

MINUTES OF TOWN BOARD MEETING
OF THE TOWN OF BRIGHTON, COUNTY OF
MONROE, NEW YORK HELD AT THE
BRIGHTON TOWN HALL, 2300 ELMWOOD
AVENUE, ROCHESTER, NEW YORK
JANUARY 9, 2013

PRESENT:

Supervisor William Moehle
Councilmember James Vogel
Councilmember Louise Novros
Councilmember Jason DiPonzio
Councilmember Christopher Werner
Timothy Keef, Commissioner of Public Works
Mark Henderson, Chief of Police

Kenneth Gordon, Attorney for the Town
Daniel Aman, Town Clerk
Suzanne Zaso, Director of Finance

EXECUTIVE SESSION:

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio to go into executive session at 6:45 PM to discuss employment of a particular person

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute an amendment to the contract for services with Laraine Albers by lifting the cap of \$3,000.00 and retaining the current hourly rate of pay

Motion by Councilmember Louise Novros seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 1 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

Motion by Councilmember Jason DiPonzio seconded by Councilmember Louise Novros to come out of executive session at 7:01 PM

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MEETING CALLED TO ORDER AT 7:00 PM**RECOGNITIONS/PRESENTATIONS:**

- Proclamation Presentation to visiting Rotary District Governors
- Dinesh Thakor and wife Veena (District 3060-India)
 - Imran Hassan and wife Anusha (District 3220-Sri Lanka)
 - Birgitta Arvning-Friberg and husband Bengt (District 2390 Sweden)

OPEN FORUM:

Lila Bluestone
Sandra Frankel

APPROVAL OF AGENDA:

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros to approve the agenda

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

PUBLIC HEARINGS:

MATTER RE: Local Law No. 1 of 2013 "Prohibition within the Town of Brighton of Natural Gas and Petroleum Exploration and Extraction Activities, the Underground Storage of Natural Gas, and the Disposal of Natural Gas or Petroleum Extraction, Exploration, and Production Wastes." (see copy of proposed Local Law as Exhibit No. 2).

(Complete transcript under separate cover)

(Communications under separate cover)

MATTER HELD

COMMUNICATIONS:

FROM Members of Girl Scout Troop #60729 dated December 20, 2012 thanking Supervisor for meeting with them on December 3, 2012.

FROM Dean J. Fero to Councilmembers regarding the traffic conditions on Warren Ave. He is in favor of additional speed limit enforcement and the installation of speed bumps.

Motion by Councilmember James Vogel seconded by Councilmember Louise Novros to receive and file aforementioned communications

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

COMMITTEE REPORTS:

Community Services – Next meeting January 28, 2013 at 4:30PM at Brookside

Finance and Administrative Services – Next meeting January 15, 2013 at 3:30PM in Stage Conference Room

Public Safety Services – Next meeting February 12, 2013 at 8:00AM in Downstairs Meeting Room

Public Works Services – Next meeting February 4, 2013 at 9:00AM in Downstairs Meeting Room

NEW BUSINESS:

MATTER RE: Reading and approval of claims

Motion by Councilmember Christopher Werner seconded by Councilmember James Vogel that the Supervisor read and approve the payment of claims as set forth in Exhibit No. 3 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval for Supervisor to execute renewal agreement with Brighton Volunteer Ambulance for 2013 (see Resolution #1 and memorandum dated December 31, 2012 from Suzanne Zaso, Director of Finance).

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 4 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval for Supervisor to execute agreement with Doyle Security to provide Veterans Memorial Security System and services (see Resolution #2 and letter dated December 31, 2012 from Michael Guyon, P.E. Town Engineer).

Motion by Councilmember James Vogel seconded by Councilmember Louise Novros that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 5 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval to accept \$75.00 as a donation from the Grosvenor East Townhouse Condo Association to the Brighton Police Department (see Resolution #3 and communications dated December 18th and December 31st, 2012 from Police Chief Mark Henderson).

Motion by Councilmember Christopher Werner seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 6 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval of proposed 2013 Parks and Recreation Community Services Committee meeting schedule (see Resolution #4, letter from Jerry LaVigne, Director of Parks and Recreation and proposed schedule).

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 7 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval to extend agreement with EDR to provide continued professional services for the Pedestrian and Bicycle Master Plan through February 2013 (see Resolution #5 and letter dated December 28, 2012 from Michael E. Guyon, P.E. Town Engineer).

Motion by Councilmember Christopher Werner seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 8 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize approval to extend conditional offer of employment to Taylor S. Barth as Brighton Police Officer (see Resolution #6 and letter dated December 21, 2012 from Police Chief Mark Henderson).

Motion by Councilmember Jason DiPonzio seconded by Councilmember James Vogel that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 9 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTERS OF THE SUPERVISOR:

MATTER RE: Designate William Moehle as delegate to attend the Annual Business Session of the Association of Towns of the State of New York on February 20, 2013 (see Resolution #7)

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 10 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

EXECUTIVE SESSION:

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio to go into executive session at 9:08 PM to discuss a matter of litigation

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio to come out of executive session at 9:59PM

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

ADJOURN:

Motion by Councilmember James Vogel seconded by Councilmember Jason DiPonzio to adjourn at 9:59 PM

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

CERTIFICATION:

I, Daniel Aman, 131 Elmore Road, Rochester, NY do hereby certify that the foregoing is a true and accurate record of the proceedings of the Town of Brighton, County of Monroe, State of New York meeting held on the 9th day of January, 2013 and that I recorded said minutes of the aforesaid meeting of the Town Board of the Town of Brighton, New York

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated January 4, 2013 from Director of Finance Suzanne Zaso regarding authorization for the Supervisor to execute an amendment to the contract for services with Laraine Albers by lifting the cap of \$3,000.00 and retaining the current hourly rate of pay be received and filed, and be it further

RESOLVED, that the Town Board hereby authorize the Supervisor to execute an amendment to the contract for services with Laraine Albers by lifting the cap of \$3,000.00 and retaining the current hourly rate of pay.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

Town of Brighton

Local Law No. 1 of the year 2013.

A local law “to effect a Prohibition Within The Town of Brighton of Natural Gas and Petroleum Exploration and Extraction Activities, The Underground Storage of Natural Gas, and The Disposal of Natural Gas or Petroleum Extraction, Exploration, and Production Wastes.”

Be it enacted by the **Town Board** of the Town of Brighton, as follows:

Section 1. TITLE

This Local Law shall be known as the:

“Prohibition within the Town of Brighton of Natural Gas and Petroleum Exploration and Extraction Activities, the Underground Storage of Natural Gas, and the Disposal of Natural Gas or Petroleum Extraction, Exploration, and Production Wastes.”

Section 2. AUTHORITY AND INTENT; FINDINGS; PURPOSE

A. This Local Law is intended and declared to be consistent with and is adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2(c)(6), 10; Municipal Home Rule Law § 10; Statute of Local Governments §10, Environmental Conservation Law § 17-1101 and § 27-0711; and Public Health Law §§ 228(2), (3).

This Local Law is a police power and land use regulation. This Local Law is intended, and is hereby declared, to address matters of local concern. It is further declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as, and is hereby declared to exercise, the permissive “incidental control” of land uses as are concerned with the

broad area of land use planning and the physical use of land and property within the Town, including physical externalities associated with certain herein-identified land uses, such as negative impacts on roadways, traffic congestion, and other deleterious impacts upon a community. This Law is not intended to regulate the operational processes of any business or industry. This Local Law is a law of general applicability and is intended and declared to promote the interests of the community as a whole.

As is consistent with law (including, without limitation NY ECL § 27-0711) this Local Law intends to, and hereby does, regulate certain land uses so as to promote the health and welfare of the citizens of the Town by, among other things, regulating or prohibiting the dumping, discharging, injection and disposal of materials herein defined as "Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes" on lands and in bodies of water within the Town. Further, this Local Law is intended and declared to protect drinking water supplies and is intended and declared to supplement and enhance, but not limit or impinge upon, the Safe Drinking Water Act and the Underground Injection Control programs administered by the Environmental Protection Agency. This Local Law is also intended and declared to impose conditions and restrictions on certain uses of property that are directly related and incidental to the use of property, with such conditions and restrictions being aimed at minimizing or precluding adverse impacts in and upon the Town that could result from certain uses of property that pose a unique risk of adverse impacts to, and effects upon, the comfort, peace, enjoyment, health and safety of residents and their property.

B. The Town Board has found, determined, and made the following declarations of findings:

1. Brighton takes great pride in and assigns great value to its residential character, parkland and open space, and scenic and other natural resources.
2. Maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy. Certain of the activities described in Section 6 of this Local Law have the potential to damage surface and ground water resources, in the event of (by way of example) human error, power outages, flooding or other natural disasters, or engineered materials and structures experiencing stresses beyond those for which they were designed. Water pollution is hazardous to the public health.
3. Preservation of the Town's irreplaceable open space, air quality and water quality, and unique character, is of significant value to the inhabitants of the Town and its residents.
4. The Town's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other natural resources of the Town is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people; they also deeply affect the way people feel about a place, and effect whether businesses or residents will want to locate within or visit a place.

The Town of Brighton has repeatedly demonstrated this by adopting its open space acquisitions and development plan, funding such plan through the overwhelming approval

of a referendum to issue indebtedness for such principal, and implementing the plan most recently by acquiring approximately 72 acres of open space between Elmwood Avenue and Westfall Road in the Town.

