

1. Agenda

Documents: [02 24 2016 AGENDA.PDF](#)

2. Highway Construction Agreement

Documents: [02 24 2016 HIGHWAY CONSTRUCTION AGREEMENT \(PDF\).PDF](#)

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Agenda
Manlius Town Board
February 24, 2016
7:00PM

1. The Pledge of Allegiance
2. Approval of Minutes – February 10, 2016
3. Approval of Abstract # 4
4. Approve Updated Zoning Map
5. Approve Updated Highway Agreement Form
6. Correspondence/New Business
 - a. Highway Superintendent
 - b. Planning & Development
 - c. Attorney
 - d. Town Clerk
 - e. Police Chief
 - f. Town Board
 - g. Supervisor
7. Adjournment

HIGHWAY CONSTRUCTION AGREEMENT
TOWN OF MANLIUS

THIS AGREEMENT, made this _____ day of _____, 20____
by and between _____ hereafter called the Developer and
the Town of Manlius, in the County of Onondaga, State of New York, hereinafter called the
Town:

WITNESSETH:

WHEREAS, a deed to certain land for STREET PURPOSES has been offered by the
Developer to the Town of Manlius, dated the _____ day of _____, 20____
and

WHEREAS, the Town Board of the Town of Manlius is willing to accept said deed subject to
the execution of this agreement, and subject to the approval of the Town Attorney;

NOW, THEREFORE, in consideration of the acceptance of said deed, the acceptance and
opening of said streets and consideration of their mutual promises, it is hereby agreed by the
parties hereto as follows:

Section 1. GENERAL PROVISIONS:

a. That the name or names of the said street or streets and the length of each, respectively,
are as follows:

NAME	LENGTH	X (\$)	SECURITY REQUIRED
TOTALS			

b. That the Developer shall perform and complete the grading, draining, graveling,
surfacing and construction of the streets above named on the land described and conveyed in the
above-mentioned deed.

c. That the Developer shall maintain said streets in a safe condition and in good repair until
the Town Board shall have adopted and resolution accepting and opening said streets.

d. That the Developer shall immediately make any repairs deemed necessary by the Town
Supervisor of Highways upon written notification thereof.

e. Unless otherwise provided, the Developer agrees to offer for dedication to the Town with
the completed road all sewer; water detention basins; swales; and drainage lines located in the
road right-of-way and other rights-of-way as shown on final subdivision plans. Where drainage
easements encumber in excess of 50% of the entire area of a lot, the Developer agrees to offer
the entire lot area for dedication to the Town. The Town may in its sole discretion accept or
reject all or any portion of such areas offered for dedication.

Road dedicated to Town on: _____

f. That the grading; draining; graveling; surfacing; and construction of said streets, the
grading of lands adjacent to said utilities and services including all manholes, catch basins,
drains, detention basins, swales, valve boxes, curb boxes, hydrants and appurtenances installed
by the Developer shall not deviate from, and shall conform exactly to the Final Subdivision Plans
and amendments thereto as approved by the Planning Board; that all of the foregoing shall be
performed and constructed in such manner that all will function properly and that the Developer
shall be solely responsible for the proper functioning thereof and hereby assumes such
responsibility.

g. Developer shall submit letter by licensed surveyor certifying that all monuments have been installed as shown on the Final Subdivision Plan.

h. That in the event that it becomes necessary to make any change from the Final Subdivision Plan in order to secure the proper functioning of any items specified or otherwise, no change shall be made or attempted until after having obtained approval in writing by the Planning Board of an amendment to the Final Subdivision Plan accordingly.

Plans amended on: _____

i. That no utility or service or any part or appurtenance thereof including manholes, catch basins, valve boxes, curb boxes, hydrants, and drains shall be raised, lowered or otherwise changed, altered or moved except after the Developer has given to the Town Engineering Department a copy of such approved amendment at least 48 hours before the work is scheduled to be performed and except upon attendance and complete supervision by the Town Engineering Department of the performance of the work under such amendment; that in the performance of the work under such amendment the Developer will comply with all additional orders made or issued by the said Town Engineering Department.

j. That the burden of applying for and obtaining approval of amendments to the Final Subdivision Plan and of obtaining all other approvals, permits and consents shall rest solely upon the Developer.

