

**TOWN OF BRIGHTON TOWN BOARD  
FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE  
MEETING AGENDA**

**Meeting Date: Tuesday, April 19, 2022 (3:30 p.m.)  
Location: Auditorium, Brighton Town Hall**

1. Approval of Minutes – Receive and file minutes of the April 5<sup>th</sup>, 2022 meeting.
2. Schedule mandatory referendum for the termination of the LOSAP and other related actions to this termination (WBFPD Fund) – Request from Ken Gordon, Town Attorney, for Town Board action to take the necessary actions to schedule a mandatory referendum to terminate the LOSAP as pursuant to the State Supreme Court Order as filed with Monroe County Clerk's office on December 17, 2020. Mandatory referendum will be scheduled for May 24, 2022 at 7:00 pm at the First Bible Church, 1095 East Henrietta Road. Each vested member of the program will be paid out a proportionate amount as actuarially determined by PenFlex (see letter from K. Gordon).
3. Authorize solicitation of Local Design Engineering Services related to the French Road Bridge over Allen Creek as funding was approved through the Bridge NY Program (Highway Dept.) – Request from Mike Guyon for Town Board action to authorize the solicitation of proposals for engineering for a Local Design Service Agreement (LDSA) as related to the French Road Bridge over Allen Creek. Funds have been approved through the Bridge NY Program in the amount of \$757,681 (see letter from M. Guyon).
4. Approve the probationary appointment of Eric Castle to the positon of Part-Time Assistance Building Inspector effective May 16, 2022 (Public Works Dept.) – Request from Mike Guyon for Town Board action to approve the probationary appointment of Eric Castle to the positon of Part-Time Assistant Building Inspector effective May 16, 2022. Salary will be set at Group X, Step 1 of the Part-Time Permanent and Seasonal Employee Wage Schedule \$24.12 per hour for 20 hours per week. This position is competitive and Mr. Castle was hired off of the Monroe County Civil Service list. This appointment is subject to the successful completion of a 52 week probationary period at which time the appointment will become permanent (see letter from M. Guyon).
5. Set 202-B Public Hearing for Sewer District Improvements/Equipment purchases for May 11, 2022 at 7:00 pm (Sewer Dept.) – Request Mike Guyon for Town Board action to set a 202-B hearing for the Sewer District's purchase of a small dump truck (\$65,000), and partial funding of an excavator (\$75,000) and the contribution to the purchase and installation of outside lighting at the Operations Center (\$26,720) totaling \$166,720. Budget adjustments were made at the April 13<sup>th</sup> Board meeting to facilitate these purchases and no bonding will be necessary (see letter from M. Guyon).

6. Adopt Bond Resolution in the amount of \$435,000 for the purchase of two pieces of highway equipment (Finance Dept.) – Request from Paula Parker for Town Board action to adopt a bond resolution in the amount of \$435,000 to purchase on (1) large heavy duty dump truck with dump box and snow plow equipment (\$280,000) and one excavator (\$155,000) at an estimated cost of \$230,000 with the Sewer Department contributing \$75,000 or one-third (1/3) toward the purchase. This bond will have a repayment period of ten (10) years and is subject to 2/3rds majority vote. The Sewer portion of the excavator purchase is subject to the 202-B Public Hearing process. The bond amount includes the cost of the equipment plus estimated fees relating to the bonding. The Bond Resolution is being prepared by the Town's Bond Council and will be subject to both permissive referendum and estoppel periods (see letter from P. Parker).
7. Reminder – The summer schedule begins with our next FASC meeting on Wednesday, May 4<sup>th</sup>. Meeting will be on Wednesday mornings at 8:30 pm until our September 6<sup>th</sup> meeting. I have attached a schedule for your reference. The attached schedule does also note some room changes for the May 18<sup>th</sup> and June 1<sup>st</sup> meetings..

**The next regularly scheduled meeting of the FASC will be held on WEDNESDAY, May 4, 2022 at 8:30 a.m. in the AUDITORIUM of the Brighton Town Hall. All members of the public are invited to attend FASC meetings.**

**\*\*AS PER THE REGULAR SCHEDULE\*\***

**Brighton Town Board**  
**Finance and Administrative Services Committee**  
**Meeting Notes from the Tuesday, April 5, 2022 Meeting**

**ATTENDEES**

**FASC Committee members:**

Jason DiPonzo (Chair)  
Robin Wilt  
Supervisor William Moehle  
Paula Parker (Staff to the Committee)

**Other Town Councilmembers:**

Christine Corrado

**Department Heads/Other attendees:**

David Catholdi (Police Chief)  
Matt Beeman (Parks)  
Mike Guyon (Highway/Public Works)  
Evert Garcia (Public Works)

The Town Board's Finance and Administrative Services Committee (the FASC) met at 3:30 p.m. and reviewed a number of contractual, procurement, finance and/or budget, and personnel related matters referred by Town departments and is prepared to make recommendations to the full Town Board as follows:

**Approval of Minutes:** Approval of Minutes – Received and filed the minutes of the March 15, 2022 meeting.

**Town Bid/Proposal Authorizations and Awards:**

Award bid and authorize the Supervisor to execute a contract with Plant Concepts, Inc. for the GIGP Monroe Avenue maintenance (Public works Dept.) – The FASC discussed with Evert Garcia the request from Chad Roscoe for Town Board action to award the bid for the Monroe Avenue GIGP green infrastructure maintenance to Plant Concepts, Inc. in an amount not to exceed \$42,350. This contract will be effective immediately through March 31, 2023. There is also the option to renew this contract for two additional periods at the sole discretion of the Town (see letter from C. Roscoe).

The FASC recommends the Town Board take favorable action on this matter.

**Grant Authorizations and Acceptances:**

Accept SAM Grant award of \$350,000 for the Library roof and authorize the Supervisor to execute all related documents (Public Works Dept.) – The FASC discussed with Mike Guyon his request for Town Board action to accept a SAM Grant in the amount of \$350,000 to partially fund the replacement of the Library roof. Further authorize the Supervisor and his designee to execute all related documents as necessary for the acceptance and administration of this grant (see letter from M. Guyon).

The FASC recommends the Town Board take favorable action on this matter.

## **Contracts and Contract Change Orders:**

Authorize the participation in the NYS Homeland Security Local Exercise Grant activities (Police Dept.) – The FASC discussed with Police Chief David Catholdi his request for Town Board action to authorize the Supervisor to sign the necessary agreements to participate in the New York State Homeland Security Local Exercise Reimbursement Grant. The Town Police Department has participated in the activities in the past. The grant will allow for the recoupment of personnel costs to participate in these exercises (see letter from D. Catholdi). The FASC recommends the Town Board take favorable action on this matter.

Authorize the Supervisor to execute a contract with the Skycoasters for the 4<sup>th</sup> of July 2022 celebration (Parks Dept.) – The FASC discussed with Matt Beeman his request for Town Board action to authorize the Supervisor to execute a contract with the Skycoasters to provide music at the 2022 4<sup>th</sup> of July celebration. The cost of this contract will not exceed \$3,800 and funding is available in the celebrations budget (see letter from M. Beeman).

The FASC recommends the Town Board take favorable action on this matter.

Authorize the Supervisor to execute a contract with Young Explosives for the 4<sup>th</sup> of July 2022 celebration (Parks Dept.) – The FASC discussed with Matt Beeman his request for Town Board action to authorize the Supervisor to execute a contract with Young Explosives to provide the 2022 4<sup>th</sup> of July fireworks display. The cost of this contract will not exceed \$11,400 and Young Explosives will provide all the necessary insurance information naming the Town of Brighton as additionally insured. Funds are available in the 2022 celebrations budget (see letter from M. Beeman).

The FASC recommends the Town Board take favorable action on this matter.

Approve contract with CIH Services for air quality monitoring as related to the Library Roof Replacement Project (Public Works/Facilities Dept.) – The FASC discussed with Evert Garcia his request for Town Board action to approve a contract with CIH (Certified Industrial Hygienist) to provide air quality monitoring services for several days during the installation of the membrane roof system. The Library has requested these services due to the odors of the compounds used in the membrane placement and sealing. The daily cost of these services will be \$1,440 plus an additional \$500 for each “badge” sample if warranted. An estimated five days at a minimum will be needed (see letter from E. Garcia). The FASC recommends the Town Board take favorable action on this matter.

Award RFP and authorize the Supervisor to execute a contract with Lu Engineers for Phase I Environmental Site Assessment services (Public Works Dept.) – The FASC discussed with Evert Garcia his request for Town Board action to authorize the Supervisor to execute a contract with Lu Engineers for Phase I Environmental Site Assessment Services. These services will be utilized in conjunction with the proposed purchase of the 44.3 acres of land on S. Winton Road. The contract amount will not exceed \$1,600 (see letter from E. Garcia). The FASC recommends the Town Board take favorable action on this matter.