5. Allowing the activities described in Section 6 of this Local Law could impair the existing character of the Town because, by their very nature, such activities have the potential to produce a combination of negative impacts upon the environment and people living in, or in proximity to, the areas or communities in which such activities are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of open space, natural areas and scenic views, the fragmentation of natural communities and valuable wildlife and flora corridors and decreased recreational opportunities.
6. If one or more of the activities described in Section 6 of this Local Law are conducted within the Town, traffic generated thereby could be hazardous or inconvenient to the inhabitants of the Town and could be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Certain of the activities described in Section 6 of this Local Law typically involve a large volume of heavy vehicles and accidents involving heavy vehicles have greater potential for death or serious injuries and property damages than those involving smaller vehicles. An increased volume of heavy vehicular traffic may cause, contribute to, or create unsafe conditions for the traveling public and thus place a strain on emergency responders. Increased heavy vehicular traffic also tends to increase air pollution and noise levels, and decrease the quality of life and property values for those living nearby. Roads are a critical public resource and constitute a major investment of the public's money. The Town is not in a position to bear the high costs associated with the road use impacts that typically accompany many of the activities described in Section 6 of this Local Law.
7. If one or more of the activities described in Section 6 of this Local Law are conducted within the Town, the air pollution, dust, noise, vibrations, and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) could be hazardous to the inhabitants of the Town. Air pollution is a known hazard to the public health.
8. If one or more of the activities described in Section 6 of this Local Law are conducted within the Town, noise, vibrations, seismic, subterranean, lateral and subjacent support impacts, and light pollution typically caused by such activities, could be hazardous or inconvenient to the inhabitants of the Town. Noise, traffic congestion, night time lighting, vibrations, and seismic and other impacts to subterranean surface support, can have negative effects on human health and wildlife.

9. The creation, generation, keeping, storage or disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 5 of this Local Law) within the Town could have a negative impact on the public health, safety and welfare of the inhabitants of the Town.
10. The high costs associated with the disposal of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes (as that term is defined at Section 5 of this Local Law) have in other localities resulted, and could in our Town result, in persons seeking to avoid such costs by depositing such material along roadways or in waterways, in vacant lots, on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Town.
11. Pipelines under 125 psi and less than 6" diameter are presently not regulated by the federal or New York state governments; yet such pipelines may pose many of the same dangers as larger or regulated lines when ruptured or impaired. In any event, such pipelines also require a clear zone for reasons of inspection, maintenance, and access.
12. The Town has been the home of limited light industrial activity, and the Town's Zoning Code does not permit heavy industrial activity nor has such activity been carried out in the Town. The Town Board believes it is appropriate to ensure that any industrial activity contemplated for the Town take place only if compatible with present land uses and with the Town's Comprehensive Plan.
13. Evaluation and determination of whether the activities described in Section 6 of this Local Law are appropriate for the Town is a legitimate goal of land use policy and laws; indeed, the exclusion of specified industrial uses is a legitimate and judicially recognized and supported goal of such laws.

C. The purposes respecting this Local Law are as follows:

1. Purposes. This Local Law is enacted so as to take proactive steps to protect and preserve the quality of the Town's air, water, historic resources, and other assets, and to protect and promote the health, safety, and welfare of the Town and its present and future residents. Without limiting the generality of the foregoing, this Local Law is intended and declared by the Town Board to:

- a. promote the purposes of planning and land use regulation by, among other things, preserving the roads and protecting limited and related fire, police, and other emergency response services in the Town;
- b. promote the health, safety and welfare of the Town, its present and future inhabitants, by preventing adverse public nuisances and/or land use impacts and effects that could result if the activities prohibited by Section 6 of this Local Law were allowed to be conducted within the Town;
- c. protect the Town's priceless and unique character, the preservation of which is of significant value to the inhabitants of the Town, by protecting it from adverse public nuisances and/or land use impacts and effects that could result if the activities prohibited by Section 6 of this Local Law were allowed to be conducted within the Town; and
- d. protect the Town's irreplaceable historic, scenic, and natural resources, and the Town's water and air quality, by protecting each and all of the same from adverse public nuisances and/or land use impacts and effects that could result if the activities prohibited by Section 6 of this Local Law were allowed to be conducted within the Town.

Section 3. DEFINITION OF THIS "LOCAL LAW," "THIS LAW," ETC., AND CONSTRUCTION OF TERM

As used herein, the term "this Local Law" (or its equivalent) shall mean and refer to Town of Brighton Local Law No. 1 of 2013. As used in Article II of this Local Law, the terms "this Law," "this chapter," and "herein" shall mean and refer to this Local Law, as the same may be amended from time to time. The term "shall" is mandatory, and the term "may" is permissive. Any word that is gender-referenced shall be construed to include all genders and the neuter/neutral of such term. Capitalized words shall have the meanings ascribed to them whenever the meaning or context thereof so admits or requires. Defined words and phrases that are not capitalized shall be presumed to be capitalized and deemed defined words and phrases, unless the context thereof admits or requires otherwise.

Section 4. INTERPRETATION

The statements of authority, intent, findings, and purpose are legislatively adopted along with the formal text of this Local Law. Such statements of authority, intent, findings, and purpose are intended and declared to be a material part of this Local Law, a legal guide to the administration and interpretation of this Local Law, and a part of the legislative history of this Local Law.

Section 5. DEFINITIONS

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Below-Regulatory Concern - Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation thresholds established by any regulatory agency otherwise having jurisdiction over such material in the Town.

Gathering Line, Or Production Line - Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment) used to move oil, gas, or liquids from a point of production, a treatment facility, or a storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).

Injection Well - A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

Land Application Facility - A site where any Natural Gas Exploration And/Or Petroleum Production Wastes are applied to the soil surface or injected into the upper layers of the soil.

Natural Gas - Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Natural Gas And/Or Petroleum Exploration Activities - Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise make any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

Natural Gas And/Or Petroleum Extraction Activities - The digging or drilling of a well for the purposes of exploring for, developing, or producing natural gas, petroleum, or other subsurface hydrocarbons, including, without limitation, any and all forms of shale fracturing.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes - Any of the following in any form whether or not such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from any statutory or regulatory definition(s) of "industrial waste," "hazardous," or "toxic," and whether or not such substances are generally characterized as waste: (a) Below-Regulatory Concern radioactive material, or any radioactive material which is not Below-Regulatory Concern but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Town, whether naturally occurring or otherwise, and in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment, and/or any other liquid or semi-liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing, or refining of natural gas or petroleum; (f) soil contaminated in the drilling, transportation, processing, or refining of natural gas or petroleum; (g) drill cuttings from natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, production, or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). The definition of this Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes does not include (i) recognizable and non-recognizable food wastes.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility - Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and/or are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump - Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

Natural Gas And/Or Petroleum Support Activities - Shall mean and be any one or more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Disposal/Storage Facility; (d) Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump; (e) Land Application Facility; (f) Non-Regulated Pipelines; (g) Underground Injection; or (h) Underground Natural Gas Storage.

Natural Gas Compression Facility - Those facilities or combinations of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

Natural Gas Processing Facility - Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas; cooking and dehydration; residual refinement; treating or removing oil or condensate; removing water; separating NGLs; removing sulfur or carbon dioxide; fractionation of NGLs; and/or the capture of CO₂ separated from natural gas streams.

Non-Regulated Pipelines - Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements, specifically including without limitation production lines and gathering lines.

Person - Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Pipeline - All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move in transportation (including pipes, valves and other equipment and appurtenances attached to pipes, such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), whether or not laid in a public or private easement or right of way within the Town. This includes, without limitation, gathering lines, production lines, and transmission lines.

Radioactive Material - Material in any form that emits radiation. This definition specifically includes NORM (naturally occurring radioactive material), but only if such naturally occurring material has been moved from its naturally occurring location through an industrial process. All such material is "radioactive material" for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

Radiation - The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

Subsurface - Below the surface of the earth, or of a body of water, as the context may require.

Town - The Town of Brighton, Monroe County, New York.

Town Board - The Town Board of the Town.

Transmission Line - A pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by: (a) the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).

Underground Injection - Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, including without limitation, emplacement by or into an Injection Well.

Underground Natural Gas Storage - Subsurface storage, including without limitation in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities, and associated pipelines.

ZBA - Zoning Board of Appeals of the Town

Section 6. PROHIBITION WITHIN THE TOWN OF NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES, NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES, AND NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES

A. Subject to the provisions of sub-section B of this Section 6, below, it shall be unlawful for any person to use, cause, allow, or permit to be used, any land (including all surface and subsurface lands), body of water or waterway (whether upon or below-ground), building, or other structure located within the Town for any of the following: (i) any Natural Gas And/Or Petroleum Exploration Activities; (ii) any Natural Gas And/Or Petroleum Extraction Activities; or (iii) any Natural Gas And/Or Petroleum Support Activities.

B. The prohibitions set forth above in sub -section A of this Section 6, above, are not intended, and shall not be construed, to: (x) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town or to direct end users in adjoining municipalities in the ordinary course of business; or (z) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal residential, business, commercial, and other uses within the Town.

Section 7. PENALTIES.

