

**Town of Olive
RESOLUTION #12 of 2024**

**TITLE: IN THE MATTER OF THE ACQUISITION OF CERTAIN FEE ACQUISITION, PUMP STATION, AND
ACCESS EASEMENTS BY EMINENT DOMAIN**

In The Matter of the Acquisition of Certain Minor Easements for Use in Public Project By The
Town of Olive, New York:

WHEREAS, as part of the Watershed Protection and Partnership Programs of the New York City Watershed Memorandum of Agreement (“MOA”), New York City provided funding for the New Sewage Treatment Infrastructure Facilities Program (NIP) and the Community Wastewater Management Program to assist in the development of new sewage collection and treatment facilities in up to twenty-two (22) selected villages and hamlets in the NYC Watershed; and

WHEREAS, the Town of Olive, Ulster County, contains the Hamlet of Shokan, which was selected to receive funding for the construction of a new community wastewater infrastructure project; and

WHEREAS, due to certain deficiencies in the existing on-site wastewater treatment and disposal facilities on both residential and commercial properties in the Town, the Town proposed the creation of a sewer district for these areas and the construction of a publicly-owned and operated wastewater collection system including pump stations and related infrastructure, with related work (the “Project”); and

WHEREAS, subject to permissive referendum in the manner provided in Town Law Article 7, a majority of the residents within the proposed service area of the Project voted in favor of the establishment of the Shokan Sewer District; and

WHEREAS, a certificate of the Town Clerk was filed pursuant to Town Law § 209-e(4) certifying the results of the special election held on September 24, 2022, and per Town Board Resolution No. 30 of 2022, the Town formed the Shokan Sewer District with a service area that includes the hamlet of Shokan; and

WHEREAS, due to failing septic systems and demonstrable water quality problems, a primary purpose of the Project is to construct and maintain an adequate system for sewage removal and treatment to ensure the health, safety and welfare of Town residents and businesses; and

WHEREAS, design and construction of the proposed sewer system will be performed in conformance with New York State Department of Environmental Conservation Design Standards for Wastewater Treatment Works, 2014 (2014 NYSDEC Standards), and the Rules and Regulations for the Protection from the Contamination, Degradation and Pollution of the New York City Water Supply and its Resources, 2002 (NYCWRR). Regulatory review and approval will be obtained prior to the initiation of construction; and

WHEREAS, the Town of Olive Town Board (the “Board”) has reviewed and considered the plans and schematics for the Project, as reflected in the Preliminary Engineer’s Report Shokan Wastewater Management Program for the Hamlet of Shokan, Town of Olive, Ulster County, New York, dated September 25, 2019 and amended February 21, 2020, April 30, 2020 with final issued on September 25, 2020, prepared by Lamont Engineers, which requires the Town to acquire minor easements from various real property in the area of the proposed sewer district to accommodate the Project; and

WHEREAS, the Board has determined that the Project is in the best interest of the Town and its residents and, as a result, that the contemplated acquisitions are in the best interests of the health, safety and welfare of the Town and its residents, as it is in the public’s best interest that the Project be properly constructed and maintained; and

WHEREAS, the Board has endeavored and will continue to endeavor to acquire any necessary acquisitions for the Project by voluntary compliance with landowners, but the Board acknowledges that voluntary compliance will not achieve all the necessary acquisitions requiring the Board to exercise its powers of Eminent Domain; and

WHEREAS, certain parcels are necessary for siting pump stations and related infrastructure (“Pump Stations”); and

WHEREAS, access across other parcels are necessary for ingress and egress to the Pump Stations for access, installation, maintenance, operation and repairs to the Pump Stations; and

WHEREAS, specifically, the following acquisitions are necessary for the Project;

- Fee Acquisition of a 0.16-acre parcel (Tax Parcel 37.73-1-35) for construction of Pump Station #6 (“Parcel 1”); and
- Permanent Pump Station Easements of 5,600 SF and 2,200 SF (Tax Parcel 37.3-3-13) for construction of Pump Stations #7 and #8 and related utilities (“Parcel 2”); and
- Permanent Pump Station Easement of 10,900 SF (Tax Parcel 37.18-2-39.300) for construction of Pump Station #5 (“Parcel 3”); and
- Permanent Pump Station Easement of 5,100 SF (Tax Parcel 46.5-2-48) for construction of Pump Station #3 (“Parcel 4”); and
- Permanent Access Easement of 26,929 SF (Tax Parcel 46.5-4-64) for access to Pump Station #2 (“Parcel 5”); and
- Permanent Access Easement of 64,857.14 SF (Tax Parcel 37.18-2-39.100) for access to Pump Station 5 and installation of utilities (“Parcel 6”); and
- Permanent Access Easement of 84,500 SF (Tax Parcel 37.18-2-39.200) for access to Pump Station #5 and installation of utilities (“Parcel 7”); and
- Permanent Access Easement of 124,500 SF (Tax Parcel 46.5-4-60) for access to Pump Station #2 and installation of utilities (“Parcel 8”); and
- Permanent Access Easement of 31,200 SF (Tax Parcel 46.5-4-61) for access to Pump Station #2 and installation of utilities (“Parcel 9”); and
- Permanent Access Easement of 64,100 SF (Tax Parcel 46.5-4-70) for access to Pump Station #2 and installation of utilities (“Parcel 10”); and