Authorize an amendment to the current contract with Gwen, Inc. to increase the not to exceed amount by \$5,016 (Supervisor's Office) – The FASC discussed with Supervisor Moehle his request for Town Board action to amend the current contract with Gwen, Inc. to increase the original agreement by \$5,016 from \$47,500 to an amount not to exceed \$52,516. The work of the IDEA Board took longer than expected due to the COVID-19 Pandemic and as a result more of the consultant's time being utilized to keep the project on course (see letter from B. Moehle).

The FASC recommends the Town Board take favorable action on this matter.

Approve annual subscriptions with ClearGov for Digital Budget Book and Capital Budgeting (Finance Dept.) – The FASC discussed with Paula Parker her request for Town Board action to approve annual subscriptions with ClearGov for Digital Budget Book and Capital Budgeting & Planning software. This online software will streamline and enhance these processes. The cost for 2022 (for the 2023 budget year) is \$10,773.33 and the cost of the software for all additional years through 2027 will be \$11,840. This contract can be cancelled with at least 60 days' notice prior to the end of the fiscal year (see letter from P. Parker).

The FASC recommends the Town Board take favorable action on this matter.

### **Budget Amendments and Transfers:**

Authorize appropriations 2022 budget and 2022 re-appropriations for Capital Projects in process (Finance Dept.) – The FASC discussed with Paula Parker her request for Town Board action to approve the list of appropriations necessary to allow for some small equipment purchases, fees related to the administrative and LOSAP dissolution fees for the WBFPD, the re-appropriation of the current Capital Projects and entries to close finished Capital Projects. A fully detailed list is attached (see letter from P. Parker).

The FASC recommends the Town Board take favorable action on this matter.

### **Other Matters for Action of the Town Board:**

Declare two police vehicles as surplus to be sold at the spring 2022 Annual Municipal Auction (Police Dept.) – The FASC discussed with Police Chief David Catholdi his request for Town Board action to declare two Police vehicles #112 and #119, a 2015 and a 2017 Ford Explorers respectively. These vehicles will be sold at the annual Municipal Auction in May of 2022. It was noted the each of these vehicles have over 100,000 miles on them (see letter from D. Catholdi).

The FASC recommends the Town Board take favorable action on this matter.

Adopt a Type I SEQR negative declaration as related to the purchase of the 44.3 acres of land on S. Winton Road (Public Works Dept.) – The FASC discussed with Mike Guyon the request from Ramsey Boehner for Town Board action to approve and adopt the Type I negative declaration as related to the purchase of the 44.32 acres of land on S. Winton Road (see letter from R. Boehner). It was noted that some of the references contained in the negative declaration may have to be amended.

The FASC recommends the Town Board take favorable action on this matter.

Adopt Bond Resolution in the amount of \$1,895,000 for the purchase of 44.32 acres of land located at S. Winton Road and adjacent to the current Buckland Park (Finance Dept.) – The FASC discussed with Paula Parker her request for Town Board action to adopt a bond resolution in the amount of \$1,895,000 to purchase 44.32 acres of land (parcel #150.05-1-1.22) located on S. Winton Road. The bond amount includes \$1,845,000 for the land and an additional \$50,000 for all bond related expenses such as closing costs, legal and municipal advisory fees, advertising and other miscellaneous fees. The Bond Resolution is being prepared by the Town's Bond Council and will be subject to both permissive referendum and estoppel periods (see letter from P. Parker). The FASC recommends the Town Board take favorable action on this matter.

### **Personnel Matters:**

Approve Non-Represented Salary Schedule amendment (Public Works Dept.) – The FASC discussed with Mike Guyon his request for Town Board action to add the position of Senior Planner to Group 10 of the Non-Represented Salary Schedule. Further the position of Planning Associate will be deleted following the official retirement of Ramsey Boehner (see letter from M. Guyon). The FASC recommends the Town Board take favorable action on this matter.

Approve the promotional appointment of Rick DiStefano to Senior Planner effective May 2, 2022 (Public Works Dept.) – The FASC discussed with Mike Guyon his request for Town Board action to approve the promotional appointment of Rick DiStefano from Planner to Senior Planner effective May 2, 2022. Further Mr. DiStefano's salary will be placed in Group 10, Step 2 at \$84,338.80 annually for a 35 hour work week. This promotion is subject to a 26 week probationary period (see letter from M. Guyon). The FASC recommends the Town Board take favorable action on this matter.

Approve the promotional appointment of Jeff Frisch Planner effective May 2, 2022 (Public Works Dept.) – The FASC discussed with Mike Guyon his request for Town Board action to approve the promotional appointment of Jeff Frisch from Planning Technician to Planner effective May 2, 2022. Further Mr. Frisch's salary will be placed in Group 7, Step 3 at \$63,991.20 annually for a 35 hour work week. This promotion is subject to a 26 week probationary period (see letter from M. Guyon). The FASC recommends the Town Board take favorable action on this matter.

Approve Finance Department Organizational Chart amendment and Non-Represented Salary Schedule Amendment (Finance Dept.) – The FASC discussed with Paula Parker her request for Town Board action to add the position of Senior Office Account Clerk to the Finance Department's organizational chart effective immediately. Also place this title on Group 4 of the Non-Represented Salary Schedule. With the retirement of the Assistance Director of Finance, these changes are necessary for the continued operation of the Finance Department (see letter from P. Parker). The FASC recommends the Town Board take favorable action on this matter.

**Executive Session:**

There was a motion by Supervisor Moehle at 4:40 pm to enter an executive session to discuss the employment of particular people. This was seconded by Robin Wilt and all voted aye.

At 5:00 pm there was a motion by Supervisor Moehle to end the executive session and a second by Robin Wilt. All voted aye.

**Other Matters for Discussion Only:**

No matters for this meeting.

**Matters Tabled for Research and/or Discussion:**

No matters for this meeting.

\*\*The FASC meeting was adjourned at 5:00 pm.

**The next regularly scheduled meeting of the FASC will be held on Tuesday, APRIL 19, 2022 at 3:30 PM in the AUDITORIUM at Brighton Town Hall.**

All members of the public are invited to attend FASC meetings.

**\*\*AS PER THE REGULAR SCHEDULE (Room Change)\*\***



# Office of the Town Attorney

**Kenneth W. Gordon, Esq.**  
Town Attorney

## **Brighton**

April 18, 2022

Finance and Administrative Services Committee  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

Re: West Brighton Fire Protection District LOSAP Termination

Dear Chairperson Diponzio and Honorable Members of FASC :

As you know, the West Brighton Fire Protection District has been terminated as of January 1, 2022. While it existed, it had contracted for a time with the West Brighton Fire Department, Inc. to provide fire protection services in the District. The District established a defined benefit Service Award Program (hereinafter "LOSAP") for active volunteer members of the West Brighton Fire Department, Inc. effective January 1, 1990 in accordance with Article 11-A of the New York State General Municipal Law. Effective August 1, 2012, the Town of Brighton no longer contracted with the West Brighton Fire Department to provide fire protection services for residents of the West Brighton Fire Protection District.

The termination of the contract with the West Brighton Fire Department led to a series of lawsuits between the District and the Department which ultimately were resolved pursuant to a Stipulation and Order of State Supreme Court which was filed with the Monroe County Clerk's Office on December 17, 2020. A copy of the Stipulation and Order is submitted herewith. A portion of the Stipulation and Order provided that the LOSAP would be terminated. Participants vested as of August 2013 are to receive a lump sum payout equal to a proportionate amount of their actuarially determined award to the extent funded less any service awards which had been previously paid to participants and their beneficiaries. The Town's Finance Director, Assistant Finance Director and I have been working with the LOSAP administrator Penflex to calculate the distributive shares, and Penflex has recently completed its work and issued a report of the amounts to be paid to each vested participant to the extent that such funds are available in the LOSAP account. A copy of the report is submitted herewith.

Termination of the LOSAP is subject to mandatory referendum both under the terms of New York State General Municipal Law and the terms of the Stipulation and Order. The referendum must be held in the District, and because the West Henrietta Road firehouse has now been transferred to the Henrietta Fire District, that building is no longer available to the Town for the referendum. Accordingly, we have tentatively scheduled a mandatory referendum for the termination of the LOSAP for May 24, 2022 from noon until 7:00 pm at the First Bible Church, 1095 East Henrietta Road subject to Town Board approval. Town Clerk Dan Aman has contacted the church leadership which has agreed to allow the referendum on that date.

