program within the Term as set forth in Section 2.

(c) Upon the happening of an Event of Default, the Corporation may, in its discretion, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of such remedies shall not preclude the Corporation from pursuing any other remedies contained herein or otherwise provided at law or in equity:

- (i) Terminate this Agreement, provided that the Recipient is given at least thirty (30) calendar days prior written notice.
- (ii) Commence a legal or equitable action to enforce performance of this Agreement.
- (iii) Withhold or suspend payment of the Award.
- (iv) Exercise any corrective or remedial action, to include, but not be limited to, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Corporation for the amount of the Award expended or used in an unauthorized manner or for an unauthorized purpose.

(d) In the event this Agreement is terminated by the Corporation for any reason, or upon the closeout of the Program, unless the Recipient obtains the prior written consent of the Corporation to the contrary, any unspent Award held by the Recipient shall immediately be turned over to the Corporation, and the Corporation shall have no further liability or obligation under this Agreement; provided, however, that nothing herein is intended to relieve the Corporation of its obligation to pay for services properly performed by the Recipient prior to such termination. Notwithstanding any such termination or closeout, the Recipient shall remain liable to the corporation for any unspent Award, the expenditure or use of the Award in a manner or for a purpose not authorized by this Agreement, or damages as a result of any breach of this Agreement by the Recipient. The Corporation shall have the right, at any time prior or subsequent to any such termination or closeout, to pursue any and all available remedies, including seeking injunctive or other equitable relief, to enforce the provisions of this Agreement and to recover the Award that is unspent, expended or used in an unauthorized manner or for an unauthorized purpose.

18. Indemnification.

To the fullest extent permitted by law, the Recipient shall defend, indemnify and hold harmless the Corporation and its agents and employees from and against any and all claims, actions, damages, losses, expenses and costs of every nature and kind, including reasonable attorneys' fees, incurred by or asserted or imposed against the Corporation, as a result of or in connection with the Program. All money expended by the Corporation as a result of such claims, actions, damages, losses, expenses and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately and without notice due and payable by the Recipient to the Corporation.

19. Non-liability.

Nothing in this Agreement or arising out of the development or operation of the Program shall impose any liability or duty whatsoever on the Corporation, the State of New York or any of its agencies or subdivisions.

20. Subcontracts.

The Recipient shall:

- (a) require any participating Subrecipient, contractor, subcontractor, or agent ("Third Party") to comply

- with all applicable Federal, State and Local laws and regulations;
- (b) adopt and perform such review and inspection procedures as are necessary to ensure compliance by Third Party with all applicable Federal, State and Local laws and regulations;
- (c) require any Third Party to indemnify the Corporation and the Recipient against any and all claims arising out of the Third Party's performance of work;
- (d) remain fully obligated under this Agreement notwithstanding its designation of a Third Party to undertake all or any portion of the Program.

21. No Commitment Beyond Term.

The Recipient shall not enter into any contract, lease, loan or other agreement, the terms or effect of which shall commit the use of the Award received pursuant to this Agreement for a use not authorized by the terms of this Agreement or for a period prior to commencement of the Term or subsequent to the termination of this Agreement, unless the Recipient obtains the prior written consent of the Corporation.

22. Assignment.

The Recipient may not assign any right granted to it under this Agreement or delegate any obligation imposed on the Recipient herein without the prior written consent of the Corporation, and any purported assignment or delegation without the Corporation's prior written consent shall be void. No such assignment or delegation consented to by the Corporation shall be effective until the proposed assignee or delegatee ("Assignee"), as the case may be, shall execute, acknowledge and deliver to the Corporation an agreement pursuant to which the Assignee shall assume the obligations imposed on the Recipient by this Agreement. This Agreement shall inure to the benefit of the successors and permitted assigns of the parties hereto.

23. Severability.

Should any part, term, or provision of this Agreement be decided by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be affected or impaired.

24. Notice.

All notices or other communications with respect to the subject matter of this Agreement shall be in writing and shall be deemed to have been given when personally delivered or sent by certified mail, return receipt requested, to the parties at the addresses first set out herein, or at such other address of which the receiving party shall have notified the sending party, except that notice of such change or address shall be deemed to have been given when it is received.

25. Miscellaneous.

- (a) No action shall lie or be maintained against the State of New York or the Corporation upon any claim based upon or arising out of this Agreement or the work performed hereunder or anything done in connection herewith, unless such action shall be commenced within six (6) months after the termination of this Agreement, or one (1) year from the accrual of the cause of action, whichever is earlier.
- (b) If any provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application thereof to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision shall be valid and enforceable to the fullest extent permitted by law.
- (c) Any action to be taken or consents to be given by the Corporation hereunder may be taken or given by a representative or agent designated by the Corporation for such purpose. All consents and approvals to be given by the Corporation hereunder must be in writing.
- (d) The captions and headings of the various sections herein are for convenience only and do not, and shall not be deemed to, define, limit or construe the contents of such sections.
- (e) This Agreement, including the attached schedules, constitutes the entire agreement between the parties and supersedes all prior oral and written agreements with respect to the Program.