k. That the Developer shall perform and furnish all work, labor and services and shall furnish and supply all materials to carry out all provisions of this agreement solely at his own expense.

l. The Developer shall file a completely executed "Certificate of Completion", *indicating the road is ready to enter into its 1(one) year provisional period*, signed by Highway

Superintendent on _____ and filed with the Town Clerk of the

Town of Manlius on or before the _____ day of _____, 20_____.

m. No materials or supplies for the work shall be purchased by the Developer or by any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Developer warrants that he has good title to all materials and supplies used by him in the work. Nothing in this agreement shall be considered as vesting in the Developer any right of property in the materials used, after they have been attached or incorporated in the work or in the soil but all such materials shall upon being so attached or incorporated become the property of the Town .

n. During the Highway Construction Phase the Developer shall provide the Highway Superintendent with copies of all asphalt delivery tickets on any asphalt paving done on the roads within the boundaries of the Highway Agreement. The ticket information will be used to ascertain that minimum yield requirements are being met. A description of the placement boundaries, i.e., station location, areas, etc. is also required. These requirements must be met before the Certificate of Completion will be issued.

o. Upon completion of binder coat and construction of all utilities, of which will require approval of the Town Engineer and Highway Superintendent, the Developer shall be eligible for a 50% reduction in security held by the Town.

p. That upon completion of construction, the Developer shall furnish and cause to be filed in the office of the Town Clerk and in the office of the Town Superintendent of Highways a "Certificate of Completion" made and signed by the Town Highway Superintendent on the form attached hereto marked "Exhibit A" (*provisional*) certifying that all work required to be performed under this agreement has been performed fully in accordance with this agreement. This certificate may be completed and filed only when ALL work required by the Highway Construction Agreement, including placement of the binder and topcoat, is completed within 1 year of each other and is satisfactory to the Highway Superintendent. The guarantee period under the Highway Construction Agreement does not begin to run until this "Certificate of Completion" is filed by the Developer with the Town Clerk of the Town of Manlius. Once the "Certificate of completion" is filed the Developer is eligible for a 95% reduction in security. The

balance of 5% shall be retained by the Town as security for 1 year, which can be used to repair any defects during that period.

Date of 95% reduction _____

Date of topcoat: _____

q. The Developer hereby guarantees all the work and materials furnished under this agreement against defects in workmanship or materials for a period of one year following the date of filing of the Certificate of Completion in the Town Clerk's Office. Under this guarantee the Developer agrees to make good without delay at his own expense any failure due to faulty materials, construction or installation.

r. At the expiration of one year from the date of filing of the Certificate of Completion in the Town Clerk's Office, the Town Superintendent of Highways shall make an inspection of all construction under this agreement. The Town Superintendent of Highways shall notify the Developer of all defects and of all work required to be performed under the guarantee provisions of this agreement.

s. The Developer shall forthwith correct such defects and perform all other work required to be performed under the guarantee provisions.

t. When the inspection by the Town Superintendent of Highways shows that all work required to be performed under this agreement has been performed and that all defects have been corrected and all work under the guarantee provisions has been performed, the Town Superintendent of Highways shall file in the Town Clerk's Office a Release of Guarantee of Highways using the form attached hereto, marked "Exhibit B".

u. Thereafter the Developer shall furnish and file in the Office of the Town Clerk an Affidavit showing that there are no liens or claims affected the work under this agreement using the form attached hereto marked "Exhibit C".

v. Upon the filing in the Town Clerk's Office of the Release of Guarantee of Highways together with the Affidavit of No. Liens, the Town Board shall consider the adoption of a resolution accepting and opening said highways.

w. The Developer acknowledges that Section 127-10(C) and 127-34(E) (6) of the Code of the Town of Manlius, New York impose certain fees and costs payable to the Town in connection with the subdivision of land.