In accordance with Town Law Section 82, the Town Board must adopt a resolution at least twenty days prior to the referendum, and notice of the referendum must be published at least ten days prior to the referendum. We also intend to ask Penflex to send letters to all vested participants prior to the referendum to notify them of the process to receive their respective lump sum distributions. Penflex will also be handling the actual distribution to vested members.

Accordingly, I respectfully request that this Committee take the following action at its April 19, 2022 meeting and recommend that the Town Board also take such action at its April 27, 2022 Board meeting:

1. Terminate and abolish the West Brighton Fire Protection District LOSAP subject to approval of said termination by referendum of the eligible voters of the District;
2. Set the date, time and place for said referendum on the termination of the LOSAP for May 24, 2022 from noon until 7:00pm at the First Bible Church, 1095 East Henrietta Road in the Town of Brighton;
3. Direct the Town Clerk to publish notice of said referendum in the Daily Record no later than May 13, 2022;
4. Request Penflex to send correspondence immediately following the April 27 Town Board meeting to all vested participants in the LOSAP notifying each of his or her anticipated distributed lump sum share and advising them of the date, time, place and necessity of the approval of the referendum;
5. Authorize Penflex, as soon as possible following the approval of said referendum, to distribute the lump sum computed shares as of the first day of the month following the approval of the referendum;
6. Authorize the payment to Penflex of a one-time administration fee of \$11,500 for its services in connection with the abolishment/termination of the Service Award Program.

I will be happy to answer any questions you may have relative to this matter and will be in attendance at your meeting.

Respectfully submitted,



Kenneth W. Gordon  
Town Attorney

MONROE COUNTY CLERK'S OFFICE

THIS IS NOT A BILL. THIS IS YOUR RECEIPT.

Receipt # 2578176

Book Page CIVIL

Return To:

Donna M. Brongo  
99 Exchange Boulevard - Rm: 412  
Rochester, NY 14614

No. Pages: 80

Instrument: ORDER

Control #: 202012171007  
Index #: E2019007968

Date: 12/17/2020

The Town of Brighton, New York,

Time: 3:02:45 PM

West Brighton Fire Department, Inc.

Total Fees Paid: \$0.00

Employee: CW

State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

JAMIE ROMEO

MONROE COUNTY CLERK



At a Special Term of the Supreme Court of the State of New York held in and for the County of Monroe, located at Hall of Justice, Rochester, New York, on this 17 day of December, 2020.

PRESENT: HONORABLE JOHN J. ARK, J.S.C.

STATE OF NEW YORK  
SUPREME COURT      COUNTY OF MONROE

THE TOWN OF BRIGHTON, NEW YORK, on behalf of  
THE TOWN OF BRIGHTON, NEW YORK, THE TOWN  
BOARD OF THE TOWN OF BRIGHTON, NEW YORK,  
and THE WEST BRIGHTON FIRE PROTECTION  
DISTRICT,

## ORDER

Index No. E2019007968

**Plaintiffs,**

VS

## WEST BRIGHTON FIRE DEPARTMENT, INC.

Defendant.

WHEREAS, pursuant to Stipulation of Settlement and Order attached hereto as Exhibit "A" (the "Stipulation of Settlement"), the parties have provided for, among other things, the full resolution of six pending lawsuits between the Town of Brighton, the West Brighton Fire Department Inc., and other related parties, including the above-referenced litigation, involving fire protection services within the West Brighton Fire Protection District; and

WHEREAS, the Court has reviewed, considered, and so-ordered the Stipulation of Settlement; and

WHEREAS, the Court deems it just and proper to enter a further order approving the  
Stipulation of Settlement for entry in the above-referenced litigation.

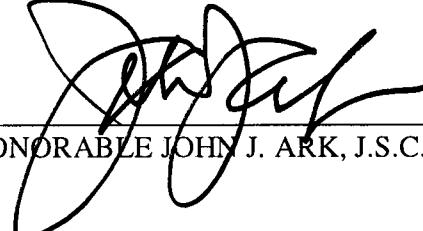
NOW, THEREFORE, GOOD CAUSE HAVING BEEN SHOWN, IT IS HEREBY

ORDERED, ADJUDGED, AND DECREED that the Court hereby approves the  
Stipulation of Settlement; it is further

ORDERED, ADJUDGED, AND DECREED that the terms of the Stipulation of Settlement  
and of this Order shall be binding on the parties in the above-captioned litigation, as well as their  
heirs, executors and administrators, successors and assigns; and it is further

ORDERED, ADJUDGED, AND DECREED that, without affecting the finality of this  
Order for purposes of appeal, the Court will retain jurisdiction as to all matters relating to  
administration, consummation, enforcement and interpretation of the Stipulation of Settlement or  
this Order, and for any other necessary purpose.

Dated: December 17, 2020

  
HONORABLE JOHN J. ARK, J.S.C.

NYSCUF DOC. NO. 39  
**FILED: MONROE COUNTY CLERK 12/15/2020 02:48 PM**

RECEIVED NYSCUF 12/15/2020  
RECEIVED NYSCUF: 12/16/2020

EXHIBIT A

STIPULATION OF SETTLEMENT AND ORDER

STATE OF NEW YORK  
SUPREME COURT      COUNTY OF MONROE

In the Matter of the Application of the TOWN BOARD of  
the TOWN OF BRIGHTON, on behalf of the TOWN OF  
BRIGHTON and the WEST BRIGHTON FIRE  
PROTECTION DISTRICT,

Petitioners,

Index No. 2012-8485  
(Action No. 1)

V.

## WEST BRIGHTON FIRE DEPARTMENT, INC.

## Respondent.

CHRISTOPHER E. SMITH, MARY ANN SCHLITZER,  
GARY SMITH, JANICE TOLAND, ROBERT TEDROW.

### Petitioners.

Index No. 2013-11785  
(Action No. 2)

V.

TOWN OF BRIGHTON, and the WEST BRIGHTON FIRE PROTECTION DISTRICT, and the TOWN BOARD of the TOWN OF BRIGHTON,

## Respondents.

In the Matter of the Application of the PAT A. INZER,  
BRUCE HALL, DEAN C. MARSHALL III, KEVIN HALL  
and JAMES QUINN for Judicial Dissolution of the West  
Brighton Fire Department, Inc. pursuant to Not-for-Profit  
Corporation Law § 1102, and the TOWN OF BRIGHTON,

Petitioners,

Index No. 2014-1876  
(Action No. 3)

V

## WEST BRIGHTON FIRE DEPARTMENT, INC.,

**Respondent,**

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and

ERIC T. SCHNEIDERMAN, as Attorney General of  
the State of New York,

Respondent.

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WEST BRIGHTON FIRE DEPARTMENT, INC.,

Plaintiff,

Index No. E2018009565  
(Action No. 4)

v.

CITY OF ROCHESTER and the TOWN OF BRIGHTON,

Defendants.

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THE TOWN OF BRIGHTON, NEW YORK,  
on behalf of THE TOWN OF BRIGHTON, NEW YORK,  
THE TOWN BOARD OF THE TOWN OF BRIGHTON,  
NEW YORK, and THE WEST BRIGHTON FIRE  
PROTECTION DISTRICT,

Plaintiffs,

Index No. E2019007968  
(Action No. 5)

-against-

WEST BRIGHTON FIRE DEPARTMENT, INC.,

Defendant.

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WEST BRIGHTON FIRE DEPARTMENT, INC.,

Petitioner,

Index No. E2019009320  
(Action No. 6)

-against-

NY LIQUID ASSET FUND (NYLAF), THE  
CANANDAIGUA NATIONAL BANK AND TRUST  
COMPANY, KEY BANK, KEYBANC CAPITAL

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MARKETS, INC., JPMORGAN CHASE BANK, AND  
MANUFACTURERS & TRADERS TRUST COMPANY,

Respondents.

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**STIPULATION OF SETTLEMENT AND ORDER**

THIS STIPULATION OF SETTLEMENT AND ORDER (this “**Stipulation**”) is made by and between the TOWN OF BRIGHTON, NEW YORK (the “**Town of Brighton**”), the TOWN BOARD OF THE TOWN OF BRIGHTON, NEW YORK (the “**Town Board**”), the WEST BRIGHTON FIRE PROTECTION DISTRICT (the “**District**”; the Town of Brighton, the Town Board, and the District are sometimes collectively referred to as the “**Town**”); the WEST BRIGHTON FIRE DEPARTMENT, INC. (“**WBFD**”); CHRISTOPHER E. SMITH, MARY ANN SCHLITZER, GARY SMITH, JANICE TOLAND, and ROBERT TEDROW (collectively, the “**Smith Petitioners**”); PAT A. INZER, BRUCE HALL, DEAN C. MARSHALL III, KEVIN HALL, and JAMES QUINN (collectively, the “**Inzer Petitioners**”); the CITY OF ROCHESTER; and LETITIA JAMES, the ATTORNEY GENERAL OF THE STATE OF NEW YORK (the Town, WBFD, the Smith Petitioners, the Inzer Petitioners, the City of Rochester, and the Attorney General are sometimes collectively referred to as the “**Parties**”).

