

Roger Tidball, Town Supervisor
Jennifer Howe, Town Clerk
Brandy Fall, Deputy Town Clerk
William Reed, Highway Superintendent



John D. Ganther, Council Member
Francis R. Potter, Council Member
Jeffrey Senecal, Council Member
William Wenzel, Council Member

Thursday February 25, 2021
Regular Town Board Meeting
Meeting Time: 7:00PM

Meeting called to order by Supervisor Tidball at 7:00PM

Present: Supervisor Tidball, Council Members Ganther and Wenzel, Highway Superintendent Reed, Deputy Town Clerk Fall, Town Attorney Teresa Bakner

Pledge of Allegiance

Supervisor Tidball: Alright tonight is Thursday February 25, 2021 regular scheduled town board meeting tonight we are going to start off with a public hearing. Public Hearing in regard to the town amending its current contracts for Fire Protection services to ensure compliance with all applicable laws and the towns insurance requirements. There was a notice in the paper, I'll read the notice.

Supervisor Tidball read the notice. (Please see attached.)

Supervisor Tidball: Before we get into the opening of the floor, Teresa can you go over the things that were changed in the contracts?

Town Attorney Teresa Bakner: Absolutely. What we were trying to do was many of the contracts had been renewed year to year and they had some provisions in them that were old and outdated. One of them was the amount of the insurance that is required. We talked to two parties about that. We talked to the town's insurance agent, Matt Spataro and we also consulted with Terry Hannigan who also represents a lot of municipalities with the negotiation of fire

agreements. Originally, we had put in a number of \$10 million at Matt Spataro's request but we can reduce that to 5 million and still have that be reasonable in terms of what fire companies typically pay. Like our town coverage is an umbrella of \$5 million so that is a reasonable municipal number. So, right now the agreements have a schedule attached which has the insurance requirements, so we would need to change that and take it down because we put the \$10 million number as the original number. Some of the other things that have changed is over the years the legislature has adopted laws that require more types of insurance, more types of reporting, more auditing, all of those things. So, the two agreements that changed the most in particular are the Burtonsville Volunteer Fire Company Agreement and the Mariaville Volunteer Fire Company agreement. There were just a lot of provisions that needed to be updated. The agreement as between the village and the Esperance Fire Department and the town and the agreement with the village of Delanson and the village of Delanson Fire Company and the town require less updating because they are village-based fire companies as opposed to volunteer fire companies. So later tonight we are going to go into executive session to discuss the agreements some more and my advice is that the board holds open the public hearing until the next regularly scheduled meeting of the Town Board which would be March 11th or if you wanted to have a special meeting just to wrap up those contracts next week like next Thursday night or Wednesday night, we could also set it up that way. Whatever the board would prefer.

Supervisor Tidball: I would just prefer to do it on the 11th, that would give us two weeks to gather any information. So, when I close, I won't close the Public Hearing, the floor, I'll just say continued to the 11th?

Town Attorney Teresa Bakner: Yes, that's exactly correct. That will also give the fire companies more time to review the agreements. And to negotiate changes to the extent that they need to. But by all means, take comments tonight.

Supervisor Tidball: Absolutely. Ok, what I am going to do right now is anyone on Zoom right now that has any comments or questions regarding this matter, the Public Hearing for the fire contracts, please send a message through Zoom and when we open the floor, we will call on you and let you speak. We will try to answer your questions and as you just heard, we are going to extend the public hearing for two more weeks until the next town board meeting. So, the matter won't be closed at this time. At this time, I make the motion to open the public hearing.

Council Member Senecal: Second.

Supervisor Tidball: Any discussion? Brandy call the roll please.

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Supervisor Tidball: Does anyone wish to speak Brandy? We'll give it a few minutes, a few seconds.

Council Member Ganther: Are you sure everyone is let in Brandy.

Deputy Town Clerk Fall: Yes, I hit admit all at the beginning of the meeting.

Council Member Ganther: Ok, Peter says that there are people waiting to be let in. Maybe just scroll up through everyone. Don't see anyone.

Deputy Town Clerk Fall: Peter was on, but I don't see him anymore. You can see it says admit all is on. (All of the sudden after refreshing the admit all, more people showed up in the waiting room. We let everyone in again.)

Council Member Senecal: We should recap it.

Supervisor Tidball: Ok, folks who just joined us on Zoom, we apologize for the technical delay, don't know if any of you caught what we just spoke about, but we are now in the Public

Hearing. I'll give a quick recap of what our town attorney told us. Basically, the contracts we were looking at tonight were for the Mariaville Fire Department and the Burtonsville Fire Department. Basically, we just had a lot of cleaning up verbiage and for insurance matters to make sure it is at the proper rates. We are going to extend the Public Hearing for two weeks until March 11th, the next Town Board meeting. That will give us two more weeks if you have any comments tonight or you can reach out to one of us on the town board or myself to any comments to clarify anything. Like I said it gives us two more weeks to do that.

Town Attorney Teresa Bakner: Yes, the Delanson and the Esperance one is also subject to the public hearing as well.

Council Member Senecal: Cover the \$5 million thing.

Supervisor Tidball: Oh, and one of the original changes we were looking to change the, it was recommended by our insurance agent to raise the insurance to a \$10 million policy and after speaking to other groups we are proposing a \$5 million policy. So that should help with the cost of the insurance for the fire departments. So, at this time, anyone joining us on Zoom, I am pretty sure quite a few are here for the public hearing. If you have any questions or comments, please put a note in chat or however through Zoom and we will let you speak.

Deputy Town Clerk Fall: So, I have two different people on here as Quaker Street fire, I'm not sure which one of you typed that you wanted to speak. I will unmute you both.

Supervisor Tidball: They aren't involved in this contract.

Town Attorney Teresa Bakner: No but they can speak.

Deputy Town Clerk Fall: Alright so I am just going to unmute both of them.

Jessica Gathen of Quaker Street Fire: I will speak on Quaker Street's behalf, I am Jessica Gathen. I was just going to ask the board; I know we are not involved in the contracts at this point in time but I was just wanting to know what Quaker Street Fire would have to do to prove to the board that now we are in fact more than capable of having fire district 3 contract back to us from Esperance.

Supervisor Tidball: I know we had this conversation in the past, the contract is written for us to tell Esperance that we will be taking the contract back, I think we need to notify them August of next year for that next year's contract. One thing we will have to do is Bill, Mr. Wenzel will have

to, myself and another board member will have to sit down with your board, your members to see if the problems and concerns that we had in the past have been rectified. And then it basically becomes a board decision to see if we want to consider going back into contract with you for that small parcel in Duanesburg. The one thing I will point out and it's been said to me I would say on a one-on-one conversation with one of your board members is that you want the full price, the full amount that you guys used to get for that very, very small section of town. And that in my opinion, that should have never happened. The amount that we were giving you for that little piece of town was almost as much as you know some of these other Departments that cover a large section. So that would have definitely have to be taken into consideration by from you guys, if we consider your contract again it definitely ain't gonna be the same amount you usually again.

Jessica Gathen of Quaker Street Fire: Right, that is understandable. It's very small.

Supervisor Tidball: Yes, it is very small. That is one of the reasons cause there was a miscommunication, well I wouldn't say miscommunication, an argument because of the amount and I felt there was too much of a greed. But yes, give us ...

Jessica Gathen of Quaker Street Fire: I have to agree with you there, just a little bit Roger. But what I'll do is I'll talk to my commissioner about it and stuff. So, we have until next August, correct?

Supervisor Tidball: Yeah, we have to give notification to Esperance who has the current contract for that part of town, August, I believe by August. This is something over this summer we should sit down with you guys better and look into it. But so, you'll be hearing from us when we know, when we can be available, maybe we'll join some of the board meetings you know, just show up and then go from there. Maybe some one-on-one conversations because there were a lot of concerns in the past.

Council Member Senecal: And rightfully so.

Jessica Gathen of Quaker Street Fire: Correct, that is understandable. It's just, we wanted to know how long we had to prove to you guys that Quaker Street has come back to being you know, that we can fully cover our reliability to the community and protect the community the way a fire company is supposed to.

Supervisor Tidball: We appreciate that, and you are trying. Anything else Jessica?

Jessica Gathen of Quaker Street Fire: No, thank you Mr. Tidball.

Supervisor Tidball: You're welcome. Anybody else on Brandy?

Deputy Town Clerk Fall: Not yet.

Supervisor Tidball: Ok, we'll give it a few seconds. And folks if you are having trouble getting on or making a comment, please if you know some of our phone numbers, you know the number to town hall, you have our email addresses, we will gladly, you know, if you have a question or comment, send it to us or just get it to Jen or Brandy so they can distribute it to all the Town Board members. And we will answer any questions or concerns. Like I said, we are going to extend this to the 11th anyways. Nothing?

Deputy Town Clerk Fall: No and it's seems odd with all the people on.

Council Member Ganther: If anyone else wants to speak, you can just speak up, we are here. Raise your hand or just put a note in the that.

Deputy Town Clerk Fall: They are all unmuted. You just need to unmute yourself if you do want to speak.

Larry Lucks from Mariaville Fire: Hey folks, this is Larry Loucks with Mariaville. Do you guys have a sample certificate of insurance that we can present to our broker? So, we can see what the impact financially will be to the department?

Town Attorney Terresa Bakner: Yes, we can help you with that. Did you hear the comment earlier that the original amount of \$10 million is going to be reduced to \$5 million?

Larry Lucks from Mariaville Fire: Yes, I did.

Town Attorney Terresa Bakner: Ok. Good.

Larry Lucks from Mariaville Fire: But you also said that there were some additional coverages that the town was looking for so if we had a specific sample insurance certification, we could just give that to our broker, and they could match it up and we can find out what the cost is going to be to the department.

Town Attorney Teresa Bakner: No problem, we'll get you a schedule that shows all that, you can just show it right to them.

Larry Lucks from Mariaville Fire: That would be great. Thank you so much.

Supervisor Tidball: Thank you Larry. Anybody else on Zoom wish to speak? Folks, if you are on Zoom and having trouble, we do have at the end of the meeting, we will also have an open floor too, to speak also. But like I said, if you don't want to wait and it's more of a question or comment, we'll get right back to you if you want to email us or something. So, at this time, I'll make the motion to table the public hearing to March 11th.

Council Member Ganther: Second.

Supervisor Tidball: Any discussion? Brandy call the roll please.

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Supervisor Tidball: Alright. Approval of minutes please.

Council Member Potter: I make a motion for approval for Town Board meeting on Thursday February 11th, 2021.

Council Member Ganther: Second the motion.

Supervisor Tidball: Any discussion on that? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Abstain

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 48-21: Council Member Potter motioned, seconded by Council Member Ganther to approve the Town Board Meeting minutes of Thursday February 11, 2021.

Motion carried, 5 ayes.

Supervisor Tidball: Payment of Claims please.

Council Member Potter: Vouchers to be paid Town of Duaneburg Vouchers per Fund. General Fund - \$83,329.81, Highway fund- \$15,063.09, SD#1- \$4,426.65, SD#2 - \$4,011.50, SD#3 - \$1,493.57. Total vouchers to be paid - \$108,324.62.

Council Member Ganther: Second.

Supervisor Tidball: Any discussion? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 49-21: Council Member Potter motioned, seconded by Council Member Ganther to pay the following claims:

Motion carried, 5 ayes.

Vouchers to be Paid February 25, 2021

General Fund:

\$83,329.81

Highway Fund: \$15,063.09

SD#1 Fund: \$4,426.65

SD#2 Fund: \$4,011.50

SD#3 Fund: \$1,493.57

Total To Be Paid: \$108,324.62

Supervisor Tidball: Alright, we'll go into the committee reports. Start off with Highway.

Highway:

Highway Superintendent Reed: Well, the routine has been pretty much the same as it has been. A lot of nuisance storms this last couple weeks. The crew has been doing a great job of plowing and sanding and fixing. So, everything is good.

Supervisor Tidball: Any comments or questions for Bill?

Public Safety:

Supervisor Tidball: Public Safety, basically the only things going on is the contracts we are working on. Me and Mr. Wenzel plan on getting out to some of the fire departments definitely over these? Maybe some one-on-ones. Do you have anything else?

Council Member Wenzel: I do not, no.

Supervisor Tidball: Ok, Park Committee.

Park Committee:

Council Member Wenzel: Park Committee. The contract for the disc golf, the vendor and I use that term guardedly, they wanted a couple changes made to the agreement essentially, they are not contractors, they are volunteers, and they are brokering the sale of the hardware for the disc golf to the town and there were changes made to that agreement. They have that back I sent that to them. So, we're just waiting to hear from them and of course the way the weather is, as I mentioned the last time it isn't anything they could start right now but this the whole agreement should be resolved by the time they get that back.

Sewer Districts:

Supervisor Tidball: Ok. Is Mr. Brown on? Did Bill Brown get on Brandy?

Bill Brown from Delaware Engineering: Hello.

Supervisor Tidball: There he is. Anything for the sewer districts Jeff or John?

Council member Senecal: It's quiet, except for whatever Bill has to say.

Supervisor Tidball: Mr. Brown, what do you got for us?

Bill Brown of Delaware Engineering: Not much, I know we've been active here the last couple of meetings. I don't have anything to ask for tonight. On the Sewer District #1 project, the contracts are in place, the bonds and insurance and all that good stuff. I'll be scheduling a meeting here with the Town and the contractors and EFC in March to kind of kick things off there and we're starting on the design for the Sewer District #2 project in Mariaville so we can have plans ready to go to DEC before May. So, that's kind of what's going on at the moment.

Supervisor Tidball: Short and sweet. Thank you. I know when you start up with this project again, I know there will be a lot of action going on here in the next few months, a lot of paperwork. So, we appreciate what you guys do for us.

Council Member Ganther: Bill, that design for the Mariaville work, is that does it have to be done May 1st, May 31st, what?

Bill Brown of Delaware Engineering: May 1st first actually is the submission to DEC with that. So right now, we are working with the equipment manufacturers to get the appropriate parts and pieces laid out and putting the specs together. We incorporate the different funding agency requirements into the specs. This project is receiving money from DEC through the WQIP program so there are NWBE requirements associated with that. We have a specific sign we have to put up and those types of things. So, we are working with the equipment manufacturers and putting the specs together. I'll be reaching out to Andrew and we have got to set up a site visit here in the next couple of days to get some measurements and confirm some layouts and stuff like that.

Council Member Ganther: Ok, thank you.

Town Attorney Teresa Bakner: Roger, did the funding come through? Remember John Vaginelis was working to place the funding.

Supervisor Tidball: I Haven't seen anything yet. I know he was working with Carmie on it. So, I haven't seen nothing. I'll have to check up on that. Can you, do you want to contact John?

Town Attorney Teresa Bakner: Yeah, I can check with John because we need to have those funds before we can pay Bill.

Supervisor Tidball: Anything else for sewer districts guys? Nope, ok thanks Bill.