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment for not more than 30 days, or both, for the first offense. Any subsequent offense within a twelve month period shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000) or imprisonment for a period of not more than 90 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. In addition, an action or proceeding may be instituted in the name of the Town in any court of competent jurisdiction, to prevent, restrain, enjoin, correct, enforce, and/or abate any violation of, or non-conformance with, any provision or requirement of this Local Law. Additionally, any action may be so commenced to declare the rights of the Town and of any other Persons relative to any justiciable controversy arising from, under, or in relation to this Local Law, whether pertaining to its interpretation, application, legality, or enforceability, or otherwise. No such action or proceeding shall be commenced without the appropriate authorization from the Town Board. If equitable relief is requested in the form of an temporary restraining order, a temporary injunction, or an injunction, or by any other form of prohibition or similar relief, the Town shall not be required to post any bond or undertaking as a condition or requirement for or of such relief, and the Town shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in this Section 7 shall be the or an exclusive remedy of the Town, and each remedy or penalty specified in this Section 7 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this Local Law or permitted in equity or by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this Local Law may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section 7.

C. In addition, the Town's Chief of Police or Commissioner of Public Works, or either of their designees, may issue stop work orders or compliance notices relative to any violation of this Local Law. The failure of any Person to comply with any such notice or order shall be and be deemed a violation of any other applicable law or ordinance, including, without limitation, the Town's Comprehensive Development Regulations and its related rules and regulations, and the New York Executive Law, § 382, and, in each case, such non-compliance or violation may also be enforced as such.

D. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative thereto, including attorneys', engineering, consulting, and experts' fees; provided, however, that any responsibility or liability therefor, and the amount thereof, shall be determined by a Court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

Section 8. 'GRANDFATHERING' OF LEGAL, PRE-EXISTING NON-CONFORMING USES.

Notwithstanding any provision hereof the contrary, any Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law shall be subject to the following:

A. If, as of the effective date of this Local Law, substantive Natural Gas And/Or Petroleum Extraction Activities are occurring in the Town and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including, without limitation, the possession of valid non-revoked permits for all matters for which permits are required, and including compliance with each, any, and any listed permit conditions, as are or may be required by the New York State Department of Environmental Conservation ("DEC"), and all other regulating local, state, and/or federal governments, bureaus, or agencies, then and only then such Activity shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of sub-Clauses B and C of this Section 8. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding standard of this sub-Clause A of this Section 8 shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses), and shall in all respects be prohibited as contemplated by Section 6 hereof.

B. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of sub-Clause A of this Section 8, or upon any other substantive cessation of Natural Gas And/Or Petroleum Extraction Activities for a period of more than twelve (12) months, then, and in either of such events, the pre-existing and/or non-conforming use status (and any related "grandfathering rights") of or relating to such activity shall terminate, and thereafter such Natural Gas And/Or Petroleum Extraction Activities shall in all respects be prohibited as contemplated by Section 6 hereof.

C. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by sub-Clause A of this Section 8 is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities

extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion, or attempted or purported expansion, of such well, whether as to its production, depth, horizon(s), or otherwise, shall not be grandfathered under sub-Clause A of this Section 8, and instead shall in all respects be prohibited as contemplated by Section 6 hereof. Any such 'grandfathered' and allowed lawful pre-existing uses shall not possess any right to expand such non-conforming use, whether above or below ground, and no such right shall be deemed, construed, or implied to exist.

Section 9. CONFLICTING APPROVALS OR PERMITS WITHOUT FORCE OR EFFECT WITHIN THE TOWN.

Except as contemplated by Section 10 of this Local Law, no permit or approval issued by any local agency, department, commission, or board shall be deemed to grant any rights, permissions, or approvals to undertake activities within the Town of Brighton when or to the extent that such activity or activities would violate the prohibition set forth at Section 6 of this Local Law.

Section 10. HARDSHIP EXEMPTION.

A. There is hereby established a mechanism by which persons aggrieved by a decision or determination of the Town's Code Enforcement Officer (or other administrative official or body charged with the enforcement of this Local Law) regarding Section 6 of this Local Law (or otherwise) may make appeal to the Zoning Board of Appeals for a Hardship Exemption from the provisions of said Section 6 (or any other provision or requirement of this Local Law). The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer or other administrative official or body charged with the enforcement of this Local Law, after public notice and hearing and in accordance with the requirements of law and this Local Law, to consider applications for a Hardship Exemption from the provisions of Section 6 of this Local Law. Applicants for a Hardship Exemption should consult the succeeding provisions of this Section 10, as well as Section 11 of this Local Law, for a specification of application requirements and the procedural mechanisms involved in the consideration by the Zoning Board of Appeals of an application for a Hardship Exemption.

B. No such Hardship Exemption shall be granted by the Zoning Board of Appeals without a showing by the applicant that enforcement of Section 6 of this Local Law as to such applicant has caused an "unnecessary hardship." For purposes hereof, and in order to prove the existence of an unnecessary hardship for purposes hereof, the applicant must demonstrate to the Zoning Board of Appeals satisfaction compliance with and/or proof of each of the following four standards or conditions: (i) that unless the applicant is granted a Hardship Exemption from the provisions of Section 6 of this Local Law the applicant cannot realize a reasonable rate of return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the neighborhood or other area in the vicinity of the applicant's property; (iii) that the alleged hardship has not been self-created; and (iv) that the requested Hardship Exemption, if granted, will not alter the essential character of the neighborhood or other area in the vicinity of the applicant's property in an adverse manner. For purposes of interpreting and applying the above four standards and matters of proof, the following shall apply:

1. *Reasonable Rate of Return.* In evaluating whether the applicant can realize a reasonable rate of return for purposes hereof, the Zoning Board of Appeals shall examine whether the site of the proposed project and all adjacent lands in common ownership, are incapable of producing a reasonable rate of return. No Hardship Exemption shall be granted unless, in addition to satisfying all other applicable provisions of this Local Law, the Zoning Board of Appeals finds that the applicant has clearly demonstrated, by detailed "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) unless the applicant is granted a Hardship Exemption from the provisions of Section 6 of this Local Law.

2. *Unique Hardship.* No Hardship Exemption shall be granted unless, in addition to satisfying all other applicable provisions of this Local Law, the Zoning Board of Appeals finds that the entire parcel of land which the project is a part possesses unique characteristics that distinguish it from other properties in the neighborhood or other area in the vicinity of the applicant's property. The applicant must demonstrate the unique nature of parcel as a whole. The fact that the property is then unimproved, shall not be deemed sufficient to make the plight of the property unique or to contribute thereto. Exceptional topography is an example of a factor demonstrating the unique nature of the property.

3. *Self-Created Hardship.* The Zoning Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (i) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (iii) when the applicant purchased the property applicant knew or should have known that the property was subject to this Local Law.

4. *Adverse Alteration of Essential Character of the Neighborhood or Other Area in Vicinity.* In making its determination of whether the proposed project will adversely affect the essential character of the neighborhood or other area in the vicinity of the applicant's property, the Zoning Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the residential, and historic character and resources of the Town; (ii) the Town's irreplaceable open space, recreation, and historic sites; (iii) the extent of hazard to life or property that may result from the proposed project; (iv) health impacts; (v) the social and economic impacts of traffic, congestion, noise, dust, odors, emissions, solid waste generation, and other nuisances; (vi) the impact on property values; and (viii) whether the applicant will use a style of development that may result in degradation to the air quality, water quality, or historic, scenic, and natural resources of the Town.

C. In addition to any other application requirements from time to time established pursuant to this

Local Law, an application for any Hardship Exemption shall contain a narrative explaining what the application is for and how the project meets or exceeds all of the criteria for a Hardship Exemption. Such submissions shall include the following:

1. With respect to a claim that the applicant cannot realize a reasonable rate of return, the applicant shall provide financial evidence containing reasonable specification of the nature and factual particulars of such claim, including, at a minimum (as to the entire parcel of which the proposed project is a part): (a) the date(s) of acquisition of the property; (b) the purchase price; (c) present value of the property; (d) the amount of real estate taxes; (e) the amount of mortgages or liens and other expenses; (f) the asking price for the property when it had been offered for sale; (g) the costs of demolishing any existing structures on the property; (h) efforts to market the property; (i) a schedule of all other property in common ownership at either the date of the enactment of this Local Law or thereafter; and (j) "dollars and cents proof," such as appraisals, economic studies, and any other such evidence supporting the applicant's contention that the grant of a Hardship Exemption is appropriate. For purposes of this Local Law, common ownership means all other interests in property either located within the Town or contiguous to the Town that is held by any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in a(nother) corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.
2. Environmental Assessment Form. A completed draft of a Long Form Environmental Assessment Form, Part I, regarding the proposed project. Any action in consideration of whether to deny, grant, or grant with conditions such application shall be and be deemed a Type I Action under SEQRA, including, without limitation, 6 NYCRR Part 617, § 617.4.
3. With respect to a claim that, if granted, the requested Hardship Exemption will not adversely alter the essential character of the neighborhood or other area in the vicinity of the applicant's property, the applicant must demonstrate that the proposed project will not materially adversely affect such essential character with regard to the physical, economic, social or environmental elements of such neighborhood or area. Examples of adverse impacts to the essential character of the neighborhood or other area include, without limitation, decreased quality or increased quantity of stormwater runoff, increased soil erosion, increased traffic or congestion, decreased road quality or roadway damages, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of viewsheds, the creation of solid wastes, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts on the health of area residents.