**RECITALS**

A. Pursuant to New York Town Law § 184, the Town is statutorily responsible for providing fire protection services within the District. The Town historically contracted with the WBFD to service the District. On January 1, 2011, the Town Board, acting for and on behalf of the District, entered into an Agreement (the “**Agreement**”) with WBFD to provide fire protection within the District. The Town terminated the Agreement effective August 1, 2012.

*Town of Brighton v West Brighton Fire Department, Inc. (Action No. 1)*

B. On or about August 1, 2012, the Town Board, on behalf of the Town and the District, commenced Action No. 1 against WBFD seeking, among other relief, an order directing WBFD to take all action necessary to transfer title to all real and personal property purchased by WBFD, including but not limited to real property located at 2695 West Henrietta Road (the “**West Henrietta Road Property**”) and on Riverside Drive (the “**Riverside Drive Property**”), and all apparatus and vehicles (the “**WBFD Personal Property**”).

C. By Order dated February 5, 2014 (the “**2014 Order**”), Supreme Court ordered, among other things, that WBFD promptly take all action necessary to transfer title of all of its real and personal property in accordance with the Agreement, including dissolution if necessary pursuant to Article 11 of the Not-for-Profit Corporation Law. By Memorandum and Order entered March 27, 2015, the Fourth Department affirmed the 2014 Order (*Town Bd. of Town of Brighton v West Brighton Fire Dept. Inc.*, 126 AD3d 1433 [4th Dept 2015]). The Fourth Department and Court of Appeals have each denied leave to appeal to the Court of Appeals from the Fourth Department’s 2015 Memorandum and Order.

D. By Decision and Order dated April 6, 2017 (the “**2017 Order**”), Supreme Court ordered the Town to make monthly rental payments to WBFD in exchange for the Town’s use and occupancy of the West Henrietta Road Property. By Memorandum and Order entered June 28, 2019, the Fourth Department affirmed the 2017 Order (*Town of Bd. of Town of Brighton v West Brighton Fire Dept. Inc.*, 173 AD3d 1822 [4th Dept 2019]).

E. On or about July 15, 2019, WBFD moved Supreme Court for an Order requiring the Town’s bank to pay to the care of WBFD’s attorney \$554,035.37, with interest accruing on

the principal rate of nine percent (9%) (the “**WBFD Rent Judgment Motion**”). The WBFD Rent Judgment Motion is currently pending before Supreme Court.

F. On or about February 26, 2020, WBFD filed a Notice of Petition for Dissolution seeking the granting of the WBFD Petition for Dissolution; the sale of WBFD’s assets in order to pay creditors in full; and the turnover of any remaining assets to the Town (the “**WBFD Dissolution Motion**”). The WBFD Dissolution Motion is currently pending before Supreme Court.

*Smith v Town of Brighton (Action No. 2)*

G. In 2013, the Smith Petitioners commenced Action No. 2, seeking, among other relief, an order that the Town is unable to complete the adopted elector-initiated dissolution plan for the District. Supreme Court has held Action No. 2 in abeyance pending the exhaustion of appellate remedies in Action No. 1 related to the West Henrietta Road Property.

*Inzer v West Brighton Fire Department (Action No. 3)*

H. In 2013, a majority of the WBFD membership voted on whether to transfer the West Henrietta Road Property and WBFD Personal Property to the Town, however, the vote failed to pass by a 2/3 majority and the transfer did not occur. On or about February 14, 2014, the Inzer Petitioners and the Town filed Action No. 3 seeking dissolution of WBFD. By Decision dated April 6, 2017, and Order dated April 25, 2017, Supreme Court granted the petition dissolving WBFD (the “**Inzer Dissolution Order**”). By Memorandum and Order entered June 28, 2019, the Fourth Department affirmed the Inzer Dissolution Order (*see Inzer v West Brighton Fire Department, Inc.*, 173 AD3d 1826 [4th Dept 2019]). The Fourth Department and Court of Appeals have each denied leave to appeal from the Fourth Department’s 2019 Memorandum and Order.

I. On or about January 17, 2020, the Town moved Supreme Court pursuant to Articles 11 and 12 of the Not-for-Profit Corporation Law to appoint a receiver of all assets and property of WBFD with all the usual powers and duties according to the law of this state and directing the receiver to perform an accounting of all assets and liabilities of WBFD in furtherance of the judicial dissolution of WBFD (the “**Inzer Receiver Motion**”). The Inzer Receiver Motion is currently pending before Supreme Court.

*West Brighton Fire Department, Inc. v City of Rochester (Action No. 4)*

J. On or about November 20, 2018, WBFD commenced Action No. 4 against the City of Rochester and the Town alleging various inverse condemnation and takings claims because of the Town’s occupancy of the West Henrietta Road Property. The City of Rochester and the Town both moved to dismiss the Amended Complaint dated January 31, 2019 (the “**Action No. 4 Motions to Dismiss**”). The Action No. 4 Motions to Dismiss are currently pending before Supreme Court.

*Town of Brighton v West Brighton Fire Department, Inc. (Action No. 5)*

K. On or about August 21, 2019, the Town and the District commenced Action No. 5 against WBFD for indemnification, breach of contract, and declaratory judgment for WBFD to indemnify and hold the Town and the District harmless for WBFD’s failure to promptly take all action necessary to transfer title to certain real property at no cost to the Town.

L. By Order to Show Cause dated October 1, 2019, the Town moved for a temporary restraining order and preliminary injunction enjoining and restraining WBFD’s attempt to enforce a money judgment against the Town, including restraining its bank accounts (the “**Action No. 5 Injunction Motion**”). WBFD cross-moved to dismiss the Complaint dated August 21, 2019 (the “**Action No. 5 Motion to Dismiss**”). Both the Action No. 5 Injunction Motion and Action No. 5 Motion to Dismiss are currently pending before Supreme Court.

*West Brighton Fire Department, Inc. v NY Liquid Asset Fund (NYLAF) (Action No. 6)*

M. On or about October 1, 2019, WBFD commenced Action No. 6 against the Town's various banking institutions seeking an order requiring the Town's banking institutions to pay to WBFD's counsel \$581,707.67, with interest continuing to accrue on the principal at the rate of nine percent (9%). By Order to Show Cause dated October 3, 2019, the Town moved for permission to intervene in Action No. 6; to dismiss or, in the alternative, stay Action No. 6 until Supreme Court rendered a final determination in Action No. 5; and for costs, reasonable attorneys' fees and sanctions against WBFD's counsel (the "**Action No. 6 Motion**"). The Action No. 6 Motion is currently pending before Supreme Court.

N. The Town and WBFD have engaged in settlement discussions and have agreed to fully resolve the above-referenced actions without further litigation upon the terms of this Stipulation.

NOW, THEREFORE, the Parties hereby stipulate as follows:

**Article I: Scope of Settlement**

1. Subject to the terms and conditions contained in this Stipulation, the Parties intend to fully resolve and settle the present dispute and end all potential litigation through the implementation of a court-approved Plan of Dissolution of WBFD (*see Article II*) providing for the appointment of a receiver to wind up the affairs of WBFD, liquidate certain assets of WBFD, including the Riverside Drive Property and WBFD Personal Property, and distribute the proceeds as set forth herein. Subject to the terms and conditions contained in this Stipulation, counsel for WBFD shall receive at least \$200,000 in full satisfaction of legal fees incurred in connection with the present dispute and, in exchange, the Town shall receive title to the West Henrietta Road Property in order for the Town to complete its dissolution plan for the District.

**Article II: Plan of Dissolution of WBFD**

2. Assets of WBFD. WBFD represents and warrants that the following constitutes a list of the assets of WBFD and their fair market value:

<b>Bank Account/Holding Company</b>	<b>Amount</b>
Bank Account – Key Bank	\$4,268.57

<b>Real Property</b>	<b>Fair Market Value</b>
The Riverside Drive Property	\$207,000
The West Henrietta Road Property	\$1,370,000

<b>WBFD Personal Property</b>	<b>Fair Market Value</b>
Two engines	Unknown value
One Heavy Rescue	Unknown value
Light Rescue	Unknown value
Chief's vehicle (Chevy Tahoe)	Unknown value
Van	Unknown value
Trailer	Unknown value
Antique Fire Apparatus	Unknown value
Various assorted fire apparatus and equipment, including but not limited to radios, tools, SCBA, turnout gear, hydraulic equipment, pages, ladders, hose, furniture, and other related items	Unknown value

3. Liabilities of WBFD. WBFD represents and warrants that the following are all of the liabilities of WBFD: (i) Judgment held by the Town against WBFD in the amount of \$483,005.00 (Control No. 201506030718) (the “**Town Judgment**”); and (ii) Judgment held by the Pinsky Law Group, PLLC against WBFD entered in Index No. E2019002405 on March 14, 2019 in the amount of \$250,000 (Control No. 201903141409) (the “**Pinsky Judgment**”).