WHEREAS, the Board proposes a fee acquisition of Parcel 1 to construct Pump Station #6, and the acquisition of permanent easements on Parcels 2, 3 and 4 to construct Pump Stations #7, #8, #5 and #3 respectively; and

WHEREAS, the Board also proposes the acquisition of permanent easements for access to Pump Station facilities and related utility installations on Parcels 4 through 10; and;

WHEREAS, the Town's acquisition of these property interests are integral to and necessary for implementing the Project. As stated above, the Project is necessary to protect the health and safety of the community and to protect the water supply to New York City; and

WHEREAS, the proposed location for the Project was the product of a rigorous analysis that was performed in conjunction with the environmental review for the Project under the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, as part of the Preliminary Engineering Report investigation, on behalf of the Town, Lamont Engineers conducted an exhaustive search for a suitable system and locations for the community system; and

WHEREAS, Lamont has engaged in numerous outreach efforts to go over the proposed improvements with each affected property owner; and

WHEREAS, the Town (through Lamont Engineers) has worked with property owners who responded to these outreach efforts to develop a project design that met the objectives of all parties; and

WHEREAS, the Board has determined that further delay in the acquisition of property interests for this important public works project is not in the public interest, and therefore, has determined it must proceed with acquisition of property interests by eminent domain where affected property owners will not voluntarily participate in the project; and

WHEREAS, the Board has endeavored and will continue to endeavor to work with the all affected property owner to agree on terms and payment of just compensation for the voluntary acquisition of necessary property interests; and

WHEREAS, the Board hereby determines that the contemplated acquisitions of the property interests referenced above, shall be pursuant to Article 2 of the New York State Eminent Domain Procedure Law; and

WHEREAS, the Board had previously complied with the mandates of SEQRA for the entire Project including land acquisition.

NOW WHEREFORE, BE IT RESOLVED AS FOLLOWS BY THE TOWN OF OLIVE TOWN BOARD, ULSTER COUNTY, NEW YORK:

THAT THE Town of Olive Town Board hereby determines that further delay to achieve voluntary compliance to acquire the aforementioned property rights in furtherance of the Project is not practicable and would prejudice the Project and thus authorizes the Town and its legal agents to acquire the lands or interests by use of Eminent Domain; and

THAT THE Town of Olive Town Board hereby determines, as reflected by the Project maps for the Project, acquisition of following property interests by Eminent Domain is necessary for the Project;

- Fee Acquisition of a 0.16-acre parcel (Tax Parcel 37.73-1-35) for construction of Pump Station #6 (“Parcel 1”); and
- Permanent Pump Station Easements of 5,600 SF and 2,200 SF (Tax Parcel 37.3-3-13) for construction of Pump Stations #7 and #8 and related utilities (“Parcel 2”); and
- Permanent Pump Station Easement of 10,900 SF (Tax Parcel 37.18-2-39.300) for construction of Pump Station #5 (“Parcel 3”); and
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- Permanent Access Easement of 64,100 SF (Tax Parcel 46.5-4-70) for access to Pump Station #2 and installation of utilities (“Parcel 10”); and

BE IT FURTHER RESOLVED, that the Town of Olive Town Board hereby authorizes the Town and its legal agents to work with each affected property owner to agree on a purchase price in order to avoid the need to engage in Eminent Domain or potential litigation over compensation; and

BE IT FURTHER RESOLVED, that the Town of Olive Town Board shall comply with all requirements of Article 2 of the Eminent Domain Procedure Law, by giving due notice, and holding a public hearing, relative to the Town proposed acquisitions at a date and time to be determined by the Town Board; and

BE IT FURTHER RESOLVED, that the Town Board and the attorneys for the Town are hereby directed to take such actions as are necessary to implement this resolution.

Whereupon, the Resolution was put to a vote, recorded as follows:

AND MOVES ITS ADOPTION

Motion made by:

Seconded By:

A Vote was Duly Taken:

	Aye	Nay	Absent
Jim Sofranko, Supervisor	_____	_____	_____
Andrew Boggess, Board Member	_____	_____	_____
Scott Kelder, Board Member	_____	_____	_____
David Edinger, Board Member	_____	_____	_____
Victoria Read, Board Member	_____	_____	_____

Dated this 9th day of April, 2024

Dawn Giuditta, Town Clerk

STATE OF NEW YORK }
COUNTY OF ULSTER }
TOWN OF OLIVE }

I have compared the preceding copy with the original Resolution on file in this office adopted by the Town Board of Olive on April 9, 2024, and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original. I further certify the vote thereon was as follows:

MEMBERS PRESENT	MEMBERS ABSENT	VOTE
Jim Sofranko		Yea/Nay
David Edinger		Yea/Nay
Scott Kelder		Yea/Nay
Drew Boggess		Yea/Nay
Victoria Read		Yea/Nay

Dated:

Dawn Giuditta
Town Clerk

DRAFT