Bill Brown: Thank you have a good night.

Supervisor Tidball: IT John.

IT:

Council Member Ganther: Brandy has been helping me to get this training set up for website maintenance. We finally got it all ironed out, they thought that we needed a new contract just for the training. So, we kind of went down a blind alley with that so that aside. Yeah, it's been, thank you Brandy, it's been like pulling teeth to get this done but it seems like we finally have everything set. We are just waiting for the dates. Right Brandy?

Deputy Town Clerk Fall: Yes, thankfully.

Council Member Ganther: So hopefully that is going to begin like in the next week or so. It's going to be two, four-hour sessions that are held on two different days. There will be 8 hours of training in total and we will have at least three people from inside the building here on it and provided I am available; I'll sit in on it as well. So that is going to be happening very soon, finally. The broadband committee is holding its next meeting next week, next week March 3rd, next Wednesday at 6:30 PM. The public is invited to join us via zoom. The invitation will be out on our website so if you do want to join in, we'd be happy to have you join the broadband party. You can get updated on the progress of the committee to one day have everyone in town connected to broadband. We keep working at it. I haven't done anything further with the two-factor authentication, I wanted to work with the planning and zoning boards on that, but I had some personal things the last couple weeks. I didn't want to start something where I couldn't be available. So, I kind of put that on ice for a little bit so I will get back to that very soon. And lastly, thank you to Teresa for helping us work through getting a new contract service contract for IT with OMNIS finalized. We will be voting on that during the business meeting. There was a lot of back and forth on that and we appreciate Teresa's help, thank you. That's it.

Supervisor Tidball: Ok. Not too many other things to go over before the business meeting. We've talked quite a bit about the Solar Law, Teresa's office is getting that together for us. You know the changes and things. Dale just sent me an email, I don't know if he sent it to you too, about the requirements so I thought that was part of the Solar Law, but it is actually part of the ordinance. Zoning ordinance, so we would have to change that, make an amendment to that?

Town Attorney Teresa Bakner: We can do that because it will be a local law amending, so that is no problem.

Council Member Ganther: Well, there was a series of things during the comprehensive plan when we said that we were going to need to go back and review that zoning ordinance again to make sure that anything that was adjusted in that comp. plan that might be related changes to the zoning ordinance. So, it's going to need a review.

Town Attorney Teresa Bakner: yeah, I mean, I don't, you guys tell me. Do you want to wait on the Solar or do you want to move ahead on that before we do the review of the zoning as a whole?

Supervisor Tidball: If we wait on doing a review of the zoning as a whole, I think it would be way down the road. With how long it is taking us to do anything else. We will finish up the solar, amend the solar law to how we see fit and go from that.

Town Attorney Terresa Bakner: We can get it to you so it can be introduced at the next board meeting. It's been a little busy.

Supervisor Tidball: I don't have anything else. No, I do not.

Town Attorney Terresa Bakner: Maybe the comp plan roger?

Council Member Ganther: Yeah, was there a hearing last week by the planning board on that?

Supervisor Tidball: Oh yeah, the comprehensive plan.

Town Attorney Terresa Bakner: yeah, there was a hearing in January and we got all the comments and we distributed them to everybody. So, you have them John in your packet from last month. And all we needed was some feedback on the town board as to what additional changes to make. So, if anybody has any feedback, let me know. I mean there were a lot of good suggestions in there.

Council Member Ganther: Yeah, I think at the last meeting. At the last meeting we said maybe Bill and I would get together on that, I think that is what we said. Maybe you and I can find an hour or two somewhere and go through this stuff.

Supervisor Tidball: Yeah, if you can please.

Town Attorney Terresa Bakner: If you just literally mark them up and say yes, no, yes, no, I can add them in and then we can go forward.

Council Member Ganther: Alright, you and I will throw our eyes on that.

Council Member Wenzel: Ok.

Supervisor Tidball: Anything else before we go into the business meeting? Any other subjects we want to talk about or need to discuss? Alright, let's start off with the business meeting.

Business Meeting:

Council Member Potter: Make the motion to adopt the Corrective Action Plan following the 2020 New York State Comptrollers Audit.

Council Member Ganther: Second the motion.

Supervisor Tidball: Discussion on this is, this falls a lot on my lap. This has been a, New York State auditor, for the state, they come in every four, five or six years to each municipality, school district, fire districts, anything that receives money through taxes, and do normal audits. They did an audit of the operations of the Town Supervisor's office, mostly with record keeping and they found us where we knew we were at, behind. We had some issues with some employees and with other, we knew we were not up to date on current policies. We had no policies for double checking ourselves. So, when we realized, let's go back in time a little bit, when problems arose, they weren't handled 100% properly. And I take the blame for that. One of the reasons, like I said, the town did not have in place the proper procedures to do so. SO, after several discussions with the Town Board, we hired in a consultant firm. They came in went top to bottom with us, we added many, many procedures, policies, updated a lot of things. And we started to see the results be a lot better. Then from there. We also went to an outside CPA firm to handle our payables which has cleared up 100% of our problems. So, during that time, just getting all that going, we were basically fixing our own problems and the auditor came in. And we were up front, told the auditors that came, where we were at and what happened. We opened our books to them; they were here well over a year. They spent a lot of time here; they were very professional. Basically, they were reporting what we already knew and things that we were working on. There is no money missing, nothing, no reports of theft or wrongdoing. Basically, at the end of the day, sloppy paperwork. So, we are 100% past, we fixed everything 100% that needed to be done has been addressed is being handled and been handled. This motion is for a Corrective Action Plan. It's basically a response to the town or a response back to the Comptroller's Office of how the town handled the situation and what we will be doing forward to remedy the situation and to keep the situation from ever happening again. Any of the other board members wish to comment?

Council Member Potter: I don't think, you know, I mean we realized we had a problem with some paperwork in there which we knew all along that there was never nothing missing. We felt that in our hearts anyways. I appreciate Roger sitting here taking the blame for everything but um.

Supervisor Tidball: It was my office.

Council Member Potter: It's your office but we knew that there was nothing missing just a paperwork issue.

Council Member Ganther: And I am glad we went through the process and we are out the other end now because you know I think, like you said, they were very professional with us, they were here a long time, they spent a lot of time digging and they gave us a lot of really good guidance on some procedure that could be adjusted and as you mentioned, we have a CPA firm that we work with now and we have been working with them to make sure that we comply with those recommendations. And yeah, so the last piece of this is what they call the Cap, the

corrective action plan which is just to confirm it with the Comptroller's office the deficiencies we had and here is how we are resolving them all.

Council Member Senecal: And the CPA firm helps us out immensely with that. Which is one of the best things we could have done was pull them in.

Council Member Ganther: Yes, it was really good that we were ahead of the curve and doing that before the Comptroller even came in, we were well down the road of correcting that. And that certainly was not lost from the auditors when they were here that they saw that we had already taken these actions.

Supervisor Tidball: Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 50-21: Council Member Potter motioned, seconded by Council Member Ganther to adopt the Corrective Action Plan for the Town following the 2020NYS Comptrollers audit. Motion carried, 5 ayes.

Council Member Ganther: Make the motion to approve the contract with OMNIS computers for professional computer services.

Council Member Potter: Second.

Supervisor Tidball: The discussion on this is basically just updating the contract with OMNIs who provides a service for us. As John said, they give us good service and if there is a problem, they are here to help us. Any discussion? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 51-21: Council Member Ganther motioned, seconded by Council Member Potter to approve the contract with OMNIS computers for professional computer services.
Motion carried, 5 ayes.

Council Member Wenzel: Make the motion to approve the revised Delanson Intermunicipal Highway and Code Enforcement Agreements.

Supervisor Tidball: You need to read the contract, right?

Town Attorney Teresa Bakner: No, that's it. What you have in your packet is the revised Intermunicipal Agreement. And Roger, you'll remember that the village mayor contacted us and asked us if we could change some of the dates. The dates have changed and they also asked that the indemnification be mutual. We changed it so the indemnification is mutual. I can't

promise that they won't have other changes but hopefully not and we'll be able to move forward. The village mayor was supposed to get back to us on the insurance requirements. It wouldn't surprise me if they ask for it to be reduced. If they do, we will be back on March 11th just updating you for that. So, nothing to sign yet, we are going to wait for them to sign it.

Council Member Potter: Second.

Supervisor Tidball: Any other discussion on that? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 52-21: Council Member Wenzel motioned, seconded by Council Member Potter to approve the revised Delanson Intermunicipal Highway and Code Enforcement Agreements. Motion carried, 5 ayes.

Council Member Senecal: Motion to authorize the Town Supervisor to execute the proposed agreement with Prime AE Ground of NY.

Council Member Wenzel: Second

Council Member Senecal started reading the resolution and agreement. Part of the way through loud music and sounds started coming through on the computer.

Council Member Ganther: Are we being Zoom bombed?

Deputy Town Clerk Fall: Yeah, we must be because I have them all muted.

Council Member Ganther: Yeah, we may have gotten Zoom bombed there.

Part of the way through we got Zoom Bombed (this is where someone that should not be on the call comes on and does many different things to interrupt the Zoom meeting. During this, they just played music and sounds loudly.)

Council Member Ganther and I work to try to figure out who it is and how to get them off the meeting while Council Member Senecal finishes reading the resolution.

Supervisor Tidball: Discussion on this, this is the property on the corner across from Wolfe's Market. Corner of Quaker Street and Darby Hill Road. The house was burnt down at least a year ago, it's an eyesore, it's hazardous. So, this is, it's taken a long time because the courts were closed, to go after the landowner. So, this is one of the final pieces of it. They have to take on Prime AE Ground to oversee the removal of the debris.

Town Attorney Terresa Bakner: And they will have to do a bidding process because we don't know how much it is going to cost.

Supervisor Tidball: Yes. Any other discussion on this? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 53-21: Council Member Senecal motioned, seconded by Council Member Wenzel to authorize the Town Supervisor to execute the proposed agreement with Prime AE Ground of NY.

Motion carried, 5 ayes.

Council Member Ganther: Motion to approve Hannigan Law Firm, PLLC as a vendor for the town.

Council Member Senecal: Second

Supervisor Tidball: Hannigan Law Firm, they are the ones helping... (loud music and sounds started playing over the computer again)

Council Member Ganther: Alright, Ok. Sorry folks but we are going to have to shut down the Zoom because someone keeps bombing in. We will continue to record but we are going to have to cut people out. (loud music and sounds continuing)

Supervisor Tidball: John, just let them know that if they have any comments they were going to have at the end of the meeting, they can just send them to us. (loud music and sounds continuing)

Deputy Town Clerk Fall: I think it's this one. (loud music and sounds continuing)

Supervisor Tidball: Can you just cancel one person off there?

Deputy Town Clerk: We are going to try.

Town Attorney Teresa Bakner: We have actually been very fortunate we haven't had this happen before.

Council Member Ganther: Yeah

Deputy Town Clerk Fall: I know, we are.

Council Member Ganther: I think we removed the person, so we are going to try to continue. Ok, let's try to continue.

Supervisor Tidball: Ok we will go back to Hannigan Law Firm. They are the law firm that have been helping us prepare and look over the current contracts we are looking at for the fire departments. Any other discussion on them? Brandy call the roll please.

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Senecal

Council Member Senecal: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Resolution 54-21: Council Member Ganther motioned, seconded by Council Member Senecal to approve Hannigan Law Firm, PLLC as a vendor for the town.
Motion carried, 5 ayes.

Supervisor Tidball: Alright. Do we have any other business meeting stuff we need to discuss? So, we are going to go to our Zoom party again and open privilege of the floor. Anybody who wishes to speak, please put in a comment to the chat. I know we have had some difficulties tonight. If you can't get on and want your comments read, please send them to the town clerk first thing in the morning so we can make them part of the board meeting.

Deputy Town Clerk Fall: So, Chet Boehlke would like to speak. Chet you just have to unmute yourself.

Lisa Boehlke: This is Lisa Boehlke; I'm just using his computer. I appreciate your acknowledgement of the New York State Comptroller's report but I do have some questions on that. I did call and ask some questions today so these I guess would just be follow up for the board. I was given the indication that annual audits of the supervisor's records are done for the town is that correct? Internal audits of the Supervisor's records which are required by the state.

Supervisor Tidball: Yes, and they are done each year, yes.

Lisa Boehlke: Ok, so if that is the case, how did we get to the point that no one on the Town Board new that there were not bank reconciliations done?

Supervisor Tidball: You don't do a very, the annual reviews aren't a full review, you do a small section of accounts payable and receivables. That is when we actually did, a couple of years ago, we've only had a problem for the last couple of years. 'Til about a year ago from about a year before that.

Lisa Boehlke: Can you tell me what a couple of years is? How long?

Supervisor Tidball: I can't give you exact dates, I apologize.

Lisa Boehlke: So, you are saying that your audit of your Supervisor's records does not review bank reconciliations?

Supervisor Tidball: I did not say that. We don't do a thorough review of everything that happens in each office. We do a review of the Town Clerk's office, the Town Supervisor's office and the Judges office. And it's not a thorough review from top to bottom, we're not CPA's, the Town Board are not CPA's. And that is when we did notice, during one of the reviews in the last year or so where some of our problems were. That did prompt us to take the actions that we did.

Lisa Boehlke: So, if you are not reviewing bank reconciliations during these audits, how is the board completing fiscal oversight with tax dollars for your residents? I guess, I am trying, I am trying to understand how this happened without anyone noticing for over a year that the bank records were not complete.

Council Member Ganther: bank workers were being reviewed I mean when, you know when the vouchers get paid and you know they recorded with check numbers then we go back

Council Member Ganther: Bank records were being reviewed. You know when the vouchers get paid and they are recorded with check numbers then we would go back to the bank statements to make sure that, that those checks were issued, and those checks went out to those vendors and those bills got paid. When money came in from taxes, we made sure that, you know, we would go through those, the tax income records and make sure that the deposits, that deposit slips matched the money that was coming in. So, it was kind of done at a transactional level I guess you would say is the way that we were we were doing it. One of the things that auditors did when they were here, is they gave us guidance on plugging some of the gaps that we had in doing those internal audits. We did a whole, you know, we've got a list of a series of things that we look at but it was not comprehensive enough. Obviously, if it was, we wouldn't have had things like that come out.

Lisa Boehlke: So, I have a couple of other questions. Is it correct that the two people that were doing that were both part-time bookkeepers, is that correct?

Supervisor Tidball: Yes, they were part-time employees.

Lisa Boehlke: Is it true that they were related?

Supervisor Tidball: I'm not getting into personal issues or questions.

Lisa Boehlke: Well, it just brings up the nepotism concern of having multiple employees ...

Supervisor Tidball: And that's why, that's why we went the route we did.

Lisa Boehlke: So, is there a nepotism policy now?

Supervisor Tidball: It was one of the things that we addressed wasn't it? I have to double check that.