4. Appointment of Receiver.

a. Pursuant to Order of the Court dated November 5, 2020, and Sections 1008, 1111, and 1115 of the Not-for-Profit Corporation Law, James E. Morris, Esq. (the “**Receiver**”), Morris & Morris, 120 Corporate Woods, Suite 240, Rochester, New York, has been appointed as the Receiver of all the assets and property of WBFD with the power: (i) to sue in his own name or otherwise for the recovery of the property, debts and causes of action of

WBFD; (ii) to sell at public or private sale the Riverside Drive Property, all WBFD Personal Property, and any other rolling stock, equipment, apparatus, or other personal property of WBFD, in such manner and on such terms and conditions as provided herein, and to make necessary transfers and conveyances thereof. Notwithstanding anything to the contrary contained herein, the Receiver shall not have the power or authority to sell the West Henrietta Road Property, which shall be subject to disposition as provided for under paragraph 6 of this Stipulation.

b. The Receiver, before entering upon his duties, shall take and subscribe an oath to faithfully, honestly, and impartially discharge the trust committed to him, which oath shall be filed with the clerk of the Court. The Receiver shall also file with the clerk of the Court a bond to be approved by the Court, in the penal sum of \$200,000.00, conditioned for the faithful discharge of his duties. The Receiver shall deposit in Canandaigua National Bank & Trust Company all funds of WBFD coming into his hands not needed for immediate disbursements and no other deposits and no investment of such funds shall be made except upon further order of the Court. The Receiver is an officer of the Court and not any creditor or Party, and shall not take direction from any creditor or Party, except as otherwise provided for in this Stipulation.

5. Liquidation of Assets of WBFD. Within 270 days of execution of this Stipulation by the Town, WBFD, and the Court, and appointment of the Receiver (the "**Sale Period**"), the Receiver shall sell or shall have entered into an agreement to sell at public or private sale the Riverside Drive Property, all WBFD Personal Property, and any other rolling stock, equipment, apparatus, or other personal property, in one transaction or in several transactions to one or more buyers, on such terms as are commercially fair and reasonable to obtain the highest and best offer. The Receiver shall provide to counsel for the Parties copies of any offers for the purchase

of the Riverside Drive Property within 24 hours of receipt by the Receiver. Notwithstanding anything to the contrary contained herein, if the Receiver fails to obtain any offer for the Riverside Drive Property, then the Town shall have the option in its sole and absolute discretion to direct the Receiver to convey the Riverside Drive Property to the Town or its designee for \$1 good and valuable consideration, subject to paragraphs 7(a) and 8 of this Stipulation.

6. Transfer of the West Henrietta Road Property to the Town.

a. Pursuant to the quasi cy pres standards set forth in Sections 513 and 1008(a)(5) of the Not-for-Profit Corporation Law, and Paragraph 12 of the Agreement, within seven days of (i) the Town's payment to \$200,000 to counsel for WBFD under paragraph 6(b) of this Stipulation or (ii) the distribution of proceeds under paragraph 7(a) of this Stipulation, whichever occurs first, the Receiver and WBFD shall convey to the Town or its designee the West Henrietta Road Property for \$1 good and valuable consideration.

b. Notwithstanding anything to the contrary contained herein, the Town at any time shall have the right in its sole and absolute discretion to direct the Receiver to release the Transfer Documents to the Town by paying counsel for WBFD the sum of \$200,000.

c. Within 10 days of execution of this Stipulation by the Town, WBFD and the Court, and appointment of the Receiver, the Receiver and WBFD shall execute the deed and any and all customary documents necessary to record the deed in the Monroe County Clerk's Office as provided under paragraph 8 of this Stipulation (the "Transfer Documents"). The Receiver shall hold the Transfer Documents in escrow subject to release as provided for under paragraph 6(a) of this Stipulation.

7. Distribution of Proceeds. Within 30 days of the liquidation of assets under paragraph 5 of this Stipulation, the Receiver shall perform a final accounting of WBFD,

including all proceeds generated by the liquidation (the “**Sale Proceeds**”). After payment of all costs and expenses associated with the liquidation of such assets, including without limitation any commissions due to the Receiver under paragraph 7(c) of this Stipulation, the Receiver shall promptly distribute the remaining Sale Proceeds, together with any other money in the hands of the Receiver (collectively, the “**Final Proceeds**”), as follows:

a. In the event the Town does not exercise its option under paragraph 6(b) of this Stipulation:

i. To the extent the liquidation yields Final Proceeds less than \$200,000, (i) the Receiver will pay to counsel for WBFD all Final Proceeds, and (ii) the Town will pay to counsel for WBFD an amount equal to the difference between \$200,000 and the Final Proceeds.

ii. To the extent the liquidation yields Final Proceeds of \$200,000 to \$250,000, the Receiver will pay to counsel for WBFD all Final Proceeds.

iii. To the extent the liquidation yields Final Proceeds greater than \$250,000, the Receiver shall pay to counsel for WBFD the first \$250,000, and for all remaining Final Proceeds in excess of \$250,000, the Receiver will pay: (i) 50% to counsel for WBFD; and (ii) 50% to the Town. For purposes of clarity, and by way of example for purposes of implementing this paragraph 7(a) of this Stipulation, in the event the liquidation yields Final Proceeds of \$300,000, the Receiver would pay \$275,000 to counsel for WBFD and \$25,000 to the Town.

b. In the event the Town exercises its option under paragraph 6(b) of this Stipulation:

i. To the extent the liquidation yields Final Proceeds less than \$200,000, the Receiver will pay to the Town all Final Proceeds.

ii. To the extent the liquidation yields Final Proceeds of \$200,000 to \$250,000, the Receiver will pay to the Town the first \$200,000, and counsel for WBFD the remaining Final Proceeds up to and including \$50,000.

iii. To the extent the liquidation yields Final Proceeds greater than \$250,000, the Receiver shall pay to the Town the first \$200,000, counsel for WBFD the next \$50,000, and for all remaining Final Proceeds in excess of \$250,000, the Receiver will pay: (i) 50% to counsel for WBFD; and (ii) 50% to the Town. For purposes of clarity, and by way of example for purposes of implementing this paragraph 7(b) of this Stipulation, in the event the liquidation yields Final Proceeds of \$300,000, the Receiver would pay \$225,000 to the Town and \$75,000 to counsel for WBFD.

c. The Receiver shall be entitled, in addition to his necessary expenses, to such commissions upon the sums received and disbursed, as follows: (i) on the first \$20,000, not exceeding five percent; (ii) on the next \$80,000, not exceeding two and one-half percent; and (iii) on the remainder, not exceeding one percent. The amount of commissions shall be calculated based on the sums received and disbursed, after calculation and payment of brokerage fees, if any, incurred in connection with the sale of the assets. Notwithstanding anything to the contrary contained herein, the amounts of commissions shall not be based on any sums received and disbursed in connection with the transfer of the West Henrietta Road Property to the Town under paragraph 6 of this Stipulation.

8. Good and Marketable Title to the Real Property.

- a. Within 15 days of execution of this Stipulation by the Town, WBFD, and the Court, and appointment of the Receiver, WBFD shall provide to the Receiver any abstracts of title, title searches, survey maps, environmental reports, engineering studies or other similar documents typically associated with a commercial real estate transaction currently in possession, custody or control of WBFD or its counsel, if any, for the West Henrietta Road Property and the Riverside Drive Property.
- b. The Receiver shall convey to the Town or its designee the West Henrietta Road Property (and the Riverside Drive Property if the Town exercises its option under paragraph 5 of this Stipulation) by Bargain and Sale Deed in fee simple.
- c. The Receiver, WBFD, and/or counsel for WBFD shall deliver to the Town or its designee: (i) any and all customary documents necessary to record the deed to the West Henrietta Road Property (and the Riverside Drive Property if the Town exercises its option under paragraph 5 of this Stipulation) in the Monroe County Clerk's Office; and (ii) any and all documents, resolutions, affidavits, or instruments necessary for the Receiver to convey to the Town or its designee good and marketable title to the West Henrietta Road Property (and the Riverside Drive Property if the Town exercises its option under paragraph 5 of this Stipulation) free and clear of all liens and encumbrances, including without limitation a full Release of the Pinsky Judgment.
- d. Upon execution of this Stipulation by the Town, WBFD, and the Court, WBFD shall be prohibited from leasing, mortgaging, or encumbering, or otherwise conveying an interest in the West Henrietta Road Property or the Riverside Drive Property without the consent of the Court and the Town, which consent shall be in the Town's sole and absolute discretion.