Section 2. **INSURANCE REQUIREMENTS:**

a. The Developer shall furnish

One ORIGINAL POLICY OF Insurance OR one CERTIFIED COPY OF THE ORIGINAL Policy of Insurance for each of the several kinds of insurance specified in paragraph "b" of this Section. All of such policies shall be delivered to the office of the **Town Attorneys, Town of Manlius at 301 Brooklea Drive, Fayetteville New York 13066.** The Developer shall procure and maintain at his expense without expense to the Town of Manlius all of the insurance required herein. Such insurance shall be written by an insurance company authorized to write insurance in the State of New York, shall be drawn on standard forms approved by the New York State insurance Department and shall protect the Developer, his subcontractors and the Town of Manlius from liability for claims for personal injury, death and property damage which may arise from operations under the contract.

b. The kinds and amounts of insurance required are as follows:

- (1) **Workmen's Compensation Insurance.** A policy covering the obligations of the Developer in accordance with the provisions of Chapter 41 of the Laws of 1914, as amended, known as the Workmen's Compensation Law, covering all operations under the agreement, whether performed by the Developer or by his subcontractor.

The Developer shall keep insured during the life of this agreement such employees in compliance with the provisions of the Workmen's Compensation Law (State Finance Law, Section 142). **The life of this agreement shall expire upon the acceptance and opening of the streets by Resolution of the Town Board of the Town of Manlius.**

- (2) Liability Insurance. Policy or policies naming the Developer as the insured, except as otherwise provided below, shall be furnished as follows:

Coverage	Limits of Liability	
	Bodily Injury	Property Damage
Contractor's Public Liability Insurance Insuring Developer	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Contractor's Protective Public Liability Insurance Insuring Developer	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Contractual Liability Insurance Insuring Developer (*See Below)	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Completed Operations Liability Insurance Insuring Developer	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Automobile Liability Insurance Insuring Developer	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Owner's Protective Liability Insurance Insuring Town of Manlius (†**See Below)	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000
Owner's Landlord's and Tenant's Liability Insurance Insuring Town of Manlius (‡***See Below)	Each Person \$1,000,000 Each Occurrence \$2,000,000	Each Occurrence \$1,000,000

All of the above coverage shall remain in effect until adoption of a resolution by the Town Board accepting and opening all of the streets to be constructed under this agreement.

- c. The Developer, at his expense, shall provide Title Insurance on all roads offered for dedication to the Town, the principal amount of said insurance to be fixed by the Attorney for the Town in the exercise of his discretion.

Section 3. **SECURITY**

The Developer shall deposit the sum of \$ _____ cash or equivalent with the Town Supervisor as security for the faithful performance of all the terms of this Agreement. Such security shall be determined by the Town Engineer and Highway Superintendent based on the length, width and depth for binder cost of material and construction cost to build the road (labor, material and equipment). If the Developer does not carry out the terms of Section 1 of this agreement, the Town of Manlius may perform, or cause to be performed, all or this agreement and may apply all or any part of such security in reimbursement of the costs incurred thereby. The amount of reimbursement deemed necessary to cover the cost of such work shall be determined solely by the Town Board of the Town of Manlius. Upon the adoption by the Town Board of the Town of Manlius of a resolution accepting and opening all the streets to be constructed under this agreement, the Town Supervisor shall release and deliver up the security furnished upon this Section 3 less such sums as may have been expended hereunder.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals and the day and year.

(SEAL)

(DATE) _____

Developer Signature

Print Name

*The Developer shall indemnify the Town of Manlius against liability for claims, demands, loss, payments, suits, actions, recoveries and judgments of every nature and description brought or recovered against it arising out of or resulting from or on account of the work provided in this agreement, and shall hold the Town of Manlius harmless there from.

†** Shall cover liability for damages imposed by law upon the Town of Manlius with respect to all operations under the agreement performed by Developer and by all subcontractors.

‡*** Shall cover liability for damages imposed by law upon the Town of Manlius and the Town Superintendent of Highways, and all employees of the Town of Manlius both officially and personally, with respect to temporarily opening to vehicular traffic any portion of the Town streets under this agreement.

(DATE) _____

Supervisor Signature

Print Name

(TOWN SEAL)

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

On the day of in the year before me, the undersigned, a notary public in and for said state, personally appeared known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT A

CERTIFICATE OF COMPLETION****

I, the undersigned, the Highway Superintendent of the Town of Manlius, do hereby certify that I have examined the Highway Construction Agreement, including Exhibits A through C being part of said Agreement, dated _____, 20____, between

_____ and the Town of Manlius for construction of said highways in the _____ Tract in the Town of Manlius.

I further certify that I have inspected or caused to be inspected all of the work required to be performed fully in accordance with said Agreement and that all the work required to be performed under said Agreement has been fully performed.