Lisa Boehlke: So, now I've also looked, in the 2019 budget you had about \$45,000 for bookkeepers and now between the bookkeeper and the new Firm, you are at about \$75,000. Where are those funds coming from to pay the additional amount?

Supervisor Tidball: It comes from the taxes raised by the town, the taxes collected. General Fund.

Lisa Boehlke: Ok, so you are working with a new firm whose doing things to put you in a better place, I can appreciate that. Are they also helping you develop a plan where these checks and balances can be brought back to the town to reduce the cost of having to hire them out?

Supervisor Tidball: You're saying to go back in house doing our accounting back in house in the future, is that what you are saying?

Lisa Boehlke: Well to do the accounting in house and to create a system of checks and balances. I do understand, as a small town that is very difficult, there's just not enough people to spread that as easily as it might be in a larger governmental situation. But there are ways of doing it and accounting firms are very good at helping create those policies if you ask for them. If you don't ask for them and allow them to continue to do the work, of course you're going to take that path. So, I am just wondering if they offered you any assistance in trying to help find those places where it could be done internally and save some costs?

Supervisor Tidball: We did have, before we went to the CPA, we had another private firm come in and they're the ones that noticed that we had hardly any policies in place or they needed to be updated. So those policies could, yes could possibly help us to go back to in house if the Town Board decided to. But one of the reasons we decided to go with this outside CPA, wasn't because of a lack of the right people because for that position, you can hire from anywhere, it doesn't have to be a town resident. You could find, there's many thousands of CPA's or people that can do that kind of work. We decided as a Town Board because of Town Board turnover, we'll say to use an outside source to continue with an outside source as far as we recommend because of basically because of turnover or putting everything in one person's hand as a CPA, which includes also payroll, if that person just up and leaves one day, the town is in a lot worse spot. That is why we would rather have a firm work, basically a firm of thirty people working for us instead of just one.

Council Member Ganther: Yeah, that's right, in fact we even had, we even had several discussions on whether or not it made sense to the town to actually step up and higher a comptroller internally rather than just a bookkeeper. But you know, but doing that also but first of all, it might be difficult for small town like this to attract someone like that but again it's still going to increase the cost. You know it's still going to increase the cost to taxpayers and you still run into a situation of what happens if that person leaves. So, instead we decided that the safest route for the town would be to have a larger company involved in that process so if there is turnover at that large company, they won't skip a beat, they get other people that can jump right in. So, we felt it was just a more secure situation for the town.

Town Attorney Teresa Bakner: Yes, and I would just like to say that BST and other accounting firms provide these services for municipalities and that way they can make sure that all the information is put in a form that is appropriate for the Comptroller's office review at the end of the year and just follow basic CPA principles with respect to how data is kept and they provide software to the town to which otherwise the town would have to maintain and own itself.

Council Member Wenzel: Also, another thing that is very important with that, when you have an independent third party involved in internal control, you've got an outside source that is not a signatory on any of the bank accounts and that's really important not to have someone as a signatory that does the review and from an internal control standpoint, that gives assurance of a thorough review that would uncover any type of inappropriate activity at almost immediately.

Lisa Boehlke: Ok, that's a very nice answer, I greatly appreciate it. So, does the Board now get proper, what I would consider proper, accounting reports to help make those decisions? I mean, it's not just payables, I fully understand the need to know how much money you have before you pay bills. Budgeting is very important, do you feel like you are getting those reports, and again I'm just, do you feel an assurance that you are getting a better product after the hiring and what I also noticed on your website is there is no 2019 AUD report. Does anyone know if that has been completed?

Supervisor Tidball: Yeah, yes it was completed. The AUD reports, because of COVID is taking forever from the Comptroller's side of it. There is some back and forth. We do the report and send it to them and they'll have twenty questions. And then they get down to five questions and then re-ask the same questions. I don't know, I have to check on their website to see if it has actually been finalized on their end, but it has been filed, yes.

Lisa Boehlke: Ok.

Council Member Ganther: And the board receives, each month, the board receives from BST a several page report on the entire general Ledger that has you know the balance is this, this month and year to date and year to date versus budget and all that. So, we get those reports each month for us to review. As far as the bank reconciliation situation, BST does do those reconciliations for us now, they put him in a secure shared folder so we can review them here and we also do a manual reconciliation internally and we balance our manual reconciliation to BST's to make sure that we're staying in sync with them.

Lisa Boehlke: Are any of those reports available to the public?

Council member Ganther: Yeah, through the Freedom of Information, I mean any of that is viewable sure. But we don't as a matter of practice publish them. Supervisor reports are but not all the GL balances, just the summary Supervisor's report.

Lisa Boehlke: Ok, thank you very much.

Council Member Ganther: Sure.

Supervisor Tidball: Jeff, did you have a comment?

Council Member Senecal: I am delighted that we brought BST in, as a board, it was more money, but it was the right fiscal thing, as far as being fiscally responsible, I am personally delighted with that decision. And it is going to serve the town's residents better over the long run for sure.

Supervisor Tidball: Yes. Brandy do you see anyone else that wishes to speak?

Deputy Town Clerk Fall: Nobody else has typed in the chat. If you don't know how to type in the chat and you do want to speak, just unmute yourself.

Lynne Bruning of Duanesburg Road: Lynn Bruning of Duanesburg Road.

Supervisor Tidball: Hello Lynn.

Lynne Bruning: Hi. To answer the prior speaker's question, she made an inquiry as to how far back some of this goes and it's important for people to understand that April 23, 2012, the Albany Times Union did report on the Comptroller's 2010 report for Duanesburg and it again found errors at that time. That report, I haven't read so I can't speak to it, but I do know that it was recorded in the Times Union and you can get it through the Freedom of Information from the Comptroller's office.

Supervisor Tidball: It's right on our website and it was different matters then what these matters were.

Lynne Bruning: So, it is all going back, I think to paperwork issues.

Supervisor Tidball: Yes, there, there was, there was, and I'll admit to matters in 2012, I believe or whenever it was 2010, were not as severe as the matters of this one. One of the concerns of

the Comptroller's back then was that the town had too much money in the bank. That was one of their main concerns.

Lynne Bruning: Ok but getting to paperwork and I understand that you are working towards website improvement and some other things that I have been addressing since 2019, so I'm just going to bring them up and then the website people will know what to be doing with those. Lynn read a statement, please see attached.

Supervisor Tidball: Thank you. Anybody else wish to speak?

Deputy Town Clerk Fall: Again, if you just unmute yourself on you end, you will be able to speak.

Supervisor Tidball: Nobody? Alright, I'll make the motion for the town board to go into executive session to seek advice from counsel.

Council Member Ganther: Second the motion.

Supervisor Tidball: Any discussion? Brandy call the roll please.

Deputy Town Clerk Fall: Supervisor Tidball

Supervisor Tidball: Aye

Deputy Town Clerk Fall: Council Member Ganther

Council Member Ganther: Aye

Deputy Town Clerk Fall: Council Member Potter

Council Member Potter: Aye

Deputy Town Clerk Fall: Council Member Wenzel

Council Member Wenzel: Aye

Supervisor Tidball: Folks, thank you. Have a good night.

The town board came out of executive session at 9:00 p.m. Motioned by Supervisor Tidball and seconded by Council Member Ganther.

I, Brandy Fall, Deputy Town Clerk of the Town of Duanesburg, so hereby certify that this is a true and accurate transcript of the Regular Town Board Meeting held on Thursday February 25, 2021 at the Duanesburg Town Hall, 5853 Western Turnpike, Duanesburg, New York 12056.

**LEGAL NOTICE
NOTICE OF PUBLIC HEARING
TOWN BOARD
TOWN OF DUANESBURG**

PLEASE TAKE NOTICE, that the Town Board of the Town of Duanesburg, New York, will meet at the Town Offices of Duanesburg located at 5853 Western Turnpike, on **Thursday, February 25, 2021 at 7:00 p.m.** for the purpose of hearing all persons interested in the matter of:

The Town amending its current contracts for fire protections services to ensure compliance with all applicable laws and the Town's insurance requirements.

The subject contracts include contracts with the Mariaville Volunteer Fire Department, Inc. for fire protection services in Fire Protection District No. 2, the Burtonsville Volunteer Fire Department for fire protection services in Fire Protection District No. 3, the Village of Delanson for fire protection services in Fire Protection District No. 3, and the Village of Esperance for fire protection services in Fire Protection District No. 3.

Persons may appear at the hearing in person via ZOOM or by agent, and may also submit written comments to the Town Board prior to or at such hearing.

BY ORDER OF THE TOWN BOARD
TOWN OF DUANESBURG

Dated: February 11, 2021

**Town of Duanesburg
Vouchers Per Fund**

Fund	Amount
General Fund	83,329.81
Highway Fund	15,063.09
Sewer District # 1	4,426.65
Sewer District # 2	4,011.50
Sewer District # 3	1,493.57
Total	108,324.62

Town of Duanesburg Town Board


RESOLUTION NO. __ - 2021

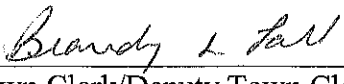
February 25, 2021

WHEREAS, the Town of Duanesburg (the "Town") desires to adopt the Corrective Action Plan for the Town following the 2020 New York State Comptrollers audit.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town hereby approves and adopts the attached Corrective Action Plan.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting of February 25, 2021.


Roger Tidball, Supervisor


Town Clerk/Deputy Town Clerk

Date

Date 2/25/2021

Present: Supervisor Tidball, Council Member Potter, Council Member Ganther, Council Member Senecal
Absent: + Council Member Wenzel.

Town Board Members:

Roger Tidball	<input checked="" type="radio"/> Yea	Nay	Abstain
John Ganther	<input checked="" type="radio"/> Yea	Nay	Abstain
Rick Potter	<input checked="" type="radio"/> Yea	Nay	Abstain
William Wenzel	<input checked="" type="radio"/> Yea	Nay	Abstain
Jeff Senecal	<input checked="" type="radio"/> Yea	Nay	Abstain

Roger Tidball, Town Supervisor
Jennifer Howe, Town Clerk
Brandy Fall, Deputy Town Clerk



John Ganther, Council Member
Francis R. Potter, Council Member
Jeffrey Senecal, Council Member
William Wenzel, Council Member

Town of Duanesburg

Schenectady County

Town of Duanesburg
Financial Records and Reports
2020M-116

The following is the Corrective Action Plan for the Town of Duanesburg following the 2020 New York State Comptrollers audit.

Recommendations following the audit.

The Supervisor and Board should:

1. Develop Policies and Procedures to ensure the Town's accounting records and reports are complete, accurate and up to date.
2. Require monthly reports that are up to date, accurate and include balance sheet information.

The Supervisor should:

3. Ensure accurate and complete bank reconciliations are performed timely.
4. Ensure the Board is provided accurate and timely financial reports each month, including reconciled cash balances by fund.

Regarding the recommendations the following is the action plan for each recommendation.

1. The Town Board acknowledges the recommendations made by the OSC with respect to our financial records. The Board began to address such issues by retaining an outside auditor to perform a Risk Assessment. This assessment identified and documented areas of weaknesses and made recommendations for improvements. A critical element of the Town's response to the risk assessment is the retention of an outside accounting firm. The Town's accounting and financial processing, except for Payroll, has been shifted from internal management to the accounting firm to further enhance Town controls. The accounting firm's role also supplants tasks formerly performed by internal Town bookkeepers. The accounting firm has been handling the towns accounting since January 2020. The implementation of hiring the firm was done by the Town Supervisor with full Town Board approval.

2. As part of our agreement with the accounting firm, the Town requires from them monthly reports, and balance sheet information that is accurate and up to date. The firm does provide the Board and our Clerks the proper information that is being asked of them. This service has been in place since we contracted with them and information has been provided thoroughly since January 2020. The implementation of this process was part of the agreement with the accounting firm.
3. As part of the transition of our accounting function to the accounting firm, and because of the risk assessment performed by an independent auditor, the Town has adopted a two-step bank reconciliation process. The firm performs on-line reconciliations using their accounting software system, which are then submitted for review and approval by the Town Board. Additionally, an internal town employee performs manual reconciliations. These two reconciliation reports are then compared to each other to confirm accuracy or to identify exceptions. This process has also been in practice since we partnered with the accounting firm. And was implemented by the Town Supervisor and the Town board.
4. Once again, as part of the transition of our accounting function to our accounting firm, and because of the risk assessment performed by independent auditor, the firm's scope of services includes preparation of monthly management reporting, bank reconciliations and monthly records of all receipts and disbursements. The Firm prepares and provides monthly reports to the Town Board. These practices have also been in place since January 2020 and was implemented by the Town Supervisor and the town board.

Roger Tidball

Supervisor
Town of Duanesburg, New York 12056

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION __ - 21

February 25, 2021

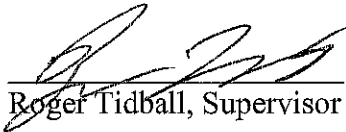
WHEREAS, the Town has contracted with OMNIS Computers under a Master Services Agreement for professional computer services including licenses for software, hardware, support and maintenance services, and/or subscription services; and

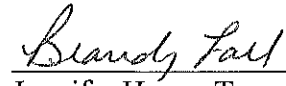
WHEREAS, the Town has been satisfied with their pricing and services; and

WHEREAS, the proposed Master Services Agreement with OMNIS, effective January 1, 2021, is attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves and authorizes the Town Supervisor to execute the Master Services Agreement with OMNIS.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on February 25, 2021.


Roger Tidball, Supervisor


Jennifer Howe, Town Clerk

Present: *Supervisor Tidball, Council Member Potter, Council member Ganther, Council Member Senecal*
Absent: *+ Council Member Wenzel*

Council Members:

Roger Tidball	<u>Yea</u>	Nay	Abstain
John Ganther	<u>Yea</u>	Nay	Abstain
Rick Potter	<u>Yea</u>	Nay	Abstain
William Wenzel	<u>Yea</u>	Nay	Abstain
Jeff Senecal	<u>Yea</u>	Nay	Abstain



Town of Duanesburg

SERVICE AGREEMENT

PREPARED BY:

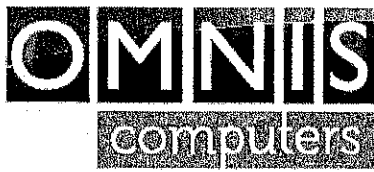
Clint Johnson

Business Development Manager

clint@omnis1.com

(518) 372-7829
(518) 372-3189/fax

141 ERIE BOULEVARD • SCHENECTADY, NEW YORK 12305



MASTER SERVICE AGREEMENT

THIS MASTER SERVICE AGREEMENT ("Agreement") is made this the 1st of January, 2021 ("Effective Date") by and between Omnis Computers & Supplies, Inc., 141 Erie Blvd., Schenectady N.Y. 12305 and Town of Duanesburg at 5853 Western Turnpike, Duanesburg, New York 12056. ("Client").