WBFD shall be required to satisfy any liens or encumbrances filed against the West Henrietta Road Property after full execution of this Stipulation at WBFD's sole cost and expense.

**Article III: Releases**

9. Releases.

a. Within 30 days of satisfaction of all the terms and condition of settlement contained in Article II of this Stipulation, (i) the Town will cause to be filed a full satisfaction of the Town Judgment and (ii) counsel for WBFD will cause to be filed a full satisfaction of the Pinsky Judgment.

b. Within 15 days of full execution of this Stipulation, the Parties agree to execute General Releases in the forms attached hereto as Exhibit "A." Counsel for the Parties will provide to other counsel copies of the executed General Releases, provided that counsel for the Parties shall hold the original General Releases in escrow pending the Parties' compliance with the terms and conditions of this Stipulation. Within 30 of satisfaction of all the terms and condition of settlement contained in Article II of this Stipulation, counsel for the Parties shall release the original General Releases to appropriate counsel for the Parties. Nothing in the General Releases or in this Stipulation shall be construed as prohibiting, precluding, or otherwise barring the Parties from pursuing any and all legal remedies under this Stipulation.

**Article IV: LOSAP; Dissolution of the District; Stipulations of Discontinuance**

10. Length of Service Award Program Termination.

a. Subsequent to (i) the distribution of proceeds by the Receiver under paragraph 6 of this Stipulation and (ii) the Town or its designee acquiring title to the West Henrietta Road Property (and the Riverside Drive Property if the Town exercises its option under paragraph 5 of this Stipulation) under paragraph 7 of this Stipulation, the Town and WBFD will

take all necessary steps to terminate the Length of Service Award Program (“**LOSAP**”) for volunteer members of WBFD. Pursuant to applicable law, participants vested as of August 2013 will receive a lump sum payout equal to a proportionate amount of their actuarially determined award to the extent funded, less any service awards which have been previously paid to participants and their beneficiaries.

b. The Parties acknowledge that the termination of the LOSAP shall be subject to mandatory referendum. WBFD, the Smith Petitioners, and the Inzer Petitioners, and their respective members, officers, successors, assigns and representatives, and those in privity with each of the foregoing, (i) are prohibited from taking any direct or indirect action to oppose the termination of the LOSAP or the mandatory referendum by the Town, and (ii) waive, release and forever discharge the Town and its officers, successors, assigns and representatives, from any and all demands, claims, causes of action, obligations, expenses, fees, lawsuits and liabilities with respect to the termination of the LOSAP or the mandatory referendum by the Town.

11. Dissolution of the District. The Parties acknowledge that in April 2013, the Town Board duly approved an amended Proposed Elector-Initiation Dissolution Plan for the District. WBFD, the Smith Petitioners, and the Inzer Petitioners, and their respective members, officers, successors, assigns and representatives, and those in privity with each of the foregoing, are (i) prohibited from taking any direct or indirect action to oppose the amended Proposed Elector-Initiation Dissolution Plan or any successor or amended dissolution plan for the District, and (ii) waive, release and forever discharge the Town and its respective officers, successors, assigns and representatives, from any and all demands, claims, causes of action, obligations, expenses, fees, lawsuits and liabilities with respect to the dissolution of the District.

12. Stipulations of Discontinuance/Withdrawal of Motions.

a. Within 15 days of full execution of this Stipulation, the Parties shall ensure that their counsel execute: (i) Stipulations of Discontinuance, with prejudice, in the forms attached hereto as Exhibit "B"; and (ii) Stipulations to Withdraw Motions for the WBFD Rent Judgment Motion, the WBFD Dissolution Motion, the Action No. 4 Motions to Dismiss, the Action No. 5 Injunction Motion, the Action No. 5 Motion to Dismiss, and the Action No. 6 Motion, in the forms attached hereto as Exhibit "C."

b. Counsel for the Town shall hold the foregoing Stipulations in escrow pending full satisfaction of all terms and conditions of settlement contained in Article II and III of this Stipulation. Within 15 days of full satisfaction of all the terms and conditions of settlement contained in Articles II and III of this Stipulation, counsel for the Town shall file the Stipulations of Discontinuance and Stipulations to Withdraw Motions.

#### **Article V: Miscellaneous**

13. Further Assurances. The Parties agree to execute and deliver such other documents and to do and perform such other acts and things as any other party may reasonably request to carry out the intent and accomplish the purposes of this Stipulation.

14. No Waiver. No waiver of any of the terms of this Stipulation shall be valid unless in writing and signed by the Parties and So Ordered by the Court, or deemed a waiver of any subsequent breach or default of the same or similar nature. If any provision of this Stipulation of Settlement is or may be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless survive and continue in full force and effect without being impaired or invalidated in any way.

15. Entire Agreement. The Parties warrant and represent that they have read this Stipulation and fully understand it to be a compromise and settlement, and that they have had an opportunity to have this Stipulation reviewed by an attorney acting on their behalf. This

Stipulation contains the entire agreement between the Parties and supersedes any and all prior agreements or understandings between the Parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to this Stipulation of Settlement exist, and this Stipulation cannot be changed or terminated orally.

16. Authority. Each signatory for the Parties hereto warrants and represents that they have authority to bind the Parties for whom the signatory acts and that the claims, suits, rights, and/or interests which are the subject matter hereto are owned by the party asserting same, have not been conveyed, assigned, transferred or sold, in whole or in part, and are free of encumbrance; and that they have carefully read and fully understand the terms of this Stipulation; and that they enter into this Stipulation voluntarily. WBFD warrants and represents that except as otherwise provided for in this Stipulation, WBFD has no other assets or liabilities.

17. Interpretation. This Stipulation is the product of negotiations and discussions among the Parties and their respective attorneys. This Stipulation shall be deemed jointly prepared by and drafted by the Parties and their attorneys. This Stipulation shall not be construed or interpreted for or against any Party because that Party drafted or caused the Party's legal representative to draft any of its provisions but shall be construed equally as to each Party.

18. No Admission of Liability. It is understood and agreed among the parties that this Settlement Agreement is in compromise of the dispute between the Parties. Neither this Stipulation nor any provision of it shall be construed as an admission of liability by any party to this Stipulation, nor as an admission of liability or wrongdoing by any person or entity connected to the present dispute that is not a party to this Stipulation.

19. Non-Disparagement and Confidentiality. The Parties agree that the contents of this Stipulation shall, to the extent possible and in accordance with applicable law, including the

Freedom of Information Law, remain confidential and that if asked all involved shall respond only that the matter has been resolved. Counsel for WBFD agrees that it shall not make any public statement to the media referring to the payment of \$200,000 in attorney's fees to Pinsky Law Group, PLLC, so long as no official, officer, or employee the Town makes any disparaging remarks regarding WBFD, or its counsel. The Parties further agree that no Party will make any disparaging statements about another Party or the manner in which the other party conducts its business affairs.

20. Governing Law and Venue. This Stipulation shall be governed by, construed, and enforced in accordance with, and subject to the laws of the State of New York, without regard to conflict of law provisions. Any litigation concerning this Stipulation shall be brought exclusively in Monroe County, New York, and in no other jurisdiction.

21. Execution. It is understood and agreed that this Stipulation may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. The parties further agree that this Stipulation may be "So Ordered" ex parte, and that all parties need not be present in Court in order to have this Stipulation "So Ordered." This Stipulation shall be considered enforceable and binding when executed by all parties whether or not ultimately "So Ordered" by the Court.

