

Agenda
Manlius Town Board
August 22, 2018
6:30 PM

1. The Pledge of Allegiance
2. Swear in new Police Officer
3. Approval of Minutes – August 8, 2018
4. Release of Securities and Dedication – Mallards Landing Section A2- Indian Runner Circle
5. Release of Securities – Shining Star Daycare
6. Approval of Abstract # 16
7. Intermunicipal Agreement – WEP – NYS Intermunicipal Water Infrastructure Grants Program – Meadowbrook Limestone Sewer Infrastructure Improvements
8. Correspondence/New Business
 - a. Highway Superintendent
 - b. Planning & Development
 - c. Attorney
 - d. Town Clerk
 - e. Police Chief
 - f. Town Board
 - g. Supervisor
Monthly Report
9. Adjournment

TOWN OF MANLIUS – CRAFTSMAN REDEVELOPMENT

Storm Water Control Facility Maintenance Agreement

This Agreement is made effective this ____ day of August, 2018, by and between Fayetteville Hotel Ownership, LLC, having an address at c/o Widewaters Hotels, LLC, P.O. Box 3, 5786 Widewaters Parkway, DeWitt, NY 13214 (the "Owner"); and the Town of Manlius, a municipal corporation of the State of New York, having offices at 301 Brooklea Drive, Fayetteville, NY 13066 (the "Town").

WHEREAS, the Owner holds title to certain property known as The Craftsman Inn & Suites, 7300 E. Genesee Street, Fayetteville, NY 13066, in the Town of Manlius and State of New York, Tax Map No. 092.-07-03.1 and 092.-01-01.0 as described in Schedule A attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Town and Owner are desirous of entering into an agreement to provide for the long-term maintenance and continuation of storm water control measures at the Property approved by the Town for the Craftsman Inn & Suites (the "Project"); and

WHEREAS, the Town and Owner agree that all storm water control measures shall be built by Owner in accordance with the approved Project plans and issued Storm Water Pollution Plan (the "SWPPP"), and thereafter shall be maintained, cleaned, repaired, replaced and continued by Owner in perpetuity in order to ensure optimum performance of the components of the system, all as provided for and required as part of the Project as authorized and approved by the Town.

NOW, THEREFORE, in consideration of the above and in furtherance of the public purposes and benefits of providing adequate storm water retention and the maintenance thereof, the Town and Owner agree as follows:

1. This Agreement shall bind the Town and Owner, and their respective successors and assigns, to all of the requirements depicted and set forth herein and in the approved Project plans, and consistent with the SWPPP issued and on file with the Town.
2. The Owner shall construct, maintain, clean, repair, replace and continue the storm water control measures as necessary and required (including all such measures as may be required now and in the future by any and all applicable federal, state local laws, rules and regulations) to ensure optimum performance of the measures to design specifications and all other applicable requirements. The storm water control measures shall include, but shall not be limited to, the following: drainage ditches, swales, drop inlets, pipes, culverts, and retention ponds. In addition, the Owner shall (i) perform such other inspections, maintenance and repair as may be reasonably required in good faith by the Town's Code and Stormwater Officer in order to assure the continued operation of the measures as intended and designed, and (ii) comply with all Town stormwater operations, maintenance and or reporting obligations as they now exist or are hereafter added or amended.
3. The Owner shall be responsible for all expenses related to the foregoing inspections,

maintenance, repairs and other obligations of the Owner with respect to the storm water control measures.

4. The Owner shall provide for annual inspections of the storm water control measures by its designated representative and shall thereafter, within 30 days of the inspection, prepare and submit to the Town a written report of findings and a summary of any remediation measures required and implemented. In addition, the Owner shall provide for the required periodic inspections of the storm water control measures not less than once in every five-year period to determine the condition and integrity of the measures consistent with the approved project plans and SWPPP, which inspections shall be performed by a professional engineer licensed by the State of New York. The inspecting engineer shall, within 30 days of the inspection, prepare and submit to the Town a written report of findings, including recommendations for those actions necessary for the continuation of the storm water control measures in conformity with the specifications of the signed, accepted Project plans and the originally issued SWPPP.

5. The Owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the storm water control measures, except in accordance with written approval of the Town.

6. The Owner shall undertake all necessary repairs and replacement of the storm water control measures consistent with the approved Project plans and SWPPP at the direction of the Town in accordance with the recommendations of the Town's Code and Stormwater Officer and the Town's inspecting engineer.