1 SCOPE OF AGREEMENT.

This Agreement serves as a master agreement and applies to Client's purchases from OMNIS COMPUTERS, of services ("Services"), as well as licenses for software, hardware, support and maintenance services, and/or subscription services (collectively, "Product"). Client hereby engages and retains OMNIS COMPUTERS to render Services as more particularly set forth in the "Statement of Work" or "SOW" attached hereto and incorporated herein by reference or subsequent Statements of Work

1.1 Statement of Work (SOW)

GREEN SERVICE CONTRACT

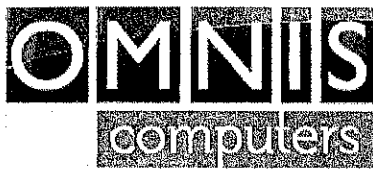
- 24/7 Monitoring & Proactive Support
- Unlimited Help- Desk Support
- Unlimited Remote Remediation
- Automated Maintenance
- End-User Portal Access
- Office 365 Subscription Based on 6.00 per Basic User and 13.50 for Standard User (billed separately)
- On-site work \$100 per Hour
- Emergency (server down) Remote Weekend & After Hour Remote Support included
- Onsite Support Weekend & After Hour \$140 per Hour
- \$100 per Hour New Project Work
- Unlimited Technology Consulting
- Guaranteed Response Time Within 3 Hours
- Virtual CIO (bi-annual)

Town of Duanesburg Based on 19 PC's 1 Server Including Backup for **\$690.00**

This is a prepaid service due on the first of each month.

(518) 372-7829
(518) 372-3189/fax

141 ERIE BOULEVARD • SCHENECTADY, NEW YORK 12305



2 GENERAL REQUIREMENTS.

2.1 System.

For the purposes of this Agreement, "System" means, collectively, any computer network, computer system, peripheral or device installed, maintained, monitored, or operated by us pursuant to a SOW. To avoid a delay or negative impact on our provision of the Services, during the term of each SOW you agree to refrain from modifying or moving the System, or installing software on the System, unless we expressly authorize such activity.

2.2 Maintenance; Updates.

If patches and other software-related maintenance updates ("Updates") are provided under a SOW, we will install the Updates only if we have determined, in our reasonable discretion, that the Updates will be compatible with the configuration of the System and materially beneficial to the features or functionality of the affected software or hardware. We will not be responsible for any downtime or losses arising from or related to the installation or use of any Update, provided that the Update was installed in accordance with the manufacturer's or applicable vendor's instructions.

2.3 Third-Party Vendors and Service Providers.

We do not own certain Third-Party Products and the use thereof is subject to certain rights and limitations of which we need to inform you. Your right to use the Third-Party Products is subject to your Agreement with us, and to your understanding of, compliance with and consent to the terms and conditions of the Third-Party agreements, which we do not have authority to vary, alter or amend.

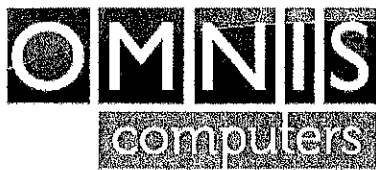
Therefore, OMNIS COMPUTERS may utilize a Third-Party Service Provider in its discretion to provide the Services in accordance with the Agreement. OMNIS COMPUTERS shall not, however, subcontract any Services to a third party without the prior written consent of Client. If Client so consents, OMNIS COMPUTERS will use reasonable efforts to assign, transfer and facilitate all warranties (if any) for the Third-Party Service Provider to Client, but will have no liability whatsoever for the quality, functionality or operability of any Third-Party Products or Services, and OMNIS COMPUTERS will not be held liable as an insurer or guarantor of the performance, downtime or usefulness of any Third-Party Provider. The Third-Party Provider may require the OMNIS COMPUTERS to sign a contract with the Third-Party Provider for its services ("Third-Party Contract") and the terms of the Third-Party Contract may require certain conditions and requirements upon Client. The terms and conditions of any such Third-Party Contract(s) will be provided to the Client or attached to the Scope of Work which identifies the Third-Party Service Provider and the associated terms and conditions. Client hereby agrees to review all Third-Party Contracts and consents to the terms and condition of those Third-Party Contracts which Client has consented OMNIS COMPUTERS contract upon its behalf.

2.4 Third Party Support.

If, in OMNIS COMPUTERS' discretion, a hardware or software issue requires vendor or OEM support, we may contact the vendor or OEM (as applicable) on your behalf and pass through to you, without markup, all fees and costs incurred in that process. If such fees or costs are anticipated in advance or exceed \$100, we will obtain your permission before incurring such expenses on your behalf unless exigent circumstances require otherwise.

(518) 372-7829
(518) 372-3189/fax

141 ERIE BOULEVARD • SCHENECTADY, NEW YORK 12305



2.5 Advice; Instructions.

From time to time, we may provide you with specific advice and directions related to our provision of the Services or the maintenance or administration of the System. (For example, our advice or directions may include increasing the System's server or hard drive capacity or replacing obsolete equipment.) You agree to promptly follow and implement any directions we provide to you related to the Services which, depending on the situation, may require you to make additional purchases or investments in the System or the environment in which the System is maintained, at your sole cost. We will not be responsible for any problems or issues (such as System downtime or security-related issues) caused by your failure to promptly follow our advice or directions. If your failure to follow or implement our advice renders part or all of the Services economically or technically unreasonable to provide in our discretion, then we may terminate the applicable SOW for cause by providing notice of termination to you. Unless specifically and expressly stated in a SOW, any services required to remediate issues caused by your failure to follow OMNIS COMPUTERS' advice or directions, or your unauthorized modification of the System, as well as any services required to bring the System up to or maintain the Minimum Requirements, are not covered under any SOW and will be out-of-scope.

3 Term and Termination.

This Agreement will begin on the Effective Date and will continue until each Order expires or is terminated. OMNIS COMPUTERS may: (a) terminate a specific Order if Client fails to pay any applicable fees due for that Order within 30 days after receipt of written notice from OMNIS COMPUTERS of non-payment; and/or (b) terminate this Agreement or an Order if Client commits any other material breach of this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice from OMNIS COMPUTERS. If an Order for Services is terminated, Client will promptly pay OMNIS COMPUTERS for Services rendered, and expenses incurred through the termination date.

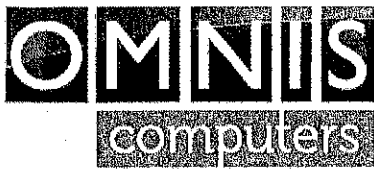
Client may (a) terminate this Agreement or an Order if OMNIS COMPUTERS commits any other material breach of this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice from Client; and/or (b) terminate for any reason with ninety (90) days written notice to OMNIS COMPUTERS.

4 Payment.

Client will pay OMNIS COMPUTERS all fees due upon receipt of an invoice specifying the amounts due ("Fees"). All Fees payable under this Agreement are exclusive of sales, use, excise, and any other applicable transaction taxes, which Client will pay (excluding taxes based upon the net income of OMNIS COMPUTERS). If payment is not received on or before any invoice due date, interest shall begin to accrue and be payable at the lesser of the maximum rate permitted under applicable law or at the rate of one and one-half percent (1.5%) (or any other interest rate in accordance with the state's law) per month from the date due until paid in full. Client shall pay all expenses, including actual attorneys' fees, incurred by OMNIS COMPUTERS or its representatives in enforcing its rights under this Agreement, provided that OMNIS COMPUTERS is successful on the merits. Client's obligation to pay undisputed amounts due for Services and OMNIS COMPUTERS' right to all such amounts are absolute and unconditional. Client is not entitled to set off of such amounts. All Fees will be detailed in an Order. Unless

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otherwise stated in a SOW, Client agrees to pay or reimburse OMNIS COMPUTERS for all actual, necessary, and reasonable expenses incurred by OMNIS COMPUTERS in performance of such SOW, which are capable of verification by receipt. OMNIS COMPUTERS will submit invoices to Client for such fees and expenses either upon completion of the Services, or at stated intervals, in accordance with the applicable Statement of Work.

5 CONFIDENTIALITY AND NON-DISCLOSURE.

Both Parties to this Agreement recognize that, from time to time, they may come into contact with information that the other Party considers confidential. Confidential Information is defined for this Agreement as all information (whether written or oral) that comes into a Party's possession under or in connection with this Agreement that is reasonably considered by the disclosing Party to be confidential and is clearly identified as confidential. The Parties shall keep all Confidential Information in strict confidence.

The recipient will use a reasonable standard of care in protecting Confidential Information, which will not be less than the standard of care the recipient uses to protect its own confidential information; only use Confidential Information to perform its obligations and exercise its rights under this Agreement; not disclose Confidential Information to any third party; when requested by the disclosing Party, return or destroy the Confidential Information.

6 PROVISION OF MATERIALS AND SERVICES TO OMNIS COMPUTERS.

Client agrees to timely furnish, at its own expense, all personnel, all necessary computer hardware, software and related materials and appropriate and safe work spaces for purposes of OMNIS COMPUTERS or its contracted subcontractors, performing the services. Client will also provide OMNIS COMPUTERS or its contracted subcontractors, with access to all information, passwords and facilities requested by OMNIS COMPUTERS that is necessary for OMNIS COMPUTERS or its contracted subcontractors, to perform the services. Access may be denied for any reason at any time, however if access to information, passwords or facilities is denied, Client understands that the OMNIS COMPUTERS or its contracted subcontractors, may be unable to perform their duties adequately.

7 WORKING ENVIRONMENT.

Client shall provide a suitable working environment for any Equipment located at Client's facility. Such environment includes, but is not limited to the appropriate temperature, static electricity and humidity controls and properly conditioned electrical supply for each piece of Equipment. Client shall bear the risk of loss of any Equipment located at Client's facility.

8 RESPONSIBILITY FOR EQUIPMENT.

Client acknowledges that from time to time (a) OMNIS COMPUTERS may identify additional items that need to be purchased by Client, and (b) changes in Client's systems may be required in order for OMNIS COMPUTERS to meet Client's requirements. In connection therewith, Client agrees to work in good faith with OMNIS COMPUTERS to effectuate such purchases or changes. In the event that OMNIS COMPUTERS is required to purchase any assets, including computer hardware and/or software, in connection with OMNIS COMPUTERS providing the services, all such assets will remain the sole property of OMNIS COMPUTERS unless specifically

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stated otherwise in writing. Client will be responsible for the quality, completeness and workmanship of any item or service furnished by it and for ensuring that the materials provided to OMNIS COMPUTERS or its contracted subcontractors, do not infringe or violate the rights of any third party. Client will maintain adequate backup for all data and other items furnished to OMNIS COMPUTERS.

9 CLIENT DATA OWNERSHIP AND RESPONSIBILITY.

Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any data, information or material proprietary submitted by Client to OMNIS COMPUTERS.

10 INTELLECTUAL PROPERTY.

OMNIS COMPUTERS retains all intellectual property rights in any property invented or composed in the course of or incident to the performance of this Agreement, as well as any software, materials, or methods created prior to or after conclusion of any work. Client acquires no right or interest in any such intellectual property, by virtue of this Agreement or the work performed under this Agreement.

10.1 Client may only use and disclose Product in accordance with the terms of this Agreement and applicable Order. OMNIS COMPUTERS reserves all rights in and to the Product not expressly granted in this Agreement. Client may not disassemble or reverse engineer any software Product or decompile or otherwise attempt to derive any software Product's source code from executable code, except to the extent expressly permitted by applicable law despite this limitation or provide a third party with the results of any functional evaluation, or benchmarking or performance tests on the Products, without OMNIS COMPUTERS' prior written approval. Except as expressly authorized in this Agreement or an Order, Client may not (a) distribute the Product to any third party (whether by rental, lease, sublicense or other transfer), or (b) operate the Product in an outsourcing or OMNIS COMPUTERS business to process the data of third parties. Additional usage restrictions may apply to certain third-party files or programs embedded in the Product - applicable installation instructions or release notes will contain the relevant details.

10.2 License Agreements.

a. License. Subject to the terms of this Agreement.

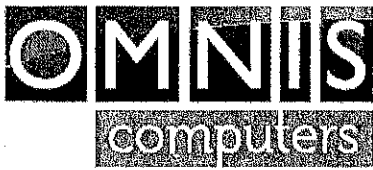
OMNIS COMPUTERS grants Client a perpetual, non-exclusive, non-transferable license to use and modify all programming, documentation, reports, and any other product provided as part of the Services solely for its own internal use. At all times, all software on the System must be genuine and licensed, and you agree to provide us with proof of such licensing upon our request. If we require you to implement certain minimum hardware or software requirements ("Minimum Requirements"), you agree to do so as an ongoing requirement of us providing our Services to you.

b. Software Installation or Replication.

If OMNIS COMPUTERS is required to install or replicate Client software as part of the Services, Client will independently verify that all such software is properly licensed. Client's act of providing any software to OMNIS COMPUTERS will be deemed Client's affirmative acknowledgment to OMNIS COMPUTERS that Client

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has a valid license that permits OMNIS COMPUTERS to perform the Services related thereto. In addition, Client will retain the duty and obligation to monitor Client's equipment for the installation of unlicensed software unless OMNIS COMPUTERS in a written statement of work ("SOW") expressly agrees to conduct such monitoring.

c. Pre-Existing License Agreements.

Any software product provided to Client by OMNIS COMPUTERS as a reseller for a third party, which is licensed to Client under a separate software license agreement with such third party, will continue to be governed by the third-party license agreement.

d. EULA.

Portions of the Services may require you to accept the terms of one or more third party end user license agreements ("EULAs"). If the acceptance of a EULA is required in order to provide the Services to you, then you hereby grant OMNIS COMPUTERS permission to accept the EULA on your behalf. EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in this Agreement. You agree to be bound by the terms of such EULAs and will look only to the applicable third-party provider for the enforcement of the terms of such EULAs. If, while providing the Services, we are required to comply with a third-party EULA and the third party EULA is modified or amended, we reserve the right to modify or amend any applicable SOW with you to ensure our continued compliance with the terms of the third party EULA.

10.3 Third-Party Products.

Unless otherwise stated in a SOW, all hardware, software, peripherals or accessories purchased through OMNIS COMPUTERS ("Third Party Products") are nonrefundable once the applicable SOW is placed in our queue for delivery. We will use reasonable efforts to assign, transfer and facilitate all warranties (if any) and service level commitments (if any) for the Third Party Products to you, but will have no liability whatsoever for the quality, functionality or operability of any Third Party Products, and we will not be held liable as an insurer or guarantor of the performance, uptime or usefulness of any Third Party Products. Unless otherwise expressly stated in a SOW, all Third-Party Products are provided "as is" and without any warranty whatsoever as between OMNIS COMPUTERS and you (including but not limited to implied warranties).