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## TOWN OF BRIGHTON, NEW YORK

Dated: 11/30/2020

By:

William W. Moehle  
Title: Town SupervisorTOWN BOARD OF THE  
TOWN OF BRIGHTON, NEW YORKDated: 11/30/2020

By:

William W. Moehle  
Title: Town Supervisor

## WEST BRIGHTON FIRE PROTECTION DISTRICT

Dated: 11/30/2020

By:

William W. Moehle  
Title: Town Supervisor

Dated: \_\_\_\_\_

## WEAVER MANCUSO BRIGHTMAN PLLC

John A. Mancuso, Esq. (as to form only)  
150 Allens Creek Road, Suite 240  
Rochester, New York 14618  
Phone: (585) 301-4777  
Email: jmancuso@wmbpllc.com

**TOWN OF BRIGHTON, NEW YORK**

Dated: \_\_\_\_\_

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

William W. Moehle  
Title: Town Supervisor

**TOWN BOARD OF THE  
TOWN OF BRIGHTON, NEW YORK**

Dated: \_\_\_\_\_

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

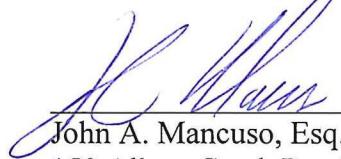
William W. Moehle  
Title: Town Supervisor

**WEST BRIGHTON FIRE PROTECTION DISTRICT**

Dated: \_\_\_\_\_

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

William W. Moehle  
Title: Town Supervisor

Dated: 12/9/2020**WEAVER MANCUSO BRIGHTMAN PLLC**

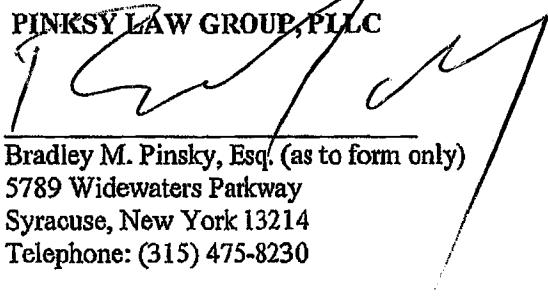
John A. Mancuso, Esq. (as to form only)  
150 Allens Creek Road, Suite 240  
Rochester, New York 14618  
Phone: (585) 301-4777  
Email: jmancuso@wmbpllc.com

Dated: 04-Nov-2020WEST BRIGHTON FIRE DEPARTMENT, INC.  


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

SECRETARY

Title:

Dated: 12/7/2020PINKSY LAW GROUP, PLLC  


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

Bradley M. Pinsky, Esq. (as to form only)  
5789 Widewaters Parkway  
Syracuse, New York 13214  
Telephone: (315) 475-8230



Town of  
**Brighton**

Public Works  
Department

**Mike Guyon, P.E.**  
Commissioner of Public  
Works

April 15, 2022

The Honorable Finance and Administrative Services Committee  
Town of Brighton  
2300 Elmwood Ave.  
Rochester, NY 14618

Re: French Road Preventative Maintenance Project  
Engineering Services Request for Proposal

Dear Council Person Diponizio and Committee Members:

On December 15, 2021 the Town of Brighton was informed that the preventative maintenance rehabilitation project for the French Road bridge over Allen Creek was approved for funding through the 2021 Bridge NY program. The funding amount is \$757,681. A copy of the funding announcement is attached.

The project includes the removal of the asphalt wearing surface, concrete curbing and existing guide railing. The excessive lane width will be reallocated to allow for a sidewalk to be installed along the south side of the bridge and new railing will be installed on both sides of the bridge. Concrete repairs will be completed to all areas with deteriorated concrete on the abutments, wing walls, and fascias. All work will be done well within the existing ROW and minimal environmental issues are expected.

I am requesting authorization to prepare and solicit a request for qualifications from professional engineering firms on the LDSA, (Local Design Services Agreement), list to provide Preliminary Design, Detailed Design, Construction and Construction Inspection services for the French Road Bridge project.

As always, thank you for your consideration. I will be in attendance at your regularly scheduled April 19, 2022 meeting in the event that you have any questions regarding this matter.

Respectfully,

Michael E. Guyon

Cc Bridget Monroe  
Paula Parker  
Evert Garcia

Attachment



## Department of Transportation

**KATHY HOCHUL**  
Governor

**MARIE THERESE DOMINGUEZ**  
Commissioner

**NICOLAS A. CHOUBAH, P.E.**  
Acting Chief Engineer

December 15, 2021

Mr. Michael Guyon  
Commissioner of Public Works  
Town of Brighton  
2300 Elmwood Avenue  
Rochester, NY 14618

Dear Mr. Guyon:

The New York State Department of Transportation is pleased to announce that the Town of Brighton application for French Road over the Allen Creek has been approved for funding through the 2021 BRIDGE NY program in the amount of \$757,681.

Projects were selected through a competitive scoring process and consideration of available funds. A representative from the Department's regional office will contact you to discuss the next steps of your project.

If you have any questions regarding this award, feel free to contact Nicolas Choubah at (518) 485-0937 or [Nick.Choubah@dot.ny.gov](mailto:Nick.Choubah@dot.ny.gov).

Sincerely,

A handwritten signature in black ink that reads "Marie Therese Dominguez".

Marie Therese Dominguez  
Commissioner



Town of  
**Brighton**

Public Works  
Department

**Mike Guyon, P.E.**  
Commissioner of Public  
Works

April 15, 2022

The Honorable Finance and Administrative Services Committee  
Town of Brighton  
2300 Elmwood Avenue  
Rochester, New York 14618

Re: Proposed Part-Time Permanent Hiring  
Assistant Building Inspector  
Department of Public Works

Dear Chairman DiPonzo and Committee Members:

The Town Board at their March 23, 2022 meeting, amended the Department of Public Works' Building and Planning Department Table of Organization to include a Part-Time Permanent Assistant Building Inspector and placed the new title in Group X of the Part-Time Permanent and Seasonal Employee Wage Schedule. We canvassed the civil service list and two candidates indicated that they were interested in the position. We interviewed the candidate highest on the list last year for a similar position but they did not respond to our follow up inquiries. Therefore, we interviewed the candidate lower on the list, Eric Castle, for the position. Eric Castle is well qualified for the position. Since there are only 2 candidates responding "yes" from the Civil Service list the list becomes "invalid". Therefore, we are recommending the following:

1. Eric Castle, 8 Crimson Bramble Road, Rochester, NY 14623 be appointed to the position of Part-Time Permanent Assistant Building Inspector subject to Town Board action;
2. The hourly rate for this position shall be consistent with Step 1, Group X of the Part-Time Permanent and Seasonal Employee Wage Schedule, \$24.12 per hour and shall be for 20 hours per week. The anticipated annual cost of this position is \$25,084.80;
3. The effective date of hire is Monday May 16, 2022.
4. The appointment is subject to a fifty-two (52) week probationary period beginning on the date of appointment. The probationary period may be extended by the length of any absences from work;
5. This appointment and position are classified as "competitive" by the Monroe County Civil Service Commission and requires applicants to meet both minimum qualifications for the position.

This candidate exceeds the minimum qualifications listed in the title description. A copy of the title description is attached for your reference.



April 15, 2022  
Part-Time Permanent Assistant Building Inspector  
Page 2 of 2

As always, thank you for your consideration. I will be in attendance at your regularly scheduled April 19, 2022 meeting in the event that you have any questions regarding this matter.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael E. Guyon".

Michael E. Guyon, P.E.  
Department of Public Works

Cc: Paula Parker  
Rick DiStefano  
Bridget Monroe  
Tricia Van Putte

## **ASSISTANT BUILDING INSPECTOR**

Code No. 6-01-004  
COMPETITIVE

**DISTINGUISHING FEATURES OF THE CLASS:** This position in a town or village involves working closely with the Building Inspector in inspecting buildings, issuing building permits and enforcing state and municipal building codes. The employee reports directly to and works under the general supervision of the Building Inspector. Does related work as required.

**TYPICAL WORK ACTIVITIES:** (All need not be performed in a given position. Other related activities may be performed although not listed.)

Inspects buildings for which permits have been issued to insure compliance with regulations;

Inspects buildings under construction to insure conformity to plans and compliance with regulations;

Recommends appropriate course of action to the Building Inspector on petitions and applications filed;

Investigates complaints regarding building occupancy and use;

Explains to building contractors, property owners, and the general public the requirements of the local building code, zoning ordinances, and the New York State Multiple Residency Law and other applicable laws;

Authorizes field tests of building materials;

Enforces safety rules and regulations during construction and with regard to the installation of building equipment;

Approves plans relating to the construction, alteration, repair, removal, and demolition of buildings;

Issues and keeps permanent file of records and permits issued;

Accounts for fees collected from petitioners;

**IN CERTAIN JURISDICTIONS** work will include conducting periodic inspections of existing structures for conformance to New York State Uniform Fire Prevention and Building Code; citing violations and ordering the remedy of the violations; reviewing plans for new construction for fire code compliance; maintaining related records.

**FULL PERFORMANCE KNOWLEDGES, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:** Good knowledge of the methods, practices, and materials involved in building construction; good knowledge of the New York State Building Code, Multiple Residency Law, and local codes and ordinances; good knowledge of the building trades; working knowledge of the principles of architecture and engineering; ability to explain state and local laws, code, and ordinances; ability to read and interpret working plans, drawings, and specifications; ability to conduct inspections of buildings under construction; ability to establish and maintain effective relationships with public officials, building contractors, and the general public; good judgement; attention to detail; willingness to work outdoors; physical condition commensurate with the demands

of the position.