- (f) This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York.
- (g) This Agreement may be executed in any number of counterparts or duplicates, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

26. Project Deliverables

- (a) Materials produced pursuant to this Agreement shall be provided to the Corporation upon project completion and prior to reimbursement of Project Costs.
- (b) Materials produced shall be provided to the Corporation in electronic format.
- (c) Materials produced pursuant to the Agreement are property of the Corporation and the Corporation reserves the right to modify and distribute such materials.
- (d) All contracts between the Recipient and providers hired to produce Project materials must include a provision requiring Project materials to be explicitly labeled as works for hire and exclusive property of the Recipient and the Corporation.
- (e) Materials produced shall be clearly labeled with the Project Number and the following statement:
"Developed with funding assistance from Housing Trust Fund Corporation and NYS Homes and Community Renewal. Document is property of Housing Trust Fund Corporation and *Recipient organization.*"

27. Schedules.

The following schedules are hereby incorporated into this Agreement and the Recipient, shall adhere to the provisions contained therein.

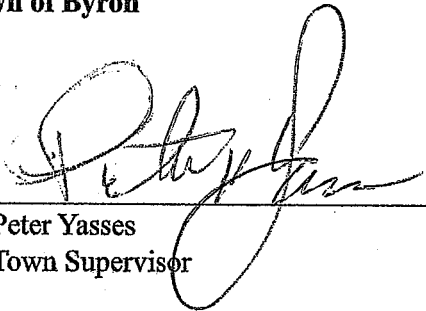
Schedule A - Awarded Budget & Projected Accomplishments

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

Housing Trust Fund Corporation

By: _____
Crystal Loffler
President, Office of Community Renewal

Town of Byron

By:  _____
Peter Yasses
Town Supervisor

STATE OF NEW YORK)

COUNTY OF Genesee) ss.:

On the 13th day of April, in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Peter N. Yasses, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

DEBRA M. BUCK-LEATON
Notary Public, State of New York
Reg. No. 01BU5026580
Qualified in Genesee County
Commission Expires 4-25-2022

Schedule A
2020 Awarded Budget & Projected Accomplishments
Town of Byron
Byron Hotel Building Preservation and Reuse Study

SHARS ID: 20210086

Award Budget

Funding Sources

New York Main Street (NYMS) Award
 Other Sources

Amount

\$19,950
 \$1,000

Projected Accomplishments

Activity and Deliverable/s	Start Date	Estimate Completion Date	Cost	NYMS-TA Cost	Estimated Payment Request Date
Procure Professional Services - Request for proposals (RFP) for professional services; - Selection of consultant/firm.	05/01/21	07/01/21	-	-	N/A
Building Re-Use Analysis - Structural assessment of existing conditions; - Code analysis; - Feasibility study; - Cost estimates; - Financial analysis.	08/01/21	11/01/21	\$20,950	\$19,950	12/01/21
Project Closeout - Final recommendations and reports to HTFC and property owner.	11/01/21	01/01/22	-	-	N/A
Total Costs			\$20,950	\$19,950	

Target Area

The project site is 6874 Byron-Holley Road in Byron, New York.

Program Compliance

The term Local Program Administrator or LPA shall refer to the Town of Byron, the recipient of Housing Trust Fund Corporation (HTFC) NYMS program funds.

- The LPA must endeavor to meet the Projected Accomplishments. Any defect or departure from the proposal must be requested and approved in writing.
- NYMS-TA funds may only be requested for reimbursement for eligible project costs incurred within the grant period pursuant to the NYMS-TA grant agreement. Prior to commencing the project, the LPAs must review the eligible work items, project budget, and project timeline with OCR staff. The NYMS-TA program operates fully as a reimbursement program and payment will be made only upon satisfactory completion of identified deliverables.
- Requests for NYMS-TA funds shall not exceed 95% of the total project cost documented by invoices and payments. NYMS-TA Projects require a minimum of 5% cash match, in-kind match is ineligible and administrative expenses are not eligible for reimbursement.

- LPA must incorporate provisions from Grant Agreement Section 26 in solicitation materials and final deliverables:
 - (a) Materials produced pursuant to this Agreement shall be provided to the Corporation upon project completion and prior to reimbursement of Project Costs.
 - (b) Materials shall be provided to the Corporation in electronic format only.
 - (c) Materials produced pursuant to the Agreement are property of the Corporation and the Corporation reserves the right to modify and distribute such materials.
 - (d) All contracts between the Recipient and providers hired to produce Project materials must include a provision requiring Project materials to be explicitly labeled as works for hire and exclusive property of the Recipient and the Corporation;
 - (e) Materials produced shall be clearly labeled with the Project Number and the following statement:
“Developed with funding assistance from Housing Trust Fund Corporation and NYS Homes & Community Renewal. Document is property of Housing Trust Fund Corporation and *Recipient organization*.”