11 WARRANTY.

OMNIS COMPUTERS warrants that it or its contracted subcontractors, will perform the services substantially in accordance with the specifications set forth whether under this agreement, a SOW, other work order or otherwise in connection with any of them. For any breach of the foregoing warranty, OMNIS COMPUTERS or its contracted subcontractors, will exercise commercially reasonable efforts to re-perform any non-conforming services that were performed within the ten (10) business day period immediately preceding the date of Client's written notice to OMNIS COMPUTERS specifying in reasonable detail such non-conformance. If OMNIS COMPUTERS concludes that conformance is impracticable, then OMNIS COMPUTERS will refund all fees paid by Client to OMNIS COMPUTERS hereunder, if any, allocable to such nonconforming Services.

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11.1 Notwithstanding any provision to the contrary in this Agreement, any warranty offered and provided directly by OMNIS COMPUTERS product shall be deemed null and void if the applicable product is (i) altered, modified or repaired by persons other than OMNIS COMPUTERS, including, without limitation, the installation of any attachments, features, or devices not supplied or approved by OMNIS COMPUTERS (ii) misused, abused, or not operated in accordance with the specifications of OMNIS COMPUTERS or the applicable manufacturer or creator of the hardware or product, or, (iii) subjected to improper site preparation or maintenance by persons other than OMNIS COMPUTERS or persons approved or designated by OMNIS COMPUTERS.

Notwithstanding the above, OMNIS COMPUTERS does not warrant its products or services beyond a reasonable standard or skill consistent with industry standards. OMNIS COMPUTERS does not guarantee or promise any cost savings, profits, or returns on investment.

12 SOFTWARE HARDWARE & SECURITY.

Client understands and agrees that data loss or network failures may occur, whether or not foreseeable. In order to reduce the likelihood of a network failure the Client must maintain proper security for its computer and information system including software and hardware updates. Client will adhere to software and hardware updates and maintain specific security standards, policies, procedures set forth and recommended by OMNIS COMPUTERS.

13 CLIENT CYBER SECURITY.

It is understood that the services provided under this MSA are limited to the Scope of Work as detailed in Paragraph 1, or any subsequent Scope of Work. Unless otherwise specified in the Scope of Work, it is not the intent, nor does the OMNIS COMPUTERS provide any type of internet security monitoring, cyber security monitoring, cyber terrorism monitoring, or other cyber threats for the Client. As cyber threats are always evolving it is strongly recommended that the Client engage the services of a cyber protection third party vendor to monitor the cyber controls and cyber activities in the system. Upon request OMNIS COMPUTERS may provide to Client several companies that provide cyber protection. OMNIS COMPUTERS can assist in evaluating Clients specific needs, but it is understood and agreed that OMNIS COMPUTERS does not offer nor provide cyber security under this Agreement.

14 TERRORISM.

In no event, including the negligent act or omission on its part, shall OMNIS COMPUTERS, whether under this Agreement, an SOW, other work order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of or arose from any act of terrorism, strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations, civil war, rebellion, revolution, insurrection, civil commotion

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assuming the proportions of or amounting to an uprising, or any action taken in controlling, preventing or suppressing any of these things, including any such act or series of acts of any person or group(s) or persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including but not limited to the intention to influence any government and/or to put the public in fear for such purposes by using activities perpetrated electronically that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, telecommunications or electronic networks and/or its content thereof or sabotage and or threat therefrom.

15 TELEMARKETING & UNSOLICITED EMAILS.

In no event, including the negligent act or omission on its part, shall OMNIS COMPUTERS or its contracted subcontractors, whether under this Agreement, an SOW, other work order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if the Client's data is breached because of the distribution of unsolicited email, direct mail, facsimiles, telemarketing or because of the collection of information by means of electronic "spiders", "spybots", "spyware", wiretapping, bugging, video cameras or identification tags.

16 EXTRAORDINARY EVENTS.

In no event, including the negligent act or omission on its part, shall OMNIS COMPUTERS or its contracted subcontractors, whether under this Agreement, an SOW, other work order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of or arose from any failure or malfunction of electrical, mechanical or telecommunications infrastructure and equipment or services, any satellite failure, or from any fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God or other physical event.

17 RELEASE WITH LIMITATION OF LIABILITY.

THIS PARAGRAPH LIMITS THE LIABILITIES ARISING UNDER THIS AGREEMENT OR ANY SOW AND IS A BARGAINED-FOR AND MATERIAL PART OF THIS AGREEMENT. YOU ACKNOWLEDGE AND AGREE THAT OMNIS COMPUTERS WOULD NOT ENTER INTO THIS AGREEMENT UNLESS IT COULD RELY ON THE LIMITATIONS DESCRIBED IN THIS PARAGRAPH. CLIENT AND ANY OF THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "RELEASOR PARTIES") AGREES TO THE FULLEST EXTENT PERMITTED BY LAW AND EXCEPT AS OTHERWISE NOTED

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IN THIS AGREEMENT, AGREES TO RELEASE THE OMNIS COMPUTERS AND ANY OF THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "RELEASED PARTIES") FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY AMOUNT IN EXCESS OF THE LICENSE FEE OR FOR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES. NO CIRCUMSTANCES SHALL OMNIS COMPUTERS' AGGREGATE LIABILITY ARISING FROM OR OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE FEES PAID UNDER THIS AGREEMENT FOR THE PREVIOUS TWELVE (12) MONTHS. OMNIS COMPUTERS SHALL NOT BE LIABLE TO CLIENT FOR ANY DELAY IN DELIVERY OR PERFORMANCE, OR FAILURE TO DELIVER OR PERFORM AT OR WITHIN THE DEADLINES SET FORTH IN THIS AGREEMENT.

18 MUTUAL INDEMNIFICATION AND HOLD HARMLESS.

EACH PARTY AGREES TO THE FULLEST EXTENT PERMITTED BY LAW SHALL AT ALL TIMES DEFEND, INDEMNIFY, PAY, SAVE AND HOLD THE OTHER PARTIES AND ANY OF THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "MUTUALLY INDEMNIFIED PARTIES") HARMLESS FROM EACH AND ANY AND ALL LIABILITIES, DAMAGES (INCLUDING, WITHOUT LIMITATION, DIRECT, SPECIAL AND CONSEQUENTIAL DAMAGES), COSTS, EXPENSES, SUITS, CIVIL OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING, LOSSES, CLAIMS, ACTIONS, VIOLATIONS, FINES AND PENALTIES (INCLUDING WITHOUT LIMITATION, COURT COSTS, REASONABLE ATTORNEY'S FEES AND ANY OTHER REASONABLE COSTS OF LITIGATION) (HEREINAFTER COLLECTIVELY, THE "CLAIMS") THAT ANY OF THE MUTUALLY INDEMNIFIED PARTIES MAY SUFFER, SUSTAIN OR INCUR TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE MUTUALLY INDEMNIFIED PARTIES ARISING OUT OF THIS AGREEMENT.

19 RESPONSE; REPORTING.

19.1 Response.

OMNIS COMPUTERS warrants and represents that we will provide the Services, and respond to any notification received by us of any error, outage, alarm or alert pertaining to the System, in the manner and within the time period(s) designated in an applicable SOW ("Response Time"), except for (i) those periods of time covered under the Onboarding Exception (defined below), or (ii) periods of delay caused by Client-Side Downtime (defined below), Vendor-Side Downtime (defined below) or (iii) periods in which we are required to suspend the Services to protect the security or integrity of your System or our equipment or network, or (iv) delays caused by a force majeure event.

19.2 Scheduled Downtime.

For the purposes of this Agreement, Scheduled Downtime will mean those hours, as determined by us but which will not occur between the hours of 9:00 AM and 5:00 PM EST (or EDT, as applicable), Monday through

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Friday without your authorization or unless exigent circumstances exist, during which time we will perform scheduled maintenance or adjustments to its network. We will use our best efforts to provide you with at least twenty-four (24) hours of notice prior to scheduling Scheduled Downtime.

19.3 Client-Side Downtime.

We will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by your actions or omissions ("Client-Side Downtime").

19.4 Vendor-Side Downtime.

We will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by third party service providers, third party licensors, or "upstream" service or product vendors.

19.5 Remedies; Limitations.

Except for the Onboarding Exception, if we fail to meet our service level commitment in a given calendar month and if, under such circumstances, our failure is not due to your activities, omissions, or inactivity, then upon receiving your written request for credit, we will issue you a pro-rated credit in an amount equal to the period of time of the outage and/or service failure. All requests for credit must be made by you no later than forty-five (45) days after you either (i) report the outage or service failure to us, or (ii) if applicable, receive a monthly report showing the outage and/or failure. The remedies contained in this paragraph and in Section 7(b) are in lieu of (and are to the exclusion of) any and all other remedies that might otherwise be available to you for our failure to meet any service level commitment during the term of this Agreement.

20 SERVICE ASSUMPTION LIABILITY LIMITATION.

It is mutually agreed that OMNIS COMPUTERS will have no responsibility for any deficiencies in the current operating systems until the OMNIS COMPUTERS has had a reasonable opportunity to conduct a review the current system and to provide Client with their recommendations.

21 PROVIDER INSURANCE.

OMNIS COMPUTERS agrees to maintain sufficient insurance coverage to enable it to meet its obligations created by this Agreement and by law. Without limiting the foregoing, to the extent this Agreement creates exposure generally covered by the following insurance policies, OMNIS COMPUTERS will maintain at its own sole cost and expense at least the following insurance covering its obligations under this Agreement:

- a) Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products - completed operations aggregate. General Aggregate must apply on a per project basis. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations, personal and advertising injury and liability assumed under an insured contract.
- b) The Town of Duanesburg along with their respective officers, agents and employees and all other parties required of the contract shall be named as Additional Insured for ongoing operations and completed operations, to the extent allowed by the respective policies. Additional Insured coverage shall apply on a primary and not contributory basis, including any deductible, maintained by, or provided to, the Additional Insured. It is expressly understood by the parties to this contract that it is the intent of the parties that any insurance obtained by contractor is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the subcontractor, the sub-subcontractor or any of their respective consultants, officers, agents, subcontractors, employees anyone directly or indirectly employed by them or by anyone for

c)

whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law. Additional Insured products and completed operations coverage maintained for 3 years after completion of the work.

Umbrella/Excess Liability

- a) Umbrella / Excess Liability with limits not less than \$ 2,000,000 per occurrence /aggregate.
- b) Umbrella Liability must include as Additional Insured all entities that are Additional Insured on the CGL and Automobile Liability policies.
- c) Umbrella/Excess Liability shall apply on a primary and not contributory basis.

Workers Compensation and Employers Liability

- a) Employers Liability Insurance with limits not less than \$ 1,000,000 Each Accident for bodily injury by an accident \$ 1,000,000 Each Employee for injury by disease
- b) Coverage for all employees, and if on the job site, including, owners, corporate officers, and sole proprietors, partners of a partnership, members of a limited liability company, whether or not such coverage is optional under the workers compensation act.

All insurance required must be with insurers licensed to conduct business in New York State and acceptable to the Town Of Duaneburg and all other parties as required by contract. All insurance shall be from an insurer with A.M. Best rating form A- to A+ or better.



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22 CLIENT INSURANCE.

22.1 Cyber Insurance.

Client shall secure and maintain for the duration of the contract Cyber Liability Insurance to insure Client's cyber exposures. Specific limits and coverages should be evaluated by a qualified insurance broker or risk manager to determine your specific coverage and policy limit requirements.

22.2 Mutual Waiver of Subrogation.

TO THE EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ALL RIGHTS AGAINST THE OTHER FOR RECOVERY OF DAMAGES TO THE EXTENT THESE DAMAGES ARE COVERED BY THE WORKERS COMPENSATION (TO THE EXTENT PERMITTED BY LAW) AND EMPLOYERS PROFESSIONAL LIABILITY GENERAL LIABILITY. PROPERTY INSURANCE, COMMERCIAL UMBRELLA/EXCESS, CYBER OR OTHER COMMERCIAL LIABILITY INSURANCE OBTAINED BY EITHER PARTY. CLIENT WILL NOT HOLD THE OMNIS COMPUTERS RESPONSIBLE FOR SUCH LOSSES AND WILL CONFIRM THAT THE CLIENTS INSURANCE POLICIES REFERENCED ABOVE PROVIDES FOR THE WAIVER OF SUBROGATION INCLUDED IN THE MASTER SERVICE AGREEMENT.

23 DISCLAIMERS.

The express remedies set forth in this Agreement will constitute Client's exclusive remedies, and OMNIS COMPUTERS' sole obligation and liability, for any claim (a) that a Service or deliverable provided hereunder does not conform to specifications or is otherwise defective, or (b) that the Services were performed improperly.

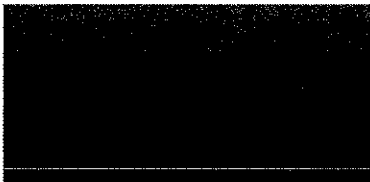
EXCEPT FOR THE WARRANTIES MADE BY OMNIS COMPUTERS IN SECTION 10, WHICH ARE LIMITED WARRANTIES AND THE ONLY WARRANTIES PROVIDED TO CLIENT, THE SERVICES AND DELIVERABLES ARE PROVIDED STRICTLY "AS-IS." OMNIS COMPUTERS DOES NOT MAKE ANY ADDITIONAL WARRANTIES, EXPRESSED, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE DELIVERABLES OR SERVICES PROVIDED HEREUNDER, OR ANY MATTER WHATSOEVER. THE PARTIES DISCLAIM ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT.

OMNIS COMPUTERS DOES NOT WARRANT THAT THE SERVICES OR ANY DELIVERABLES WILL MEET ANY CLIENT REQUIREMENTS NOT SET FORTH HEREIN, THAT ANY DELIVERABLES WILL OPERATE IN THE COMBINATIONS THAT CLIENT MAY SELECT FOR USE, THAT THE OPERATION OF ANY DELIVERABLES WILL

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omniscomputers.com

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BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. IF PRE-PRODUCTION (E.G., "ALPHA" OR "BETA") RELEASES OF SOFTWARE ARE PROVIDED TO CLIENT, SUCH COPIES ARE PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND.

No statement by any OMNIS COMPUTERS employee or agent, orally or in writing, will serve to create any warranty or obligation not set forth herein or to otherwise modify this Agreement in any way whatsoever.

24 SEVERABILITY.

If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal or unenforceable, such provision shall be automatically reformed and construed so as to be valid, operative and enforceable, to the maximum extent permitted by law or equity while preserving its original intent. The invalidity of any part of this Agreement shall not render invalid the remainder of this Agreement.

25 AMENDMENT.

This Agreement may not be amended except by a writing executed by an authorized individual of the OMNIS COMPUTERS.

26 RELATIONSHIP.

The Parties are independent parties; and this Agreement does not make the Parties principal and agent, partners, employer and employee; nor does it create a joint venture. It is further understood that there is no relationship, including but not limited to a partnership, joint venture, sub-contractor or other commission-based relationship, between any party that referred OMNIS COMPUTERS or Client to the other party to this Agreement.