D. In addition to all other application requirements from time-to-time established pursuant to this Local Law, each application for a Hardship Exemption may also include one or more of the following enumerated reports, analyses, or supporting proofs or documents, and the like, whenever required by the Zoning Board of Appeals, any environmental review of such proposed review and/or

granting or denial of a Hardship Exemption application, or otherwise, so as to assist the Zoning Board of Appeals in determining whether a grant of the requested Hardship Exemption will adversely alter the essential character of the neighborhood or other area in the vicinity of the applicant's property and/or so as to assist the Zoning Board of Appeals in its determination of whether to deny, grant, or grant with conditions such application:

1. **Description of Surrounding Uses.** The approximate location of all neighboring residential, park or recreational areas, any environmental protection overlay districts designated by the Town, all wetlands, intermittent, seasonal and other streams, rivers, and waterways, significant natural communities, endangered and threatened species and species of concern, and historical or archeologically sensitive or mapped areas within a two (2) mile radius of the perimeter of the site of the proposed use.

2. **Traffic Impact Report.** A traffic impact report containing: (a) the proposed traffic circulation plan and the projected number of motor vehicle trips to enter or leave the site, as estimated for daily and peak hour traffic levels, if the Hardship Exemption is granted; (b) existing and proposed daily and peak traffic hour levels as road capacity levels; (c) a determination of the areas of impact of traffic to and from the proposed project; (d) the proposed traffic routes to the nearest intersection with an arterial highway, including gross weights and heights of vehicles; (e) the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed project if the Hardship Exemption is granted; (f) the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities; (g) a traffic impact analysis of the effects of the proposed project on the transportation network in the Town using passenger car equivalents if the Hardship Exemption is granted; (h) an articulation of the effects and impacts of the proposed project on traffic based on existing conditions and projected future background traffic on the state, county, and Town road system if the Hardship Exemption is granted; and (i) an evaluation of whether the resulting traffic conditions are likely to hinder the passage of police, fire, and emergency response vehicles, or degrade the quality of life or roadways, and/or otherwise contribute to hazardous traffic conditions if the Hardship Exemption is granted.

3. **Road Impact Report.** An evaluation of: (a) appropriate roadway geometry, including required road widths, bridge widths, starting and stopping sight distances, intersection sight distances, and horizontal and vertical curves along the proposed traffic routes; and (b) the adequacy of existing pavement structures along the proposed traffic routes to accommodate the full weight load of any trucks and construction vehicles likely to be used in connection with the proposed project if the Hardship Exemption is granted.

4. **Transportation Plan.** A description of ingress and egress through the proposed project site through which vehicles, equipment, and supplies will be delivered, including: (a) any temporary

or permanent access routes or points provided, or to be provided, during and after construction if the Hardship Exemption is granted; and (b) an identification of any roads, streets, intersections, bridges, and other facilities along the proposed traffic route that do not meet New York State Department of Transportation standards. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, any new road or access construction, measures which will be taken to avoid damaging any public or private roads, highways, culverts, or other ways or appurtenances, and the measures that will be taken to restore damaged public or private roads, highways, culverts, or other ways or appurtenances following construction and during operations should the Hardship Exemption be granted.

5. **Noise Impact Report.** A report that shall measure, project, factor, cover, and provide conclusions about, without limitation, low frequency, A-weighted, infrasound, pure tone, and repetitive/impulse noises, containing the following information, studies, or descriptions and conclusions: (a) a description of the existing audible conditions at the project site to identify a baseline sound presence and pre-existing ambient noise, including seasonal variation; (b) a description and map of sound producing features of the proposed project from any noise generating equipment and noise generating operations that will be conducted in connection with the proposed project site if the Hardship Exemption is granted, including noise impacts from vehicular traffic travelling within the Town and/or to and from, or in support of, the proposed project site; (c) with respect to the noise to be generated by construction and the proposed uses of the proposed project site, the range of noise levels and the tonal and frequency characteristics expected, together with a written explanation for the bases for any such expectations or conclusions; (d) a description and map of the existing land uses and structures, including any sensitive area sound receptors (e.g., residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers, etc.) within one mile of the project parcel boundaries, which description shall include the location of the structure/land use, distances from the proposed project, and expected decibel readings for each receptor; and (e) a description of the project's proposed noise-control features, including any specific measures proposed to protect off-site persons and/or to mitigate noise impacts for sensitive area receptors.

6. **Visual Assessment.** A visual presentation of how the site of the proposed project will relate to and be compatible with the adjacent and neighboring areas, within a one mile radius of the perimeter of the site of the proposed project, if the Hardship Exemption is granted. This presentation shall include computerized photographic simulation showing the site during construction and fully developed which shows and/or demonstrates any visual impacts from at least four strategic vantage points within the said one mile radius. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility's components and any visual screening incorporated into the project that is intended to lessen visual prominence.

7. **Report of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes and Other Wastes.** A report containing a description of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes and other solid wastes, industrial wastes, hazardous wastes, toxic and/or poisonous substances and pollutants (whether or not any such substances enjoy

exemption or definitional exceptions from state or federal laws otherwise intended to protect the public with respect to hazardous, toxic, or poisonous substances) expected to be produced, stored, injected, discarded, discharged, disposed, released, or maintained on the project site if the Hardship Exemption is granted.

8. **Compatible Uses Report.** A discussion of characteristics of the proposed project that may decrease the Town's and/or the neighborhood's (or other area's) suitability for other uses such as residential, commercial, historical, cultural, tourism, recreational, environmental or scenic uses if the Hardship Exemption is granted.

9. **Fiscal Impact Assessment.** An assessment describing the adverse effects and impacts on Town revenue and costs necessitated by additional public facility and service costs likely to be generated by the proposed project if the Hardship Exemption is granted.

10. **Fire Prevention, Equipment Failure and Emergency Response Report.** A report containing: (a) a description of the potential fire, equipment failures, and emergency scenarios associated with the proposed project that may require a response from fire, emergency medical services, police, or other emergency responders if the Hardship Exemption is granted; (b) an analysis of the worst case disaster associated with the proposed project if the Hardship Exemption is granted, together with an analysis of the impacts of such a disaster upon the health, safety, and welfare of the inhabitants of the Town and their property; (c) a designation of the specific agencies that would respond to potential fires, equipment failures, accidents, or other emergencies if the Hardship Exemption is granted; (d) a description of all emergency response training and equipment needed to respond to a fire, accident, equipment failure, or other emergency, including an assessment of the training and equipment available to local agencies; and (e) the approximate or exact location of all fire, police, and emergency response service facilities within a five mile radius of the perimeter of the site of the proposed use.

11. **Public Facilities and Services Assessment.** An assessment describing: (a) whether current Town public facilities and services, including water supplies, sewer capacity, fire protection, school services, recreation facilities, police protection, roads and stormwater facilities, are adequate for the proposed project (taking into account all other uses that have been permitted or are currently operating in the Town) if the Hardship Exemption is granted; (b) a comparison of the capacity of the public services and facilities to the maximum projected demand that may result from the proposed project if the Hardship Exemption is granted (in determining the effect and impact of the proposed project on fire, police, and emergency services, the review shall take into consideration response times and the number and location of available apparatus and fire, police, and emergency service stations that are manned by full time professional service personnel; and where applicable a calculation of response times shall also include the time it takes volunteer emergency personnel to get to their stations); and (c) if the Hardship Exemption is granted, a review of the impacts of the proposed project upon the safety of all children going to and from school by car, bus, bicycle, and walking during and outside of school zone hours, including an analysis of whether existing or proposed safety measures, such as signaled cross walks, elevated sidewalks, signage, traffic controls, traffic management or calming plans, and green space buffers for pedestrians or bicyclists, including an analysis of whether any walking or bicycle trails or routes overlap, cross, or run alongside intended traffic routes; each and all so as to mitigate or help prevent accidents.

12. **Property Value Assessment.** A property value analysis showing the impact upon adjoining property values, prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact of the project if the Hardship Exemption is granted.

13. **Health Impact Assessment.** A human health impact assessment identifying ways in which the proposed project could adversely affect the health of Town residents if the Hardship Exemption is granted, and a priority list of recommendations to minimize the potential health impacts of the proposed project. The health impact assessment shall include: (a) a risk assessment of the possible impacts of chemical exposure(s) on the health of residents, including the Chemical Abstract Service number of all chemicals proposed to be used or generated at the project site; (b) an assessment of possible health effects due to industrial operations in non-heavy industrial use areas; and (c) an assessment of possible health effects due to community changes, including the presence of an industrial activity in a previously non-heavy industrial area, declining property values, impacts to the education system, and the impacts and effects of any sudden changes in population numbers, demographics, and customs (if any).

E. To the extent any of the information, data, studies, reports, and the like, referenced above in this Section 10 have been prepared or submitted to the State of New York (or other government or governmental department, agency, or authority) in relation to any permit application, unit or spacing authorization, or any related environmental review, or otherwise, the Zoning Board of Appeals may accept such previously prepared materials in lieu of any of the above items which may be so requested or mandated. However, nothing shall prevent the Zoning Board of Appeals from requiring updates, supplemental information, or site-specific analyses relative to such proposed use within the Town or such application for a Hardship Exemption.