7. The Owner shall grant to the Town a permanent easement and right-of-way for access to and onto the Property, which instrument shall be promptly recorded in the Onondaga County Clerk's Office with specific reference to this instrument, with a copy provided to the Town. The Owner shall provide the Town with documentary proof of the recording and referencing of this instrument as indicated above within 30 days after recording. The Owner agrees that the Town may enter upon the Property or any portion thereof for the purposes of observing and inspecting the storm water measures at any time and from time to time as may be deemed appropriate, necessary or desirable by the Town, the Town's Code and Stormwater Officer, engineers and/or other officers, employees, agents, contractors and authorized consultants of the Town, and to make repairs to the measures as set forth below. If maintenance deficiencies are found as a result of such inspections, the Town will notify the Owner in writing, and the Owner shall cause needed repairs to be made within the number of days set forth in such notice. If the Owner fails to complete the repairs to the satisfaction of the Town within the required period, the Town reserves the right (but does not have the obligation) to have the repairs made, and will charge the Owner for the reasonable cost of such repairs. The Owner agrees to pay for such reasonable repairs within 10 days after demand thereof. Notwithstanding the foregoing, if an emergency exists requiring immediate action, the Owner hereby authorizes the Town, its officers, employees, agents, contractors and authorized consultants to enter upon the Property and effect emergency repairs to any portion of the measures in the event of a threat to the safety of the measures, the Project, the Property and/or adjacent or downstream properties, with the cost of such reasonable repairs to be reimbursed by the Owner to the Town within 10 days of demand thereof.

8. This Agreement shall hereafter be recited in or referred to in each deed constituting a conveyance of real property covered by the SWPPP. The obligations and duties imposed by the originally issued SWPPP and all approved amendments thereto shall constitute a burden upon the lands benefited by the SWPPP.

9. In the event the Town makes repairs and the Owner fails to reimburse the Town for the cost of said repairs within 30 days after the demand thereof, then such unpaid costs, expenses and interest at the per annum rate of 9% incurred from the date of repair shall constitute a lien upon the Property and the land on which the storm water measures are located. The Town may bring a legal action or proceeding to collect such costs, expenses, interest, and recoverable attorney's fees, or to foreclose such lien. As an alternative to the maintenance of any such action, the Town may file a certificate with the Onondaga County Department of Assessment stating the costs and expenses incurred and interest accruing as aforesaid, together with a statement identifying the Property and the Owner so that the Onondaga County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs, expenses and interest upon the Property. Such amount shall be included as a special ad valorem levy (administered as a tax) against the Property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Town. The Owner agrees that the assessment of such costs, expenses and interest shall be effective even if the Project and the Property would otherwise be exempt from some or all of the applicable real estate taxation. In any action or proceeding brought hereunder, the prevailing party shall be entitled to recover from the other party its reasonable costs in prosecuting or defending any action, including reasonable attorneys' fees. The prevailing party shall be established by the court determining the matter. "Prevailing party" shall mean the party which is awarded all or substantially all of the relief demanded by such party.

10. The Owner may assign all rights and delegate all obligations hereunder to a successor to the Owner. Such assignment and delegation shall be required to be in writing, signed and notarized by the assignor/Owner with the assignee, and such assignment shall be promptly recorded in the Onondaga County Clerk's Office with specific reference to this instrument, with a copy provided to the Town. The Owner shall provide the Town with documentary proof of the recording and referencing of this instrument as indicated above within 10 days after recording.

11. This Agreement is effective as of the date designated above and shall be recorded at the Owner's expense in the Onondaga County Clerk's Office within 15 days of execution, and when recorded shall be referenced to the deeds for all parcels constituting the Property. The Owner shall provide the Town with documentary proof of the recording and referencing of this instrument as indicated above within 10 days after recording.

12. The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this Agreement, unless it is proven to a reasonable degree of certainty that such injury or damage was caused by an wrongful act of the Town. The Owner agrees to indemnify and hold harmless the Town and its officers, employees, agents, contractors and authorized consultants for all damages, losses and claims that arise out of the Owner's and/or Town's actions or failures to act under or pursuant to this Agreement, except this indemnification shall not extend to damages, losses

and claims caused by an wrongful act of the Town. Such indemnity shall include the costs of defending any action, including reasonable attorney fees, expert fees, and other litigation costs.

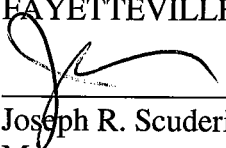
13. Where the Town Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements in this Agreement is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Town Board finds and records in its minutes that: (1) granting the waiver would be in keeping with the intent and spirit of this Agreement, and is in the best interests of the community; (2) there is no adverse effect upon the character, appearance, or welfare of the neighborhood and any watercourses, watersheds, or surface waters; (3) there are special circumstances involved in the particular case; (4) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and (5) the waiver is the minimum necessary degree of variation from the requirements of this Agreement.