27 LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without reference to principles of conflicts of laws. The Parties irrevocably submit to the exclusive jurisdiction of the courts of the State of New York.

28 WAIVER.

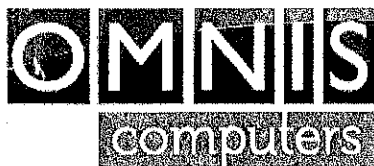
Failure by either Party to insist upon strict performance of any provision herein shall not be deemed a waiver by such Party of its rights or remedies, or a waiver by it of any subsequent default by the other Party.

29 FORCE MAJEURE.

Neither party will be liable to the other party for delays or failures to perform its obligations under this Agreement or any SOW because of circumstances beyond such party's reasonable control. Such circumstances include, but will not be limited to, any intentional or negligent act committed by the other party, or any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, cyberwarfare, cyberterrorism, or hacking, malware or virus-related incidents that circumvent then-current anti-virus or anti-malware software, and acts of God.

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30 DATA ACCESS/STORAGE.

Depending on the Service provided, a portion of your data may occasionally be accessed or stored on secure servers located outside of the United States. You agree to notify us if your company requires us to modify our standard access or storage procedures.

31 ASSIGNMENT.

Client may not assign its rights or obligations under this Agreement without OMNIS COMPUTERS' prior written consent which shall not be unreasonably withheld.

32 COUNTERPART AND ELECTRONIC SIGNATURES.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. The Client's electronic signature of this Agreement shall have the same validity and effect as a signature affixed by the Client's hand.

33 ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement by and between the Parties regarding the subject matter contained herein and supersedes all prior and contemporaneous undertakings and agreement of the Parties, whether written or oral, with respect to such subject matter.

Client

OMNIS COMPUTERS

Omnis Computers & Supplies, Inc.

By:

A handwritten signature in black ink, appearing to read "Clint Johnson", written over a horizontal line.

By: *Clint Johnson*

Date:

2/25/21

Date: 1/26/2021

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Motion to approve the revised Delanson
Intermunicipal Highway and Code Enforcement
Agreements.

**INTERMUNICIPAL AGREEMENT
BETWEEN
THE TOWN OF DUANESBURG,
THE TOWN OF DUANESBURG
SUPERINTENDENT OF HIGHWAYS
&
THE VILLAGE OF DELANSON,**

This Agreement entered into on _____, ___, 2021 between the Village of Delanson, a municipal corporation ("Delanson"), the Town of Duanesburg, a municipal corporation ("Duanesburg"), and the Duanesburg Superintendent of Highways ("Highway Dept.") is to be in effect until December 31, 2021.

WHEREAS, the governing bodies of Delanson and Duanesburg, by majority vote, approved a prior intermunicipal agreement to share certain services whereby Duanesburg would provide Delanson road maintenance and said governing bodies have determined that it is in the best interest of said municipal corporations to renew and continue the cooperative agreement by entering into this Agreement; and

WHEREAS, the Highway Dept. through its Superintendent has approved this Agreement; and

WHEREAS, Delanson currently owns and maintains various public streets and roadways within Delanson; and

WHEREAS, said streets and roadways are in need of maintenance and repair and need to be snow plowed and sanded, as required; and

WHEREAS, Duanesburg, through the Highway Dept., has the available human resources, machinery and equipment to provide said services to Delanson; and

WHEREAS, Delanson is desirous of contracting with Duanesburg for the purpose of obtaining such services from Duanesburg, as more particularly set forth herein;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Authority

1. This Agreement is entered into pursuant to the terms of the General Municipal Law Section 119-o and is authorized pursuant thereto.

Areas of Service

2. A. Duanesburg through the Highway Dept. hereby agrees to provide street maintenance as set forth herein for the following Village Streets located in Delanson (the "Village Streets"):

- (i) School Drive;
- (ii) Alexander Road;
- (iii) Cooley Heights;
- (iv) Stewart Lane;
- (v) Thousand Acre Road;
- (vi) Newton Street;
- (vii) Charles Street;
- (viii) Railroad Avenue;
- (ix) Rose Street;
- (x) West Shore Road;
- (xi) Elm Street;
- (xii) Water House Road;
- (xiii) Victoria Drive; and
- (xiv) Michael Drive.

- B. Duanesburg through the Highway Dept., also hereby agrees to provide maintenance as set forth herein for the following Additional Areas located in Delanson (the "Additional Areas");

- (i) The Village Hall Parking lot and front apron;
- (ii) The Village Water Pump building on Route 395.

Scope of Services

3. Maintenance for the Village Streets and the Additional Areas shall be provided, as needed, as determined by the Highway Dept., as follows:

- A. Snow plowing with sanding and salting as required;
- B. Ditching to existing ditched areas to promote drainage;
- C. Filing of potholes and minor repair due to damage caused by Highway Dept. snow plowing;
- D. Mowing of shoulders of Village Streets in the mid-summer and in the fall;
- E. Maintenance of existing signs, which include clearing any obstruction which would limit visibility. The cost of the replacement or additional signs and posts are to be borne by Delanson;

- F. Brush and tree removal along streets where traffic is impeded or visibility becomes limited due to the plant growth;
- G. Sweeping of village streets and additional areas which includes village hall lot.

Additional Services

- 4. A. As an additional service, Duanesburg, through the Highway Dept., shall perform road grading once a year on the village owned portions of Water House Road and McMillan Well access driveway (gravel surfaces), if needed, as determined by the Highway Dept. Any cost of material shall be borne by Delanson, and shall be reimbursed to Duanesburg if paid by Duanesburg.
- B. On or before May 1, 2021 the Highway Department shall inspect the Delanson Village Streets covered by this Agreement and issue a written report, signed by the Duanesburg Highway Superintendent, to the Delanson Village Board. This report shall set forth the then current condition of each Village Street and shall include recommendations for improvements and repairs.

Exclusions

- 5. Maintenance shall not include: Street resurfacing, street rebuilding, work to water distribution system and/or work to fire hydrants, or sidewalk maintenance such as snow and ice removal.

Term

- 6. This Agreement shall be effective from January 1, 2021 until December 31, 2021. This Agreement will not be automatically renewed.

Payment for Services

- 7. Delanson shall pay to Duanesburg:
 - A. A base fee of \$29,414.00 ("Base Fee"). Payment shall be made on or before November 1, 2021. There will be no special assessment or increase in Duanesburg Town tax that would be directed specifically to Delanson assessed properties as a result of this Agreement or the work undertaken by Duanesburg hereunder. Any overtime, labor, fuels and sanding materials incurred for work within the scope of this Agreement are included in the Base Fee. Other labor, equipment and material costs will be added as described in section 7B of this Agreement.

B. In addition to the Base Fee set forth in Section 7 A, above, Delanson shall also pay to Duanesburg the base fee in the amount of \$14,241.50, owed for the services provided to Delanson by Duanesburg during the period of June 1, 2020 through December 31, 2021. Such payment shall be made on or before March 8, 2021.

C. Requests for services outside the scope of this Agreement must be made in writing to Duanesburg and to the Highway Dept. setting forth the scope of the additional work requested. The Highway Dept. shall notify Delanson as to whether it is willing and able to perform such work. Any such work shall be performed at an hourly rate of \$55 per hour, per person performing the work for labor during normal Highway Dept. hours (Monday through Friday, 7 a.m. to 3:30 p.m.), and the rate of \$75 per hour, per person during other than normal Highway Dept. hours, plus additional charges for equipment and for materials. Equipment use rates shall be set forth in a notice from the Highway Dept. to Delanson. Additional materials shall be invoiced to Delanson at actual cost to Duanesburg. If acceptable to Delanson, the Mayor of Delanson, the Town Supervisor of Duanesburg and the Superintendent of the Highway Department, the three of them shall meet to establish a schedule for completion of the additional work specified, and a schedule of payment for such additional work.

D. The Village Treasurer shall be the custodian of all funds related to this Agreement and is hereby granted the authority to make all necessary and legally valid payments due and owing pursuant to this Agreement.

E. If payments are untimely (as set forth in sections 7A and 7B, above), Duanesburg may terminate this Agreement upon not less than thirty (30) days prior written notice to Delanson, in addition to any other legal remedies it may have. In the event of such termination, Duanesburg shall be entitled to retain a prorated amount of the base fee, based upon the number of day this contract has been in effect, through the actual date of termination as set forth in the termination notice. If amounts are then owed to Duanesburg pursuant to paragraph 7B, Duanesburg shall be entitled to retain such amounts from any part of the base fee to be refunded, and may pursue payment of any balance owed.

Employees

8. A. The Highway Dept. personnel employed to implement the terms of this Agreement shall remain the employees of Duanesburg and be deemed Duanesburg employees for all purposes.

B. In all cases, Duanesburg shall insure that each employee is covered by Worker's Compensation for all activities to be performed pursuant to this Agreement.

Work Supervision

9. The Town of Duanesburg Highway Superintendent, as directed by the Duanesburg Town Board and the Delanson Village Board, shall supervise the activities set forth in this Agreement. However, no changes may be made to the terms of this Agreement except by majority vote of each participating municipality, and consent of the Highway Dept., followed by the execution of a written addendum to this Agreement.

Delanson's Right to Terminate

10. Delanson shall have the right to terminate this Agreement, for good cause after a thirty (30) day cure period. For the purposes hereof, good cause shall be the failure of Duanesburg and the Highway Dept. to perform any material aspect of this Agreement. Delanson's rights to terminate this Agreement shall not accrue until thirty (30) days after Delanson provides written notice of the defects or breaches to Duanesburg and the Highway Dept and Duanesburg or the Highway Dept. fails to cure or otherwise respond to the notice. Said notice shall set forth in detail the material obligations of this Agreement that has not been performed.

Dispute Resolution

11. The parties will make every effort to resolve any disputes regarding the work to be performed pursuant to this Agreement in a prompt and professional manner. If a dispute cannot be resolved by informal means, either party may initiate the following dispute resolution process:

- (a) The Village Mayor, Town Supervisor and the Highway Superintendent will meet to attempt to resolve the dispute.

- (b) If such meeting does not resolve the dispute, the parties shall attempt to resolve the dispute through mediation by a mutually agreed up mediator. Each party shall pay its own attorney's fees and equally share the costs and expenses of the mediator.

- (c) If the mediation does not result in a voluntary settlement agreement, the parties shall arbitrate the dispute before a single arbitrator pursuant to the Rules of the American Arbitration Association after service of a notice of intention to arbitrate by any of the parties. The arbitrator's decision shall be final and binding on all parties.

Indemnification

12. To the fullest extent permitted by law, Delanson shall indemnify, defend, and hold harmless Duaneburg along with their respective officers, agents and employees and all other parties required of the contract from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages) arising out of or resulting from, or alleged to arise out of or arise from, the performance of work under the Agreement, and any work order, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent attributable to the negligence or willful misconduct of Delanson or any entity for which it is legally responsible or vicariously liable: regardless of whether the claim is presented by Delanson's employee, his/her spouse, legal or domestic partner under applicable state law and/or dependents of Delanson's employee. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of Delanson or the rights of Duaneburg. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Delanson under any workers compensation acts, disability benefits acts or other employees benefits acts and includes any loss or injury suffered by an employee of Delanson or any others who claim to have directly or derivatively sustained injury or damages due to the injury to Delanson's employee. This indemnification shall be in addition to any indemnity liability imposed by the contract documents, and shall survive the completion of the work or the termination of the Agreement.

Duaneburg agrees to indemnify, defend and hold harmless Delanson, its officers, agents and employees from and against all lawsuits, claims, causes of action, costs, expenses, damages, liabilities, including reasonable attorney's fees, which Delanson may incur as a result of injury to persons or damage to property to the extent that such claims arise out of the services Duaneburg performs pursuant to this Agreement, but only to the extent attributable to the negligence or willful misconduct of Duaneburg or any entity for which it is legally responsible or vicariously liable.

Insurance

13. The following insurance requirements shall apply to Delanson:

Commercial General Liability (CGL)

- a) Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products - completed operations aggregate. General Aggregate must apply on a per

project basis. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations, personal and advertising injury and liability assumed under an insured contract.

- b) Duanesburg along with their respective officers, agents and employees and all other parties required of the contract shall be named as Additional Insured for ongoing operations and completed operations. Additional Insured coverage shall apply on a primary and not contributory basis, including any deductible, maintained by, or provided to, the Additional Insured. It is expressly understood by the parties to this contract that it is the intent of the parties that any insurance obtained by contractor is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the subcontractor, the sub-subcontractor or any of their respective consultants, officers, agents, subcontractors, employees anyone directly or indirectly employed by them or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law. Additional Insured products and completed operations coverage maintained for 3 years after completion of the work.

Automobile Liability

- a) Business Automobile Liability with a combined single limit of not less than \$ 1,000,000 limit per accident, including owned, non-owned, leased and hired vehicles, as well as liability coverage for mobile equipment subject to compulsory insurance or financial responsibility laws or other motor vehicle insurance laws.
- b) Duanesburg along with their respective officers, agents and employees and all other parties required of the contract shall be named as Additional Insured on a primary and not contributory basis.

Umbrella/Excess Liability

- a) Umbrella / Excess Liability with limits not less than \$ 10,000,000 per occurrence /aggregate.
- b) Umbrella Liability must include as Additional Insured all entities that are Additional Insured on the CGL and Automobile Liability policies.
- c) Umbrella/Excess Liability shall apply on a primary and not contributory basis.

Workers Compensation and Employers Liability

- a) Employers Liability Insurance with limits not less than \$ 1,000,000 Each Accident for bodily injury by an accident \$ 1,000,000 Each Employee for injury by disease
- b) Coverage for all employees, and if on the job site, including corporate

officers, and sole proprietors, partners of a partnership, members of a limited liability company, whether or not such coverage is optional under the workers compensation act.

All insurance required must be with insurers licensed to conduct business in New York State and reasonably acceptable to the Duanesburg and all other parties as required by contract. All insurance shall be from an insurer with A.M. Best rating form A- to A+ or better.

Notices

14. Should any written notice be required by one party to either of the other parties pursuant to the terms of this Agreement, such notice shall be sent to the following individuals at the addresses set forth below by first class mail and certified mail, return receipt requested via the United States Postal Service:

Duanesburg Town Supervisor and Town Attorney
5853 Western Turnpike
Duanesburg, New York 12056

Delanson Village Mayor and Village Attorney
P.O. Box 235
Delanson, New York 12053

Duanesburg Superintendent of Highways
5799 Western Turnpike
Duanesburg, New York 12056

Authority of Execution

15. The Duanesburg Supervisor, the Delanson Mayor and the Superintendent of Highways have executed this Agreement and, by resolution, each has been duly authorized and empowered to do so. This Agreement shall be executed in triplicate, and at least one copy shall be permanently filed, after execution thereof, in the Office of the Duanesburg Town Clerk.