Section 11. HARDSHIP EXEMPTION APPLICATION & REVIEW PROCEDURES

A. Every application for a Hardship Exemption shall be submitted in writing, upon forms from time-to-time established, approved, or prescribed by the Zoning Board of Appeals, and shall be signed by the applicant. If the applicant is not the owner of the property involved, the owner of the property shall none-the-less attest to the accuracy of the statements and representations made in the application, and both the applicant and the owner shall certify that he (or she or it) has undertaken due diligence with respect to the accuracy of the matters contained in the application. Ten copies of the application and supporting documentation shall be filed with the Zoning Board of Appeals, accompanied by a fee in the amount set from time-to-time by resolution of the Zoning Board of Appeals. The Zoning Board of Appeals (ZBA) is hereby authorized to adopt rules and regulations for the conduct of hearings on applications for Hardship Exemptions, consistent with this Local Law and other legal or state statutes or requirements.

B. In evaluating an application for a Hardship Exemption, the Zoning Board of Appeals shall comply with any applicable provisions of Article 9 of the Environmental Conservation Law, and its implementing regulations as codified in Title 6, Part 617 of the New York Codes Rules and Regulations, known as the State Environmental Quality Review Act (SEQRA), as the same may from time-to-time be amended.

C. The Zoning Board of Appeals shall hold a hearing on all applications for a Hardship Exemption

within 62 days of the filing of a complete application therefor. Said 62 day period may be extended by mutual agreement of the Zoning Board of Appeals and the applicant, or whenever required by law, including but not limited to the completion of any required SEQRA procedures. Public notice of the hearing shall be given at least ten days prior to the date thereof by publication in the Town's official newspaper. The Zoning Board of Appeals may adjourn or continue such public hearing from time-to-time. The cost of sending or publishing any notices relating to any application shall be borne by the applicant, and shall be paid to the Town prior to the hearing. At least ten days before any hearing upon any application, the Zoning Board of Appeals shall mail notices to all adjacent property owners and such other notices that may be required by Sections 239-l, 239-m, and/or 239-n of the NYS General Municipal Law or other applicable provisions of law, rules or regulation.

D. In addition to such other procedures as may be required by applicable law, the following shall apply with respect to the conduct of hearings regarding applications for Hardship Exemptions: (a) the burden of proof shall remain with the applicant to show that he (or she or it) has satisfied the conditions, requirements, and proofs necessary to qualify for a Hardship Exemption, and the burden shall never shift to the Town; (b) any party may appear in person or by agent or by attorney; (c) no decision or determination shall be made except upon consideration of the record as a whole and as supported by and in accordance with substantial evidence; (d) all evidence shall be made a part of the record; and (e) official notice may be taken of all facts of which judicial notice could be taken and of other facts within the specialized knowledge of the Zoning Board of Appeals. When official notice is taken of a material fact not appearing in the evidence or in the record, and it is one of which judicial notice could be taken, every party shall be given notice thereof and shall, upon timely requires, be afforded an opportunity prior to decision to support or dispute the fact or its materiality.

E. Decisions by the Zoning Board of Appeals on applications for a Hardship Exemption shall be made within 62 days from the close of the public hearing on such matter. The time within which the Zoning Board of Appeals must render its decision may, however, be extended by mutual consent of the applicant and the Zoning Board of Appeals, or whenever required by law, including but not limited to the completion of any required SEQRA procedures. The final decision on such matter shall be made by written order signed by the Secretary or Chair of the Zoning Board of Appeals. Such decision shall state the findings of fact that were the basis for the Zoning Board's determination. The Zoning Board of Appeal's decision as to each application for a Hardship Exemption shall be filed in the office of the Town Clerk no later than five business days after the day such decision is rendered, and shall be made a public record.

F. The Zoning Board of Appeals, in the granting of Hardship Exemptions, shall grant only the minimum level of exemption that it shall deem necessary and adequate to allow an economically beneficial use of the property, while at the same time preserving and protecting the essential character of the neighborhood and the health, safety, and welfare of the community.

G. The Zoning Board of Appeals, in the granting of Hardship Exemptions, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact such Hardship Exemption may have on the neighborhood or other area in the vicinity of the applicant's property. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, location and layout of buildings, and limitations upon the use or characteristics of the use which are reasonably related to the public health, safety, and general welfare and/or as may be necessary to carry out the intent of this Local Law. If the applicant refuses to accept such requirements and conditions, the Hardship Exemption shall be denied. No action in violation of the requirements of Section 6 of this Local Law shall be conducted under or pursuant to any Hardship Exemption unless in strict compliance with any conditions and/or restrictions stated in such decision or order granting such Hardship Exemption.

H. Any person aggrieved by a decision of the Zoning Board of Appeals with respect to an application for a Hardship Exemption may apply to the Supreme Court of the State of New York in Monroe County for review by proceedings under Article 78 of the Civil Practice Law and Rules. Such proceedings must be instituted no later than thirty (30) days after the filing of the Zoning Board of Appeals decision in the Town Clerk's office.

I. Any grant by the Zoning Board of Appeals of a Hardship Exemption shall expire if a building permit for the proposed project is not obtained by the applicant within one hundred twenty (120) days from the date of the decision granting such Hardship Exemption.

J. Whenever the Zoning Board of Appeals denies an application for a Hardship Exemption, the Zoning Board of Appeals shall refuse to hold further hearings on such application, or a substantially similar application, by the same property owner or his successors or assigns for a period of one year following such denial, unless the Zoning Board of Appeals shall find and determine from the information supplied that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare and that, accordingly, reconsideration is justified.

K. The procedural and other requirements of this Section 11 shall be interpreted and applied to the fullest extent permitted by applicable law, and the Constitutional standards of due process. To the extent any such procedural or other requirement is held or deemed inapplicable, unconstitutional, or *ultra vires*, then, and in such event, such procedural or other requirement shall be interpreted and enforced to the extent permitted, and no other listed procedural or other requirement shall be affected thereby.

Section 12. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 13. SUPERSEDING INTENT AND EFFECT.

During the time this Local Law is in effect, it is the specific intent of the Town Board, to supersede any inconsistent provisions of any and all other local ordinances, local laws, or local resolutions of the Town of Brighton.

Section 14. GENERAL PROVISIONS

A. The Code Enforcement Officer of the Town is hereby designated as the enforcement officer for purposes of interpreting and enforcing this Local Law. The Town Board reserves the right, by resolution, to change or designate additional enforcement officers.

B. The section and other headings and titles to clauses and phrases in this Local Law are for convenience only and shall not be used or construed to limit or define the scope or application of the clauses and phrases so following such headings or titles. Each section of this Local Law, whether in the nature of a preamble or otherwise, is a material part of this Local Law.

Section 15. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York Department of State.

CLAIMS FOR APPROVAL AT TOWN BOARD MEETING

January 9, 2013

THAT THE CLAIMS AS SUMMARIZED BELOW HAVING BEEN APPROVED BY THE RESPECTIVE DEPARTMENT HEADS AND AUDITED BY THE TOWN BOARD AUDIT COMMITTEE ARE HEREBY APPROVED FOR PAYMENT.

A - GENERAL	\$	<u>477,632.68</u>
D - HIGHWAY		<u>196,691.18</u>
H - CAPITAL		<u>4,601.08</u>
L - LIBRARY		<u>35,090.88</u>
SA - AMBULANCE DIST		<u>721.72</u>
SF - FIRE DIST		<u>31,100.50</u>
SS - SEWER DIST		<u>59,751.15</u>
TA - AGENCY TRUST		<u>17,965.18</u>
	TOTAL \$	<u>823,554.37</u>

UPON ROLL CALL

MOTION CARRIED

APPROVED BY:

SUPERVISOR

COUNCIL MEMBER

COUNCIL MEMBER

TO THE SUPERVISOR:

I CERTIFY THAT THE VOUCHERS LISTED ABOVE WERE AUDITED BY THE TOWN BOARD ON THE ABOVE DATE AND ALLOWED IN THE AMOUNTS SHOWN. YOU ARE HEREBY AUTHORIZED AND DIRECTED TO PAY TO EACH OF THE CLAIMANTS THE AMOUNT OPPOSITE HIS NAME.

DATE

TOWN CLERK

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated December 31, 2012 from Director of Finance Suzanne Zaso regarding the renewal of the Town's contract with Brighton Volunteer Ambulance for emergency medical services for 2013 be received and filed, and be it further

RESOLVED, that the Town Board hereby authorize the Supervisor to execute an agreement for the renewal of the Town's contract with Brighton Volunteer Ambulance for emergency medical services for 2013 which agreement has already been reviewed and approved as to form by the Attorney to the Town.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



SUZANNE ZASO, DIRECTOR OF FINANCE
2300 ELMWOOD AVENUE
ROCHESTER, NEW YORK 14618
Phone (585) 784-5210 Fax (585) 784-5396

MEMORANDUM

To: The Honorable Town Board
Attn.: Finance and Administrative Services Committee
From: Suzanne Zaso, Director of Finance 
Date: December 31, 2012
Subject: Brighton Volunteer Ambulance
2013 Contract Renewal

I recommend that Your Honorable Body authorize the Supervisor to execute a renewal agreement for 2013 with Brighton Volunteer Ambulance, Inc. in the amount of \$250,000 as approved and adopted in the 2013 Town Budget. This represents an increase of \$93,500 from the 2012 contract to support an increase in the amount of out-of-pocket costs that would otherwise be the responsibility of Brighton residents who utilize ambulance services. Also note that the Town will retain \$30,000 to be applied towards fuel usage by BVA in 2013. Per the contract an updated certificate of insurance will be on file.