**MINIMUM QUALIFICATIONS:** Graduation from high school or possession of an equivalency diploma, plus EITHER:

- (A) One (1) year paid full time or its part time equivalent experience in building construction, building inspection, or one of the building trades; OR,
- (B) Two (2) years paid full time or its part time equivalent experience in a clerical or technical position involving reading and interpreting working construction plans, drawings and specifications; OR,
- (C) Graduation from a regionally accredited or New York State registered college or university with an Associate's degree in Civil Engineering or Architecture; OR,
- (D) Any equivalent combination of training and experience as defined by the limits of (A), (B) and (C) above; OR,
- (E) Possession of a current New York State Basic Code Enforcement Training Certificate indicating successful completion of the New York State Basic Code Enforcement Program.

**SPECIAL REQUIREMENT:**

Possession of a valid license to operate a motor vehicle in New York State or otherwise demonstrate your capacity to meet the transportation needs of the job

**REVISED:** July 17, 1980

**REVISED:** September 9, 1999

**REVISED:** November 6, 2008

**ADDITIONAL INFORMATION:**

Candidates for employment with Monroe County Government will be required to pass a pre-employment drug test.

Per Chapter 180 of the Laws of 2000, and by Regulations of the Commissioner of Education, to be employed in a position designated by a school district or BOCES as involving direct contact with students, a clearance for employment from the State Education Department is required.

Employees shall receive a minimum of twenty-four (24) hours of in-service training on an annual basis once appointed.



Town of  
**Brighton**

# Public Works Department

**Mike Guyon, P.E.**  
Commissioner of Public  
Works

May 3, 2021

Finance and Administrative Services Committee  
Town of Brighton  
2300 Elmwood Avenue  
Rochester, NY 14618

Dear Honorable Members,

As part of the Town Capital Improvement Plan and the 2022 Adopted Town Budget, several projects or purchases were identified for funding in 2022 through the issuance of bonds. However, the purchase of two vehicles and an expenditure for a facility improvement for the Sewer District will be made without the need to borrow. Therefore, I am recommending that the Town Board schedule a public hearing at their April 27, 2022 meeting, in accordance to section 202-b of the Town Law to consider authorizing the expenditure of Consolidated Sewer District funds for the following:

- 1.) Purchase Parking Lot lighting improvements at the Operation Center located at 1941 Elmwood Avenue. The Consolidated Sewer District's financial contribution to this improvement is estimated to be \$26,720.
- 2.) Purchase a Small Dump Truck. The estimated expenditure is \$65,000.
- 3.) Purchase an Excavator. It is anticipated that the Consolidated Sewer District will utilize 33% of the excavator's useful life. Therefore, the Consolidated Sewer District's contribution toward the purchase of the Excavator is estimated to be 33% of the total cost or \$74,250.

Since this purchase is for a special district, the Board must set a Town Law Section 202-b public hearing regarding the equipment and improvements to be funded.

I am requesting the public hearing be scheduled for May, 11<sup>th</sup>, 2022. If adopted, the resolution is subject to a thirty day permissive referendum period. Funds were approved to be appropriated by the Town Board at their April 13, 2022 meeting in anticipation for these purchases. This will allow the purchase to move forward without the need to issue serial bonds.

I will be in attendance at the April 19, 2022 meeting to respond to questions and comments from the members of the FASC.

Respectfully,

Michael E. Guyon  
Cc      Paula Parker  
      Tim Jason  
      Steve Zimmer

At a regular meeting of the Town Board of the Town of Brighton, Monroe County, New York, duly held via video conference pursuant to Governor Hochul's Executive order as extended, at 7:00 p.m. on April 27, 2022.

PRESENT: WILLIAM W. MOEHLE,  
Supervisor

CHRISTOPHER K. WERNER  
JASON S. DIPONZIO  
ROBIN R. WILT  
CHRISTINE E. CORRADO,  
Councilmembers

The following resolution was offered by \_\_\_\_\_, who moved its adoption, seconded by \_\_\_\_\_, to-wit:

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK (THE "TOWN") (I) CALLING FOR A PUBLIC HEARING IN ACCORDANCE TO SECTION 202-b OF THE TOWN LAW TO CONSIDER AUTHORIZING IMPROVEMENTS TO THE TOWN OF BRIGHTON CONSOLIDATED SEWER DISTRICT; AND (II) DETERMINING THAT SUCH IMPROVEMENTS CONSTITUTE A TYPE II ACTION UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT**

WHEREAS, the Town Board (the "Town Board") of the Town of Brighton, Monroe County, New York (the "Town") is considering authorizing certain improvements to the Town of Brighton Consolidated Sewer District (the "District") consisting of the acquisition of small dump truck (cab & chassis) in an approximate amount of \$65,000; contribution in an approximate amount of \$75,000 for the purchase (one-third of the cost) of an excavator to be shared with the Highway Department; contribution in an amount not to exceed \$26,720 for the 1941 Elmwood Avenue Operations Center outside lighting project; and

WHEREAS, the Town's engineers have estimated that the maximum cost of undertaking these Projects is \$166,720; and

WHEREAS, the Town Board now intends to conduct a public hearing in accordance with Section 202-b of the Town Law with respect to undertaking the Project at such estimated maximum cost.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby calls for a public hearing to be held at a public meeting of the Town Board to be held via Video Conference pursuant to Governor Hochul's Executive Order as extended, on May 11, 2022 at 7:00 p.m. to

consider if it is in the public interest to undertake the Project at a maximum cost of \$166,720 and to hear all persons interested in the subject thereof; and it is

FURTHER RESOLVED, that the Town Clerk is hereby directed to cause notice of such public hearing to be published and posted in the manner prescribed by law; and it is

FURTHER RESOLVED, is hereby determined that the Project constitutes a "Type II" Action under of the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation promulgated thereunder (collectively "SEQRA") and no further action need be taken under SEQRA by this Board in connection with the Project or the Town Board's consideration thereof.

This resolution shall take effect immediately.

The following vote was taken and recorded in the public or open session of said meeting:

AYE                    NAY

Date: April 27, 2022



Town of  
**Brighton**

## Finance Department

**Paula Parker**  
Director of Finance

April 18, 2022

Honorable Town Board  
Town of Brighton  
2300 Elmwood Avenue  
Rochester, NY 14618

Dear Honorable Members,

As part of the 2022 through 2024 Town Capital Improvement Plan and the 2022 Adopted Town Budget, several projects or purchases were identified for funding in 2022 through the issuance of bonds. I am recommending that the Town Board adopt a bond resolution as prepared by Bond Counsel totaling \$435,000 that will provide financing to purchase two (2) pieces of equipment as identified:

**Bond Resolutions totaling \$435,000 (Highway Vehicles) (10 year repayment period)**

**10 Year repayment period:      Bond Resolution \$435,000**

- 1.) Purchase One (6-Wheel) Heavy Duty Dump Truck with Plow Equipment - \$280,000
- 2.) Purchase One Excavator - \$230,000 with the Sewer Department contributing up to \$75,000 (cash) for a net bonding of \$155,000

A bond resolution should be adopted at the April 27<sup>th</sup>, 2022 Town Board meeting and a 202-B public hearing should be set for May 11<sup>th</sup>, 2022 for the Sewer District's contribution. The bond repayment period is more than five years and for that reason is subject to permissive referendum. This also will require 2/3rds majority vote by our Town Board (four of the five members). After the permissive referendum and estoppel period has passed, the borrowing process can be done.

I would be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Sincerely,

Paula Parker  
Director of Finance

**FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE**  
**2022 MEETING SCHEDULE**

**All meetings are scheduled for the Stage Conference Room or the  
Town Auditorium**  
**At 3:30 p.m. (unless otherwise noted)**

**Monday, January 3 @ following TB meeting**

Tuesday, January 18

Tuesday, February 1

Tuesday, February 15

Tuesday, March 1

Tuesday, March 15

Tuesday, April 5

Tuesday, April 19

**Wednesday, May 4 @8:30 am**

**Wednesday, May 18 @8:30 am \*Stage Conference Room**

**Wednesday, June 1 @ 8:30 am \*Downstairs Meeting Room**

**Wednesday, June 15 @ 8:30 am**

**Wednesday, July 6 @ 8:30 am**

**Wednesday, July 20 @ 8:30 am**

**Wednesday, August 3 @ 8:30 am**

**Wednesday, August 17 @ 8:30 am**

Tuesday, September 6

Tuesday, September 20

**Tuesday, October 4 @ 1:00 pm**

Tuesday, October 18

Tuesday, November 1

Tuesday, November 15

Tuesday, December 6

Tuesday, December 20

**\*Have communications and documents to Director of Finance by noon on the Friday before with originals to the Assistant to the Supervisor.**