No Waiver

16. The failure by any Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of the same, shall not constitute a waiver of any such breach or of such, or any other, covenant, agreement, term or condition. By notice duly given, any Party may, but shall be under no obligation to, waive any of its rights or any conditions of its obligations under this Agreement, or any duty, obligation or covenant of any other Party. No such waiver shall affect or alter the remainder of this Agreement, but each and

every covenant, duty, agreement and condition of this Agreement shall continue in full force and effect with respect to any other then existing, or subsequent, breach.

Modification

17. No provision hereof shall be modified, amended, waived or limited except by a written agreement expressly referring hereto and to the provision so modified, amended, waived or limited and signed by both parties to this Agreement.

Severability

18. Any provisions of applicable law which supersede or invalidate any provision of this Agreement shall not affect the validity of the remainder of this Agreement, and such remaining provisions shall be enforced as if such superseded or invalid provision(s) were deleted.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Town of Duaneburg and the Village of Delanson have caused their seals to be affixed hereto and have caused this Agreement to be duly executed.

Date: _____ DUANEsburg TOWN SUPERVISOR

Date: _____ DELANSON VILLAGE MAYOR

Date: _____ DUANEsburg TOWN SUPERINTENDENT OF HIGHWAYS

**INTERMUNICIPAL AGREEMENT
BETWEEN
THE TOWN OF DUANESBURG
AND
THE VILLAGE OF DELANSON
FOR BUILDING INSPECTOR SERVICES**

This Agreement entered into on _____, 2021 between the Village of Delanson, a municipal corporation (hereinafter referred to as "Delanson") and the Town of Duanesburg, a municipal corporation (hereinafter referred to as "Duanesburg").

WHEREAS, the governing bodies of Delanson and Duanesburg, by majority vote, approved the actions set forth in this Agreement and said governing bodies have determined that it is in the best interest of said municipal corporations to enter into this cooperative Agreement; and

WHEREAS, Delanson and Duanesburg each are authorized to employ a Building Inspector, for such lawful purposes as are necessary or required by each; and

WHEREAS, the position of Delanson Building Inspector is currently vacant; and

WHEREAS, Delanson is desirous of contracting with Duanesburg for the purpose of obtaining from Duanesburg the services of its Building Inspector, as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed as follows:

Authority

1. This Agreement is entered into pursuant to the terms of General Municipal Law Section 119-o and is authorized pursuant thereto.

Scope of Services

2. The Town of Duanesburg Building Inspector (hereinafter referred to as "BI") shall provide such building inspection services to Delanson as are currently provided by them to Duanesburg, at the reasonable request of Delanson, and subject to approval and acceptance by the BI of such assignment, on a case by case basis. The BI shall have the right to decline to perform any service for Delanson if, in the BI's reasonable discretion, such service is unlawful or inappropriate. All services shall be provided as promptly as practicable under the circumstances.
3. The BI shall provide to Delanson, no later than noon on the second Monday of each month, a report of activities for the previous calendar month to include

applicant name, property address, type of application, copy of the application with the fee indicated and BI/clerk hours.

Other Work

4. In the event Delanson requires work to be done that is not specified in this Agreement, it shall make a written request to Duanesburg, setting forth the scope of the work requested. Duanesburg shall notify Delanson as to whether it is willing and able to perform such work, and the terms and conditions for performance of such work.

Term

5. This Agreement shall be effective from January 1, 2021 until December 31, 2021. This Agreement will not automatically renew.
6. Notwithstanding the foregoing, however, either party may terminate this agreement upon not less than thirty (30) days prior written notice to the other party.

Payment for Services

7. The services to be provided by Duanesburg to Delanson pursuant to this Agreement will be compensation set forth below:
 - a. Delanson shall remit payment to Duanesburg in one payment totaling two thousand five hundred dollars (\$2,500.00) by November 1, 2021.
 - b. In addition to the payment set forth in Section 7 a, above, Delanson shall also pay to Duanesburg an additional fee in the amount of \$2,231.18, owed for the services provided to Delanson by Duanesburg during the period of March 9, 2020 through December 31, 2020. Such payment shall be made on or before March 15, 2021.
 - c. Payments shall be made by Delanson to Duanesburg within thirty (30) days of the execution of this contract.
 - d. The Delanson Village Treasurer shall be the custodian of all funds relative to this Agreement and is hereby granted the authority to make all necessary and legally valid payments due and owing pursuant to this Agreement.

Employees

8. The employees whose services shall be utilized to implement the terms of the terms of this Agreement shall for all purposes remain the employees of Duanesburg.
9. In all cases, Duanesburg shall ensure that each employee is covered by Worker's Compensation Insurance for all activities to be performed pursuant to this Agreement.

Work Supervision

10. The Town of Duanesburg shall supervise the activities set forth in this Agreement. No changes may be made to the terms of this Agreement except by majority vote of each participating municipality, followed by the execution of a written addendum to this Agreement.

Inspection Fees

11. All inspection fees received by the BI shall be remitted to Duanesburg and disbursed to Delanson on a monthly basis. Duanesburg reserves the right to retain any such fees to offset amounts due it from Delanson.

Dispute Resolution

12. The parties will make every effort to resolve any disputes regarding the work to be performed pursuant to this Agreement in a prompt and professional manner. Should any dispute appear unresolvable, either party may request the institution of the following dispute resolution process:
 - a. The Village Mayor and Town Supervisor will meet to attempt to resolve the dispute.
 - b. If such meeting does not resolve the dispute, the parties shall submit to arbitration before a single arbitrator pursuant to the Rules of the American Arbitration Association after service of a notice of intention to arbitrate by any of the parties.
 - c. The arbitrator's decision shall be final and binding on all parties.

Notices

13. Should any written notice be required by one party to either of the other parties pursuant to the terms of this Agreement, such notice shall be sent to the following

individuals at the addresses set forth below by first class mail, return receipt requested via the United States Postal Service:

Duanesburg Town Supervisor & Town Attorney
5853 Western Turnpike
Duanesburg, New York 12056

Delanson Village Mayor & Village Attorney
P.O. Box 235
Delanson, New York 12053

Indemnification

14. To the fullest extent permitted by law, Delanson shall indemnify, defend, and hold harmless Duanesburg along with their respective officers, agents and employees and all other parties required of the contract from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages) arising out of or resulting from, or alleged to arise out of or arise from, the performance of work under the Agreement, and any work order, whether such claim, damage, demand, loss of expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent attributable to the negligence or willful misconduct of Delanson or any entity for which it is legally responsible or vicariously liable: regardless of whether the claim is presented by Delanson's employee, his/her spouse, legal or domestic partner under applicable state law and/or dependents of Delanson's employee. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of Delanson or the rights of Duanesburg. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Delanson under any workers compensation acts, disability benefits acts or other employees benefits acts and includes any loss or injury suffered by an employee of Delanson or any others who claim to have directly or derivatively sustained injury or damages due to the injury to Delanson's employee. This indemnification shall be in addition to any indemnity liability imposed by the contract documents, and shall survive the completion of the work or the termination of the Agreement.

Duanesburg agrees to indemnify, defend and hold harmless Delanson, its officers, agents and employees from and against all lawsuits, claims, causes of action, costs, expenses, damages, liabilities, including reasonable attorney's fees, which Delanson may incur as a result of injury to persons or damage to property to the extent that such claims arise out of the services Duanesburg performs pursuant to this Agreement, but only to the extent attributable to the negligence or willful misconduct of Duanesburg or any entity for which it is legally responsible or vicariously liable.

Insurance

15. The following insurance requirements shall apply to Delanson:

Commercial General Liability (CGL)

- a) Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products - completed operations aggregate. General Aggregate must apply on a per project basis. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations, personal and advertising injury and liability assumed under an insured contract.
- b) Duanesburg along with their respective officers, agents and employees and all other parties required of the contract shall be named as Additional Insured for ongoing operations and completed operations. Additional Insured coverage shall apply on a primary and not contributory basis, including any deductible, maintained by, or provided to, the Additional Insured. It is expressly understood by the parties to this contract that it is the intent of the parties that any insurance obtained by contractor is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the subcontractor, the sub-subcontractor or any of their respective consultants, officers, agents, subcontractors, employees anyone directly or indirectly employed by them or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law. Additional Insured products and completed operations coverage maintained for 3 years after completion of the work.

Automobile Liability

- a) Business Automobile Liability with a combined single limit of not less than \$ 1,000,000 limit per accident, including owned, non-owned, leased and hired vehicles, as well as liability coverage for mobile equipment subject to compulsory insurance or financial responsibility laws or other motor vehicle insurance laws.
- b) Duanesburg along with their respective officers, agents and employees and all other parties required of the contract shall be named as Additional Insured on a primary and not contributory basis.

Umbrella/Excess Liability

- a) Umbrella / Excess Liability with limits not less than \$ 10,000,000 per occurrence / aggregate.

- b) Umbrella Liability must include as Additional Insured all entities that are Additional Insured on the CGL and Automobile Liability policies.
- c) Umbrella/Excess Liability shall apply on a primary and not contributory basis.

Workers Compensation and Employers Liability

- a) Employers Liability Insurance with limits not less than \$ 1,000,000 Each Accident for bodily injury by an accident \$ 1,000,000 Each Employee for injury by disease
- b) Coverage for all employees, and if on the job site, including corporate officers, and sole proprietors, partners of a partnership, members of a limited liability company, whether or not such coverage is optional under the workers compensation act.

All insurance required must be with insurers licensed to conduct business in New York State and reasonably acceptable to the Duanesburg and all other parties as required by contract. All insurance shall be from an insurer with A.M. Best rating form A- to A+ or better.

Authority for Execution

16. The Duanesburg Supervisor and, the Delanson Mayor have executed this Agreement and, by resolution, each has been duly authorized and empowered to do so, This Agreement shall be executed in triplicate, and at least one copy shall be permanently filed, after execution thereof, in the Office of the Duanesburg Town Clerk.

No Waiver

17. The failure by any Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of the same, shall not constitute a waiver of any such breach or of such, or any other, covenant, agreement, term or condition. By notice duly given, any Party may, but shall be under no obligation to, waive any of its rights or any conditions of its obligations under this Agreement, or any duty, obligation or covenant of any other Party. No such waiver shall affect or alter the remainder of this Agreement, but each and every covenant, duty, agreement and condition of this Agreement shall continue in full force and effect with respect to any other then existing, or subsequent, breach.

Modification

18. No provision hereof shall be modified, amended, waived or limited except by a written agreement expressly referring hereto and to the provision so modified, amended, waived or limited and signed by both parties to this Agreement.

Severability

19. Any provisions of applicable law which supersede or invalidate any provision of this Agreement shall not affect the validity of the remainder of this Agreement, and such remaining provisions shall be enforced as if such superseded or invalid provision(s) were deleted.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Town of Duanesburg and the Village of Delanson have caused their seals to be affixed hereto and have caused this Agreement to be duly executed.

Date:

Duanesburg Town Supervisor

Date:

Delanson Village Mayor

Town of Duanesburg Town Board

RESOLUTION NO. __ - 2021

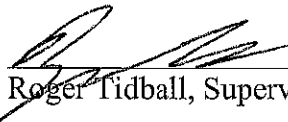
February 25, 2021

WHEREAS, on January 29, 2021, Hon. Vincent W. Versaci issued an Order and Judgment authorizing the Town of Duanesburg (the "Town") to remediate any and all unsafe and dangerous conditions existing at 111 Darby Hill Road (the "Property") including demolition and removal of the structures; and

WHEREAS, the Town desires to retain Prime AE Ground of NY to repair plans and specification for the demolition and removal of said structures including testing, preparation of project scope, and overseeing the bidding process, for a contract amount of not to exceed \$5,000.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town hereby approves and authorizes the Town Supervisor to execute the proposed agreement with Prime AE Ground of NY.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting of February 25, 2021.


Roger Tidball, Supervisor


Town Clerk/Deputy Town Clerk

Date

Date 2/25/2021

Present: Supervisor Tidball, Council Member Ganther, Council Member Potter, Council Member Senecal
Absent: + Council Member Wenzel

Town Board Members:

Roger Tidball	<input checked="" type="radio"/> Yea	<input type="radio"/> Nay	<input type="radio"/> Abstain
John Ganther	<input checked="" type="radio"/> Yea	<input type="radio"/> Nay	<input type="radio"/> Abstain
Rick Potter	<input checked="" type="radio"/> Yea	<input type="radio"/> Nay	<input type="radio"/> Abstain
William Wenzel	<input checked="" type="radio"/> Yea	<input type="radio"/> Nay	<input type="radio"/> Abstain
Jeff Senecal	<input checked="" type="radio"/> Yea	<input type="radio"/> Nay	<input type="radio"/> Abstain



Albany Office
100 Great Oaks Boulevard | Suite 114 | Albany, New York 12203
P: 518.382.1774

October 22, 2020

Dale Warner, Town Planner
Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

**Re: Town of Duanesburg
Unsafe Building Inspection
111 Darby Hill Road
Our Project No. GNY02WD-20498**

Dear Mr. Warner:

This letter summarizes my findings and recommendations based on a visual inspection from the street that was performed on the above referenced property on October 22, 2020. There are two separate structures consisting of a house and an outbuilding located on the property that were both severely damaged during a fire that occurred on December 29, 2019. Photographs are attached, showing the condition of the structures before the fire and at the time of the visit.

The house was originally a two-story, wood framed structure with front and back porches, and a basement. The structure burned down to the first floor, with upper wall and floor remnants collapsed onto the first floor and into the basement. A small section of brick/masonry fireplace remains standing. There is a considerable amount of debris on and around the remaining foundation footprint and debris has spilled onto the sidewalk. Much of the first floor appears to be caved into the basement, however due to the amount of debris, an accurate determination could not be made if there are any portions of the first-floor platform or supporting members that remain intact, or their condition. The condition of the remaining foundation walls could not be determined either. Based on my observations of the extent of damage and amount of debris; the house structure is uninhabitable, structurally unsafe, unsafe to enter, in danger of portions collapsing into the basement, and beyond repair.

The outbuilding, which appears to have been used as a storage building is an approximately 700 square foot, 1 ½ story, wood framed structure with a shed on the back. The roof has been burned off, the ceiling/second floor are fire damaged along with varying extents of damage to all the walls, where large portions are missing. From my observations of the extent of fire damage to the structural elements of the upper walls, roof and second floor; the structure is unsafe to enter, in danger of collapse, uninhabitable, and beyond repair.

We recommend that the remaining portions of both buildings be safely demolished, and all debris removed and legally disposed of. If there are oil or fuel tanks on site, special care must be taken to not rupture tanks or cause a spill. Tanks should be pumped out and then properly disposed of. Also, all utilities (water, sewer, electrical) should be safely shut off, cut and properly capped as applicable.