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

CONTRACT FOR AMBULANCE SERVICE

This Agreement, made as of January 1, 2013, between the Town of Brighton, acting for and on behalf of the Brighton Ambulance Services District with offices at 2300 Elmwood Avenue, Rochester, NY 14618, (hereinafter known as the "Town"), and the Brighton Volunteer Ambulance Service, Inc., a not-for-profit New York corporation with its principal place of business at 1551 Winton Road South, Rochester, NY 14618, (hereinafter known as the "BVA").

WHEREAS, the Town desires to provide emergency medical service within the Town of Brighton; and

WHEREAS, in furtherance of that end, the Town has formed the Brighton Ambulance District (hereinafter known as the "District") pursuant to Article 12-A of the Town Law, such District consisting of all premises within the boundaries of the Town of Brighton; and

WHEREAS, BVA is an independent contractor duly authorized by the New York State Department of Health to provide emergency medical service, and is willing to provide such service within the District pursuant to the terms and conditions of this Agreement; and

WHEREAS, the Town Board of the Town pursuant to Section 198(10)(f) of the Town Law, and by Resolution of the Board has authorized such an Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter mentioned, the parties agree as follows:

1. Work Statement

BVA agrees to provide, or cause to be provided, emergency medical service within the District. Such service shall consist of all personnel and equipment necessary to promptly and safely transport injured or ill persons from within the District to a hospital or other emergency medical facility

as is necessary under the circumstances in accordance with good and accepted ambulance practice, and inclusive of Basic Life Support and Advanced Life Support services to ill and injured persons in connection therewith. Such service shall be subject to the standards as may be set forth by the New York State Department of Health and the Monroe-Livingston Emergency Medical Service Council. Such service shall be provided only in circumstances of medical emergency as generally defined by law and customary usage in such cases. BVA's right to provide such services pursuant to this Agreement shall be non-exclusive. BVA and the Town may rely on the Brighton Fire Department, the West Brighton Fire Department, Rochester Fire Department, and/or commercial ambulance service providers to provide first response services as part of the overall protocol and services plan for EMS services provided in the Town.

2. Standards of Performance

a. **Certifications.** BVA shall maintain New York State certification of its ambulance service as defined in Section 3006 of Article 30 of the Public Health Law of the State of New York and shall at all times comply with the standards required for such certification, during the period of this Agreement and shall provide evidence of such certification to the Town upon request.

b. **BLS Standards of Care.** BVA shall comply at all times with the latest Monroe-Livingston Regional Emergency Medical Service Comprehensive Emergency Medical Care Standards, as they may be amended during the period of this Agreement. Said standards shall be incorporated herein by reference as if included in full.

c. **Quality Assurance.** BVA shall develop, maintain and provide to the Town on execution of this agreement, a quality assurance program acceptable to the Town which shall at least maintain standards and certifications as at present.

d. **Medical Director.** BVA shall obtain the services of a suitably-qualified medical

director in connection with the delivery of any services where such medical director is required by New York State Law or regulation.

e. Response Time. BVA shall exert its best efforts to ensure that calls are responded to within the standards set by the New York State Department of Health and the Monroe-Livingston Regional Emergency Medicine Council. Copies of such standards shall be provided to the Town by BVA upon the execution of this contract and updates, if any, to such standards shall be promptly provided to the Town after they are received by BVA. This provision shall not bind BVA to guarantee a response time for any individual call, nor shall it require BVA to guarantee the performance of other emergency medical services agency responding pursuant to mutual aid arrangements as specified in paragraph 2(f). BVA shall not be held responsible for delay or failure to reach the scene of a request for service due to reasons beyond BVA's control, lack of crew or equipment or hazardous road conditions.

f. Mutual Aid. BVA shall maintain arrangements with other emergency medical services, either commercial or volunteer, to respond to requests for emergency medical service within the District in the event that BVA is unable to respond. Pursuant to the mutuality provisions of such arrangements, BVA may respond at its discretion to requests from other emergency medical agencies for BVA's services outside the District.

g. Public Access. The parties hereto agree that due to certain technical features incorporated therein, the Monroe County Enhanced 911 service offers the public the preferred means of accessing emergency service. In its advertising, listing of emergency numbers in the "emergency number" section of the Telephone Directory, and its promotional material including the distribution of stickers for attachment to telephones, BVA shall list "911" as the telephone number for accessing BVA's emergency medical services.

h. **Advanced Life Support.** The parties hereto understand that BVA agrees to provide Advanced Life Support (hereinafter known as "ALS") service with its own resources, to the extent such services are available using BVA's ALS technicians.

3. Gasoline and Fuel Rights

a. As a form of consideration for services provided pursuant to this Agreement, and as a portion of the total consideration provided, the Town and District authorize BVA during the term of this Agreement to utilize gasoline and/or diesel fuel from the Town's dispensing station in accordance with procedure established by the Town.

b. The value of the fuel to be provided to BVA under this Agreement will be the actual cost to the Town per gallon of fuel, as determined by the Town, plus 7% of the total cost of fuel as an administrative reimbursement.

c. The estimated annual value associated with the provisions of fuel is \$30,000 and, this amount will be deducted from the total amount due BVA for services provided. A detailed record of actual fuel use, and its associated value, will be kept by the Town and provided to BVA. In the event that any of the BVA vehicles can use E85 or other alternative fuels, consistent with manufacturer warranties and recommendations, and such alternative fuels are made available by the Town, BVA agrees to use such alternative fuels to the extent possible.

No later than 60 days following the close of the year, an annual accounting of actual vs. estimated value of fuel will be prepared by the Town. In the event less than \$30,000 of fuel value is used by BVA, the Town and District will process a claim for payment to BVA of the difference between \$30,000 and the actual value of fuel used. In the event BVA utilizes more than \$30,000 of fuel value, BVA will reimburse the Town and District, no later than 30 days after the accounting is provided to BVA, the difference between the actual value of fuel used and \$30,000.

For each succeeding year of this Agreement, in January, the Town and District will estimate the value of fuel as partial consideration for services rendered, and so advise BVA of the computation. Such estimate will be based on actual usage in the prior year and a projection of the cost per gallon of fuel to be provided.

d. The Town and District reserve the exclusive right to cease providing fuel as partial consideration for services. In the event the Town is no longer able to make use of its dispensing station, for whatever reason, an accounting to date of cessation of service will be performed, and BVA will be paid in the normal course of business for any remaining value assigned to the provision of fuel under this Agreement. However, if the Town and District decide to no longer provide fuel for some other reason, provision of fuel cannot be stopped without 60 days prior written notice of the Town's and District's intention.

e. Each party represents to the other that it has in force, policies of liability insurance protecting against exposures arising out of or in connection with this Agreement and the actions which it may take under this Agreement. Each party agrees to indemnify as to its negligence the other against liability for the negligent use of vehicles, apparatuses, or supplies including gasoline and diesel fuel under this Agreement.

f. In consideration of the services to be performed hereunder, the District shall pay BVA the amount authorized to be paid to BVA by the Town Council in adopting the annual operating budget for the District for the subject fiscal year, less the value assigned for the provision of fuel under Section 3 of this Agreement. The net amount payable to BVA will be paid in one installment no earlier than February 14th and no later than March 1st, upon presentation by BVA of a properly executed Town claim voucher submitted to and approved by the Town Supervisor.

4. Compensation

In consideration of the furnishing of its apparatus, personnel, and services in the manner detailed herein, BVA shall receive an annual compensation amount of Two Hundred Fifty Thousand Five Hundred Dollars (\$250,000), less the value assigned for the provision of fuel under section 3 of this Agreement. A portion of such compensation will cover out-of-pocket expenses that Town residents would be obligated to pay for any bill for ambulance services, including all coinsurance amounts that residents would otherwise be responsible to pay. In the event this Agreement is terminated by either party prior to December 31, 2013, pursuant to the provisions of Paragraph 10 hereof, BVA shall refund to the Town the pro rata share of the compensation previously paid for the year in which termination occurs.

5. Financial Procedures

a. BVA shall diligently continue its voluntary fund-raising drive(s) and third party billing, provided however that BVA agrees that it will not bill any amount of money, including a co-payment not covered by insurance, Medicare or Medicaid coverage, costs for ambulance service provided to Town residents during the terms hereof.

b. As part of the Town's annual budgeting process, BVA agrees to:

- (i) abide by the budget preparation and review schedule of the Town,
- (ii) to provide a "line item" operating budget proposal with explanation and justification for each line item,
- (iii) to provide and annually update a five-year capital plan as part of the budget preparation process,
- (iv) to attend all budget "workshops", public hearings, and Town Board meetings as determined appropriate by the Town to respond to questions of the Town Board, Administration, and general public served in the District by BVA.

c. In the event that operating revenues exceed operating expenditures in any given year, even after budgeted transfers to reserve accounts have been made, BVA may retain such surplus

operating funds.

d. BVA agrees that it will submit to the Town, no later than March 31st of each year, an audited financial statement for the previous fiscal year, prepared and certified by a certified public accountant, and BVA shall pay the costs of the same.