Dated: _____, 20____.

Highway Superintendent Signature

Print Name

****This Certificate may be completed and filed only when all work required by the Highway Construction Agreement, including placement of the topcoat, is complete and satisfactory to the Highway Superintendent. The guarantee period under the Highway Construction Agreement does not begin until this Certificate of Completion is filed by the Developer with the Town Clerk of the Town of Manlius.

EXHIBIT B

RELEASE OF GUARANTEE

I, the undersigned, the Highway Superintendent of the Town of Manlius, do hereby certify that I have examined the Highway Construction Agreement including Exhibits A through C being a part of said Agreement dated _____, 20__ between _____ and the Town of Manlius for construction of highways in the _____ Tract in the Town of Manlius; that I have inspected or caused to be inspected all work required to be performed under said agreement, including all work, if any, performed under the guarantee provisions of this agreement; that all work performed has been fully in accordance with said agreement; that all the work required to be performed under said agreement has been fully performed; and, that all defects have been corrected and all work under the guarantee provisions has been satisfactorily performed or, that my inspection discovered no defects and thus no work was required under the guarantee provisions of the agreement.

Dated: _____, 20__.

Highway Superintendent Signature

Print Name

EXHIBIT C

AFFIDAVIT OF NO LIENS

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

_____, being duly sworn, deposes and says:

1. That he resides at _____, New York.
2. That he is the _____ of _____, the corporation, (the person, one of the persons) described as the Developer in a certain agreement with the Town of Manlius for the construction of highways in the _____ Tract in said Town of Manlius, which agreement bears the date of _____, 20_____.
3. That the claims of all subcontractors, material men, laborers and all other persons and parties furnishing labor and materials with respect to the above-mentioned contract have been paid in full and satisfied.
4. That this affidavit is made for the purpose of furnishing evidence to the Town of Manlius as to the satisfaction of all claims against the Developer relating to or arising out of the furnishing of labor or materials in connection with the work to be performed thereunder; and is made with the intent that the Town of Manlius rely hereon and in order to induce the said Town to accept and open the highway(s) described in said agreement, and for all the intents and purposes specified in Article 3-A of the Lien Law and Article 155 of the Penal Law of the State of New York.

Developer Signature

Print Name

Subscribed to and sworn to before me
 this _____ day of _____, 20_____

 Notary Public

**Importing Clean Fill into lands
to be dedicated to the
Town of Manlius, New York**

Developer:

Only the following clean fill material shall be brought into lands to be dedicated to the Town of Manlius, New York listed in Section A below:

Allowed Material:

Recognizable uncontaminated soil or rock that has not been in contact with a spill from a petroleum product, hazardous waste, or industrial waste, and that is not comingled with any other solid waste. NO CONCRETE, DEBRIS, PIPES, STUMPS, OR BRUSH ALLOWED

Assurance of No Contamination:

The company or contractor bringing material into lands to be dedicated to the Town of Manlius, New York is solely responsible for ensuring that the material imported is not contaminated with substances above applicable limits set by NYSDEC and/or the U.S. Environmental Protection Agency. The company or contractor shall submit in writing all appropriate documentation stating that all imported materials are free of contamination.

Site personnel involved with the excavation project will participate in a briefing session concerning the plan and the need to be vigilant during the excavation process so that there is no material which appears to be out of character with the surrounding soils, with attributes such as staining, odors, oily substances or the presence of apparent contaminants of unknown composition or origin. The contractor or company shall be responsible for the removal and cleanup of any material not considered clean fill as described above. Any necessary cleanup activities and/or consequential costs, monetary fines and other damages to the Town of Manlius will be paid by the contractor.

Section A

Contractor, Construction Project Name, and Location where clean fill is being brought from

Contractor/Company Name: _____

Contractor's Address/Phone: _____

Name of Project: _____

County/Town/Village: _____

Project Location/Address: _____

The company and/or contractor represents and warrants that the material being brought onto the Town's land or easement does not contain any contamination as set forth above.

The company and/or contractor hereby agrees to defend, indemnify and hold the Town harmless for any breach of violation of this agreement:

Print Name

Representative's Signature

Authorized Contractor's Representative

This signed from must be returned to the Town of Manlius before any clean fill in imported.