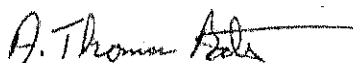
CONNECTING. CREATING. CONSERVING. COMMUNITY.
www.primeeng.com

Once the first-floor deck, platform, and supports are removed, portions of the remaining foundation walls may become unstable over time and collapse inward. If left open, the remaining hole will be an unsafe condition and may fill with water. We recommend knocking holes into basement slab, cutting down the foundation walls to just below grade and filling the hole up to grade with a clean, compacted run of bank gravel.

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

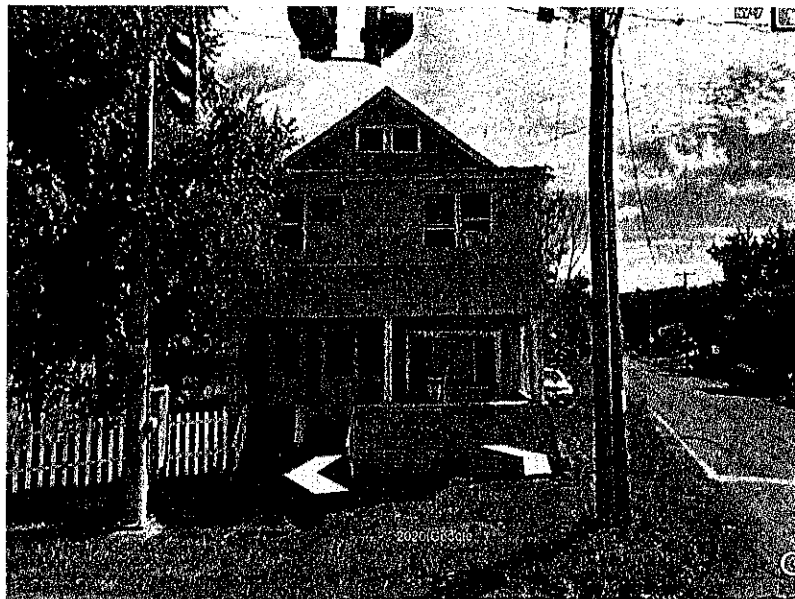
Sincerely,

KB Group of NY, Inc. dba PRIME AE Group of NY



A. Thomas Bates, P.E.
Senior Director of Operations & Engineering



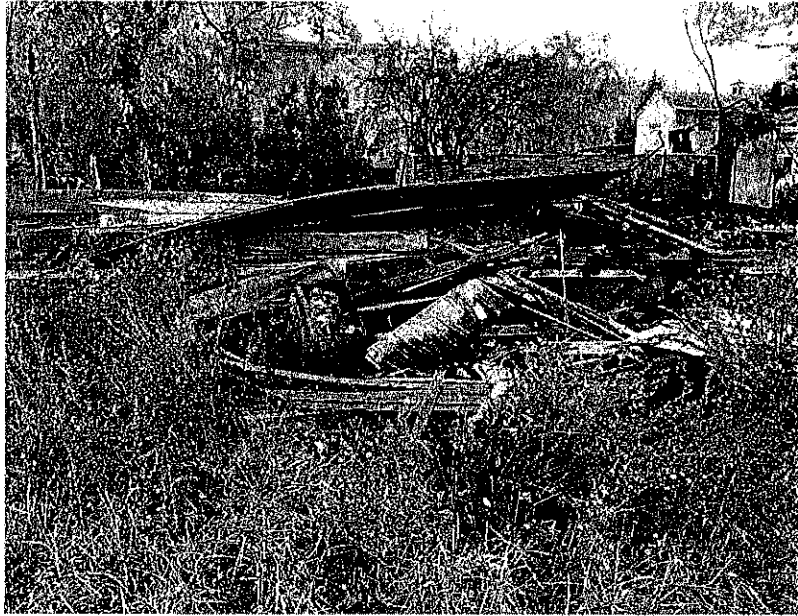


Before 12/29/19 Fire: 111 Darby Hill Road (Looking South)

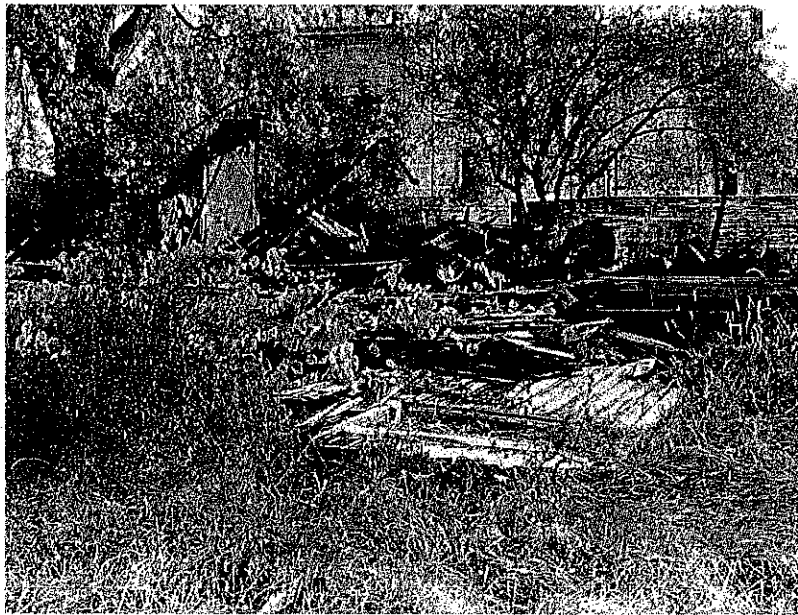


Remaining House Structure, 10/22/2020 Looking South



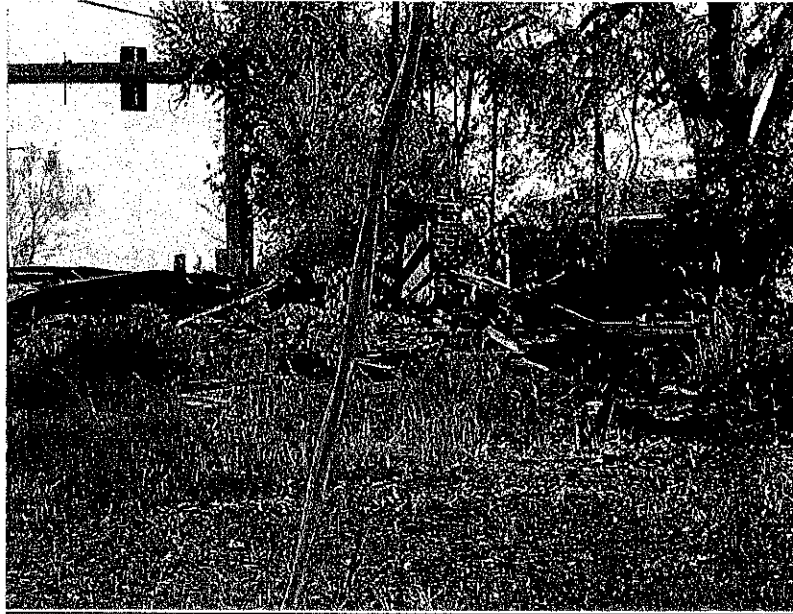


Remaining House Structure, 10/22/2020 Looking East

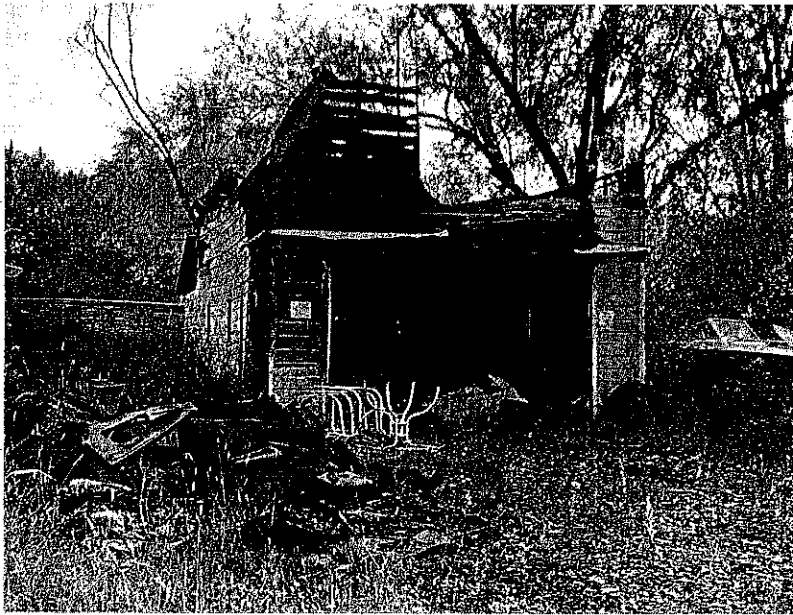


Remaining House Structure, 10/22/2020 Looking East





Remaining House Structure, 10/22/2020 Looking North



Remaining Outbuilding Structure, 10/22/2020 Looking East



Motion to approve Hannigan Law Firm, PLLC as a vendor for the town.

PO Box 160
Quaker Street, NY 12141

Roger Tidball, Supervisor
Duanesburg Town Board
5853 Western Turnpike
Duanesburg, NY 12056

Transmitted via email: town clerk jhowe@duanesburg.net

February 25, 2021

Re: Privilege of the Floor Town Board Meeting

Dear Supervisor Tidball and the Town Board,

The April 23, 2012 Albany Times Union reported that the 2010 Comptroller's Report also found discrepancies.

Thank you for posting the draft February 11, 2021 Town Board meeting minutes on the town website within two weeks of the meeting.

I am unable to locate the November 12, 2020 town board meeting minutes on the town website. A hot link is not provided on the November 12, 2020 webpage. <https://www.duanesburg.net/town-board/minutes/november-12-2020>

February 11, 2021 I requested information on the discrepancies between the town, state and court records for Oak Hill Solar. I have not received a reply.

As of today the Comptroller's Report and the 2019 Audit are not posted on the town website. At tonight's meeting the board mentioned the Corrective Action Plan. When will the town provide these three documents to the public?

October 22, 2020 I submitted a letter to the town documenting that the town website was misleading:

- The town has not updated the “Legal & Public Notices” web page since 2018. As of today this “Legal & Public Notice” page’s most recent entry is October 30, 2018. <https://www.duanesburg.net/legal-notices-and-public-notices>
- The town’s website provides a calendar webpage <https://www.duanesburg.net/calendar>. For years the only information provided on the calendar are the twice a month town board meetings. The omission of public hearings, planning and zoning board meeting dates is misleading and misrepresents town business.

At the April 9, 2020 town board meeting I submitted a letter documenting that the town has three separate youtube accounts. This is misleading and may misrepresent town business to unknowing residents. Almost a year later the town still has three separate YouTube accounts.

Since July 2019 I have presented documents to the town board and the planning board that the town’s website misrepresents town business and/or that minutes are not provided within two weeks as required by New York State Open Meeting Law. After 18 months and multiple letters to the town and planning boards why is the town continuing to omit information? Have the town’s omissions resulted in residents being unable to freely and fully participate in their town’s governmental process? Do these omissions expose the town to unnecessary increased risk of litigation?

Has the town issued a building permit for Oak Hill Solar 1, LLC and Oak Hill Solar 2, LCC? Has Eden Renewables, Amp Solar or the current owner/operator submitted a new planting plan and maintenance agreement as stated in the September 19, 2019 Resolution Section 2.f?

As of February 16, 2021 the Department of Environmental Conservation has not received a Notice of Intent for Oak Hill Solar 1 and 2. Eden Renewables July 2019 Stormwater Pollution Prevention Plan Section 3 includes the NYSDEC eBusiness Portal System documents pages 1 through 12. Page 1 indicates that the DEC NOI is “not-submitted” and is a “draft”. The majority of questions, including number 32, reflect answers as “NONE PROVIDED”. Why did the town permit this? Will this document be corrected and a NOI issued prior to providing a building permit for Oak Hill?

Please find solutions to these long standing concerns so that the town is transparent, accountable and equitable to all residents.

Thank you for your time and consideration.

Respectfully,
Lynne Bruning
lynnebruning@gmail.com
720-272-0956

Roger Tidball, Town Supervisor
Jennifer Howe, Town Clerk
Brandy Fall, Deputy Town Clerk



John Ganther, Council Member
Francis R. Potter, Council Member
Jeffrey Senecal, Council Member
William Wenzel, Council Member

Town of Duanesburg

Schenectady County

Town of Duanesburg
Financial Records and Reports
2020M-116

The following is the Corrective Action Plan for the Town of Duanesburg following the 2020 New York State Comptrollers audit.

Recommendations following the audit.

The Supervisor and Board should:

1. Develop Policies and Procedures to ensure the Town's accounting records and reports are complete, accurate and up to date.
2. Require monthly reports that are up to date, accurate and include balance sheet information.

The Supervisor should:

3. Ensure accurate and complete bank reconciliations are performed timely.
4. Ensure the Board is provided accurate and timely financial reports each month, including reconciled cash balances by fund.

Regarding the recommendations the following is the action plan for each recommendation.

1. The Town Board acknowledges the recommendations made by the OSC with respect to our financial records. The Board began to address such issues by retaining an outside auditor to perform a Risk Assessment. This assessment identified and documented areas of weaknesses and made recommendations for improvements. A critical element of the Town's response to the risk assessment is the retention of an outside accounting firm. The Town's accounting and financial processing, except for Payroll, has been shifted from internal management to the accounting firm to further enhance Town controls. The accounting firm's role also supplants tasks formerly performed by internal Town bookkeepers. The accounting firm has been handling the towns accounting since January 2020. The implementation of hiring the firm was done by the Town Supervisor with full Town Board approval.

2. As part of our agreement with the accounting firm, the Town requires from them monthly reports, and balance sheet information that is accurate and up to date. The firm does provide the Board and our Clerks the proper information that is being asked of them. This service has been in place since we contracted with them and information has been provided thoroughly since January 2020. The implementation of this process was part of the agreement with the accounting firm.
3. As part of the transition of our accounting function to the accounting firm, and because of the risk assessment performed by an independent auditor, the Town has adopted a two-step bank reconciliation process. The firm performs on-line reconciliations using their accounting software system, which are then submitted for review and approval by the Town Board. Additionally, an internal town employee performs manual reconciliations. These two reconciliation reports are then compared to each other to confirm accuracy or to identify exceptions. This process has also been in practice since we partnered with the accounting firm. And was implemented by the Town Supervisor and the Town board.
4. Once again, as part of the transition of our accounting function to our accounting firm, and because of the risk assessment performed by independent auditor, the firm's scope of services includes preparation of monthly management reporting, bank reconciliations and monthly records of all receipts and disbursements. The Firm prepares and provides monthly reports to the Town Board. These practices have also been in place since January 2020 and was implemented by the Town Supervisor and the town board.

Roger Tidball

Supervisor
Town of Duanesburg, New York 12056