6. Other Reporting Requirements

BVA shall annually prepare and present to the Town Board no later than March 31st (at a regularly scheduled Town Board meeting) a narrative and statistical report describing operations during the previous fiscal year, including but not limited to data on the number and types of calls received and responded to, a calculation of the average response time experience, mutual aid activity, and a list of BVA's current officers and directors.

7. Audits

BVA agrees to allow the Town to conduct periodic audits of its financial records, as deemed necessary and advisable by the Town.

8. Indemnification and Insurance

a. BVA agrees to protect, defend, indemnify and hold the Town and its employees free and harmless from and against any and all losses, claims, liens, demands and causes of action of every kind and character, including the amount of judgments, penalties, interest, court costs and legal fees incurred by the Town in defense of same, arising in favor of any party, including governmental agencies or bodies, on account of claims, liens, debts, personal injuries, including personal injuries sustained by employees of the Town, death or damage to property, including property of the Town, and

without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to the services which BVA hereby agrees to provide, hereafter all jointly being referred to as "claims".

b. Notwithstanding the foregoing, BVA shall not be liable, nor shall BVA have to indemnify the Town or hold the Town harmless for claims resulting from the sole negligence of the Town.

c. The Town shall give BVA prompt notice of every claim received by the Town for which claim BVA is, in whole or in part, liable.

d. BVA, at its sole expense, agrees to investigate, handle, respond to, or provide defense for and defend any claim made against the Town for which claim BVA is claimed to be in whole or in part, liable, and BVA agrees to bear all other costs and expenses related thereto even if such claim is groundless, false, or fraudulent.

e. BVA shall maintain insurance to protect the Town and BVA from and against any and all claims, injury or damage to persons or property, both real and personal, arising from the services herein contracted for such types and in such amounts as is customarily maintained by volunteer ambulance companies serving comparable communities, all as reasonably approved by the Town.

f. BVA shall obtain and maintain, at its sole expense, and at a minimum, the following insurance coverage:

1. Comprehensive General Liability with an each occurrence limit of \$1,000,000 and \$2,000,000 aggregate for bodily injury and property damage. Such coverage is to include contractual liability and errors and omissions coverage.

2. Automobile Liability with a limit of \$1,000,000 for bodily injury and property damage including mutual aid coverage.
3. Excess Umbrella Liability with a combined single limit of at least \$2,000,000 for bodily injury and property damage.
4. Workers Compensation Benefits with mandatory limits of coverage.

g. The Town shall be named as an additional named insured on each policy.

h. BVA shall obtain and maintain the required insurance coverage in such forms and with such insurance carriers as are approved by the Town, and the Town shall not unreasonably withhold such approval. BVA will provide and furnish to the Town certificates of insurance showing the above required insurance to be in full force and effect.

i. Each policy providing coverage hereunder shall provide that said policy can neither be canceled nor materially changed except upon sixty (60) days written notice, by certified mail, return receipt requested, to the Town.

j. The form and substance of the insurance provided by BVA to the Town may be reviewed and is subject to the approval of the Town Attorney.

9. Status of BVA

BVA expressly agrees that its status is that of an independent contractor, and that none of its officers, directors, or members are employees of the Town by virtue of this Agreement.

10. Term

This Agreement shall be effective from January 1, 2013 to and including December 31, 2013 and it shall be renewed upon the same basis each year thereafter for an additional term of one year, except that the amount of said contract, and fuel to be included therein, shall be set pursuant to the public budget process of the Town, unless one of the contracting parties shall notify the other in writing sent by personal delivery, or by certified mail return receipt requested, on or before October 1st that it elects to terminate this Agreement on December 31st of that year. If this Agreement shall be deemed to continue pursuant to the terms of the preceding sentence, the parties agree to execute and deliver an amendment incorporating an amended contract amount, and such other changes in terms and conditions as are agreeable to both parties.

This Agreement may also be terminated by either party upon ninety (90) days written notice provided by the party wishing to terminate the Agreement to the other party, such written notice sent by personal delivery, or by certified mail return receipt requested, in the event that either (a) BVA ceases all or substantially all operations or announces its intention to do so, or (b) BVA is in default hereunder which default is not cured within such ninety (90) day period.

11. Assignment

BVA shall not assign, transfer, or convey any right, title, or interest in this Agreement or any part thereof without the previous approval in writing of the Town.

12. Vehicle Acquisition

In addition to the foregoing, the District has previously purchased ambulance vehicles, and it is the District's present intention to purchase additional vehicles for use of the BVA in providing services to the District. In consideration, BVA agrees and understands that it shall be responsible to house, operate, repair and maintain the Vehicles, so as to provide services hereunder and maintain the Vehicles in good operating order, and in compliance with all of the provisions of all warranties provided on the Vehicles by its manufacturer and/or equipment provider. Personal liability and/or property and casualty insurance with respect to such Vehicles shall, at the District's sole option, be maintained by the District or may be the responsibility of BVA if the District so desires. In the event BVA is responsible for such insurance, it shall be for amounts of coverage consistent with that maintained by the Town of Brighton on other emergency response vehicles. The cost of such insurance, if obtained by the District, shall be invoiced to BVA by the District, and paid within thirty (30) days after the date of such invoice, or, but only if so directed by BVA, deducted from the funds paid to the BVA under this Contract through the Town's budget process.

BVA intends to retain use of five (5) of the Districts ambulances; four (4) active and one (1) in reserve as a back up. Upon the acquisition of any new ambulances, older ones will be taken out of service and returned to the District for disposal. BVA and the Town hereby agree that BVA will continue the arrangement to house one of the older current ambulances vehicles at the West Brighton Fire House #1 on West Henrietta Road, as a back up vehicle, available for use when one or more of the ambulances are unavailable, provided that this arrangement may be terminated on 60 days notice if the Town determines that the

Rochester Fire Department or West Brighton Fire Department need the space for their equipment. BVA will not staff the West Brighton Fire House, and will otherwise adhere to the requirements of this Section 12 to operate repair, maintain and insure such vehicles during the term hereof. Also, the 2002 Ford Expedition Fly Car and the 2009 Chevy Tahoe Fly Car will be owned by the District and treated in the same manner as the District owned ambulances.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

TOWN OF BRIGHTON

By: _____
Supervisor

Date: _____

Attest: _____ Date: _____
Town Clerk

BRIGHTON VOLUNTEER AMBULANCE SERVICE, INC.

By: _____ By: _____
Secretary President

Date: _____ Date: _____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

WHEREAS, Doyle Security has offered to install a security system at the Brighton Veterans Memorial at a \$500.00 discount and without monitoring expense, and Town staff has identified a need for security services at the Memorial site, it is therefore

RESOLVED, that correspondence dated December 31, 2012 from Town Engineer Michael E. Guyon, P.E. regarding a contract with Doyle Security for security services and equipment to be installed at the Veterans Memorial, be received and filed, and be it further

RESOLVED, that based on the in kind donation from the vendor as described above, the Town Board hereby waives compliance with the Town's Procurement Policy and authorizes the Supervisor to execute a contract with Doyle Security for security services and equipment to be installed at the Veterans Memorial, subject to the review and approval of any such contract by the Attorney to the Town.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE * ROCHESTER, NEW YORK 14618 * PHONE (585)784-5250 * FAX (585)784-5368

December 31, 2012

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

Re: Veteran's Memorial
Security System Donation

Dear Councilperson Werner and Committee Members:

Doyle Security is proposing to install a seismic detector at the Veterans Memorial that will monitor vibrations at the sculpture and alert the authorities of possible vandalism. The signal from the seismic detector will be sent to the existing security system at the Buckland House. The existing system was previously installed by Doyle Security who continues to provide monitoring services via an annual contract to the Town. Doyle Security indicated that they will monitor the seismic detector at no additional charge.

Doyle security provided a proposal which indicates that the installation cost of this system is \$2,550. This proposal also states that Doyle Security would like to contribute \$500 towards the cost of this project thus reducing the installation cost to \$2,050. A copy of Doyle Security's proposal is attached for your reference. Please note that because this improvement includes a donation by the contractor the procurement policy which requires that three quotes be obtained, was not adhered.

I am requesting that the FASC recommend that the Town Board accept Doyle Security's donation along with the proposed installation of the seismic detector at the Memorial Sculpture.

I will be in attendance at your regularly scheduled January 2, 2013 meeting in the event that you have any questions regarding this correspondence. As always, your consideration of matters such as this is greatly appreciated.

Sincerely,

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

Cc: Suzanne Zaso
Mary Ann Hussar
Tim Keef

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated December 31, 2012 from Chief of Police Mark T. Henderson regarding authorization to accept a donation of \$75.00 from the Grosvenor East Townhouse Condo Association, be received and filed, and be it further

RESOLVED, that the Town Board hereby gratefully accepts the generous donation to the Police Department of \$75.00 from the Grosvenor East Townhouse Condo Association, and directs that such donation be recorded as revenue to the 2013 Police Department Operating Budget under A.POLICE.3120.2075 (Gifts and Donations).