14. This Agreement (i) shall be governed by the laws of the State of New York, (ii) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof, (iii) supersedes all prior agreements, understandings and arrangements, both oral and written, between the parties hereto with respect to such subject matter, and (iv) may not be modified in any way unless by a written instrument executed by all parties. The waiver by any party hereto of a breach or violation of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach or violation. If any court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The parties hereto agree to execute and deliver such other documents and to perform such other acts as may, from time to time, be reasonably required to give full force and effect to the intent and purpose of this Agreement. Each party executing this Agreement represents and warrants that (i) he or she has the specific authority to bind the party on whose behalf he or she is signing this Agreement, (ii) the consent of any third parties is not required to perfect such authority, (iii) the party on whose behalf he or she is signing this Agreement has undertaken all actions required to enter into this Agreement, and (iv) his or her signature represents the binding obligation of such entity.

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

[INTENTIONALLY LEFT BLANK]

Owner: EAYETTEVILLE HOTEL OWNERSHIP, LLC

By: 

Print Name: Joseph R. Scuderi

Title: Manager

TOWN OF MANLIUS

By: _____

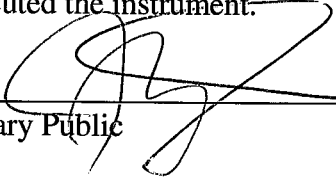
Print Name: _____

Title: _____

STATE OF NEW YORK
COUNTY OF ONONDAGA

) ss.:

On this 14th day of August in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Joseph R. Scuderi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he 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

JOSEPH M. SNYDER
Notary Public In The State Of New York
Qualified In Onondaga County
No. 4887370

My Commission Expires February 23, 2019

STATE OF NEW YORK
COUNTY OF ONONDAGA

) ss.:

On this _____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he 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

SCHEDULE "A"

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Manlius, County of Onondaga and State of New York, being a Part of Farm Lot No. 74 in said town bounded and described as follows: Beginning at a point of intersection of Mott Road and East Genesee Street said point being 49.5 feet southerly measured at right angles from the original centerline of East Genesee Street: running thence South 83° 22' 00" East along said southerly boundary of East Genesee Street a distance of 357.45 feet to its intersection with the division line between lands conveyed to Dowd on the west and lands conveyed by James C. Dowd et al. to Onondaga County Savings Bank (now M&T Bank) by deed recorded in the Onondaga County Clerk's Office in Book of Deeds 3051 at Page 133 on the east; thence South 6° 35' 24" West along said division line a distance of 170.65 feet to its intersection with the division line between lands conveyed to Dowd on the north and lands conveyed to Robert C. and Florence A. Shipway by deed recorded in the Onondaga County Clerk's Office in Book of Deeds 1811, Page 313; thence South 83° 22' 00" East a distance of 75 feet to a point; thence South 6° 38' 00" West a distance of 99.50 feet to a point; thence North 83° 22' 00" West a distance of 205 feet to a point; thence South 7° 40' 03" West a distance of 110 feet to a point; thence South 39° 54' 44" East a distance of 111.13 feet to a point; thence South 7° 40' 03" West a distance of 127.62 feet to a point; thence North 66° 46' 54" West a distance of 158.82 feet to a point; thence North 56° 22' 33" West a distance of 89.98 feet to a point; thence North 79° 13' 37" West a distance of 75.41 feet to a point; thence North 66° 46' 54" West a distance of 5.45 feet to a point in the easterly road boundary of Mott Road; thence North 7° 40' 03" East along said east boundary of Mott Road a distance of 491.07 feet to the point and place of beginning.

ALSO, ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Manlius, County of Onondaga and State of New York being a part of Farm Lot #74 in said Town and being more particularly described as follows:

BEGINNING at a point in the easterly line of said Farm Lot #74, said point being South 7° 59' West a distance of 190 feet from the southerly line of East Genesee Street Turnpike as measured along said farm lot line; thence South 7° 59' West along said farm lot line a distance of 80 feet to a point; thence north 82° 01' West a distance of 150 feet to a point; thence North 7° 59' East a distance of 80 feet to a point; thence South 82° 01' East a distance of 150 feet to the place of beginning;

SAID SECOND PARCEL ALSO DESCRIBED by Locations Plan & Boundary Map prepared by Phillips & Associates Surveyors, P.C. dated January 17, 2008 as follows:

BEGINNING at a point in the easterly line of said Farm Lot 74, said point being South 6° 25' 41" West a distance of 190 feet from the south line of East Genesee Street as measured along said Farm Lot line; thence South 6° 25' 41" West along said Farm Lot line a distance of 80 feet to a point; thence North 83° 22' 00" West a distance of 150 feet to a point; thence North 6° 25' 41" East a distance of 80 feet to a point; thence South 83° 22' 00" East a distance of 150 feet to the place of beginning.