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

POLICE DEPARTMENT
2300 Elmwood Avenue
Rochester, New York 14618-2196



Mark T. Henderson
Chief of Police

Emergency 911
Administrative (585) 784-5150
Fax: (585) 784-5151

December 31, 2012

Honorable Town Board
Town of Brighton
2300 Elmwood Avenue
Rochester, New York 14618

Dear Board Members:

Recently, the Police Department received a donation of \$75.00 from the Grosvenor East Townhouse Condo Association.

I request that the Town Board authorize the acceptance of this gift, and that the donation be recorded as revenue to the 2013 Police Department Operating Budget under A.POLCE.3120.2705 Gifts and Donations. I have attached a copy of my letter to the Association expressing the department's gratitude for this generous donation.

Sincerely,

Mark T. Henderson
Chief of Police

MTH:dm
attachment



Town of Brighton

POLICE DEPARTMENT
2300 Elmwood Avenue
Rochester, New York 14618-2196



Mark T. Henderson
Chief of Police

Emergency 911
Administrative (585) 784-5150
Fax: (585) 784-5151

December 18, 2012

Grosvenor East Townhouse Condo Association
c/o Kenrick Corporation
3495 Winton Place Bldg D-4
Rochester, New York 14623

Dear Board of Directors:

I am writing to express my sincere appreciation for your thoughtful and generous donation to the Brighton Police Department.

While it is not necessary to make direct donations to the department for services provided, your thoughtfulness and consideration help instill a strong community-oriented attitude in our officers. In keeping with the spirit of your donation, your \$75.00 donation will be used to support community service functions.

On behalf of the entire Brighton Police Department, I wish to thank you for your thoughtfulness and generosity.

Sincerely,

A handwritten signature in black ink that reads "Mark T. Henderson". The signature is written in a cursive style with a long horizontal line extending to the right.

Mark T. Henderson
Chief of Police

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated January 3, 2013 from Director of Parks and Recreation Jerry LaVigne regarding the 2013 meeting schedule for the Parks and Recreation Community Services Committee, be received and filed, and be it further

RESOLVED, that the Town Board hereby adopts the schedule of meetings for the Parks and Recreation Community Services Committee for 2013 as attached to the above correspondence.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



TOWN OF BRIGHTON
RECREATION, PARKS & COMMUNITY SERVICE DEPARTMENT

220 Idlewood Road
Rochester, NY 14618
<http://www.townofbrighton.org>

(585) 784-5260
Fax: (585) 784-5365
TTY: (585) 784-5381

January 3, 2013

Honorable Town Board
Town of Brighton
2300 Elmwood Avenue
Rochester, New York 14618

Re: Meeting Dates For 2013

Dear Town Board Members:

I respectfully request that you approve the attached proposed Parks and Recreation Community Services Committee meeting dates for 2013. All meetings are scheduled to be held at the Brookside Community Center.

Sincerely,

Jerry LaVigne
Director of Parks and Recreation

Parks and Recreation Community Services Committee

**MEETING DATES
FOR 2013**

All meetings are scheduled to begin at 4:30 pm

DATE

January 28th

February 25th

April 1st

April 29th

May 20th

June 24th

July 29th

August 26th

September 30th

October 28th

November 25th

December 16th

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated December 28, 2012 from Town Engineer, Michael E. Guyon, P.E. regarding authorizing the Supervisor to execute an extension of the contract for professional services with Environmental Design & Research, P.C. for the Pedestrian and Bicycle Master Plan through February 28, 2013, be received and filed, and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute an extension of the contract for professional services with Environmental Design & Research, P.C. for the Pedestrian and Bicycle Master Plan through February 28, 2013.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE ★ ROCHESTER, NEW YORK 14618 ★ PHONE (585)784-5250 ★ FAX (585)784-5368

December 28, 2012

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

Re: Pedestrian and Bicycle Master Plan
Professional Services Contract
Contract Extension

Dear Councilperson Werner and Committee Members:

The Bicycle and Pedestrian Master Plan was scheduled for completion in November 2012. However, an extended comment period has delayed its completion and as a result the Professional Services contract with EDR must be extended. I am requesting that FASC extend the Pedestrian and Bicycle Master Plan Professional Services contract with EDR to March 2013. This extension will not alter the contract price

I will be in attendance at your regularly scheduled January 2, 2013 meeting in the event that you have any questions regarding this correspondence. As always, your consideration of matters such as this is greatly appreciated.

Sincerely,

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

Cc: Suzanne Zaso
Tim Keef
Mary Ann Hussar



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE ★ ROCHESTER, NEW YORK 14618 ★ PHONE (585)784-5250 ★ FAX (585)784-5368

January 4, 2013

edr Companies
274 North Goodman Street
Rochester, New York 14607

Attention: Tom Robinson, LS

Re: Bicycle and Pedestrian Master Plan
Agreement Amendment

Dear Tom,

I am pleased to advise you that the Town of Brighton Town Board at its regularly scheduled meeting of January 9, 2013 authorized to extend the professional services agreement between the Town of Brighton and Environmental Design & Research, P.C to develop the Town of Brighton Bicycle and Pedestrian Master Plan. The Town Board has agreed to extend the agreement to February 28, 2013.

Please indicate your acceptance of this amendment by signing below and returning the original to Michael E. Guyon, Town Engineer, at 2300 Elmwood Ave. Rochester, New York 14618. The Terms and Conditions of the original agreement shall remain unchanged and apply to this amendment.

Thank you for your attention to this matter and please direct any questions or comments in this regard to Michael E. Guyon.

By signing below, the signatory agrees to extend the Professional Services Agreement to develop a Bicycle and Pedestrian Master dated November 7, 2011 to February 28, 2013 as stated herein. The original contract Terms and Condition apply to this amendment.

Town of Brighton Supervisor
William W. Moehle

Date

Authorized Representative of edr Companies

Date

Cc. Kenneth W. Gordon, Town Attorney
Tim Keef, Commissioner of Public Works

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,

Supervisor

JAMES R. VOGEL

LOUISE NOVROS

CHRISTOPHER K. WERNER

JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated December 21, 2012 from Chief of Police Mark T. Henderson, regarding extending a conditional offer of employment to Taylor S. Barth, as a Brighton Police Officer effective January 10, 2013 and an appointment as a Brighton Police Officer to be effective February 23, 2013, said appointment being contingent upon the successful completion by Mr. Barth of the Monroe County Police Academy and all testing, evaluation and approval as required by the Town of Brighton and the Monroe County Civil Service Commission, be received and filed, and be it further

RESOLVED, that the Town Board hereby authorizes the Chief of Police to extend a conditional offer of employment to Taylor S. Barth, as a Brighton Police Officer effective January 10, 2013 and an appointment as a Brighton Police Officer to be effective February 23, 2013 at a starting salary of \$51,836.00 in accordance with Article 8 of the Collective Bargaining Agreement between the Town and the Brighton Police Patrolman's Association, said appointment being contingent upon the successful completion by Mr. Barth of the Monroe County Police Academy and all testing, evaluation and approval as required by the Town of Brighton and the Monroe County Civil Service Commission.

Dated: January 9, 2013

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

POLICE DEPARTMENT
2300 Elmwood Avenue
Rochester, New York 14618-2196



Mark T. Henderson
Chief of Police

Emergency 911
Administrative (585) 784-5150
Fax: (585) 784-5151

December 21, 2012

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

Re: Conditional Offer of Employment: Taylor S. Barth

Dear Board Members:

As a result of the retirement of Thomas Schirmer, there is currently a Police Officer vacancy within the Brighton Police Department. After an extensive search for qualified candidates, I am recommending Mr. Taylor S. Barth to fill the position, pending final approval by the Monroe County Civil Service Commission.

Mr. Barth is currently ranked #1 on a Civil Service list of eligible candidates for Deputy Sheriff Road Patrol/Police Officer, OC-63836. Mr. Barth has a Bachelor of Arts degree from the State University of New York College at Cortland.

I respectfully request that the Honorable Town Board authorize a Conditional Offer of Employment to Taylor S. Barth, effective January 10, 2013 and that the appointment as a Police Officer be effective February 23, 2013 at a starting salary of \$51,836.00 in accordance with Article 8 of the Collective Bargaining Agreement between the Town of Brighton and the Brighton Police Patrolman's Association. This appointment is contingent upon the successful completion of the Monroe County Police Academy and all testing, evaluation, and approval as required by the Town of Brighton and the Monroe County Civil Service Commission.

Respectfully,

A handwritten signature in black ink that reads "Mark T. Henderson". The signature is written in a cursive style with a long horizontal stroke at the end.

Mark T. Henderson
Chief of Police

xc: Finance and Administrative Services Committee
Gary Brandt, Director of Personnel
Daniel Aman, Town Clerk

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 9th day of January, 2013.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
JASON S. DIPONZIO
CHRISTOPHER K. WERNER
Councilpersons

RESOLVED, that the Town Board hereby appoints William W. Moehle as the official delegate of Town for the annual business session of the Association of Towns of the State of New York to be held in New York City on February 20, 2013.

Dated: January 09, 2013

UPON ROLL CALL VOTE

William W. Moehle, Supervisor	Voting ____
James R. Vogel, Councilperson	Voting ____
Louise Novros, Councilperson	Voting ____
Jason S. DiPonzio, Councilperson	Voting ____
Christopher K. Werner, Councilperson	Voting ____