

**Town of Olive
RESOLUTION #13 of 2024**

TITLE: DE MINIMIS FINDING AND AUTHORIZATION FOR SUPERVISOR TO EXECUTE AND FILE NECESSARY PETITION(S), ACQUISITION MAP(S), AND NOTICE(S) OF PENDENCY AS ARE REQUIRED TO SECURE THE NECESSARY UTILITY 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 station 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;

WHEREAS, the sewer main locations, after an exhaustive study prepared by Lamont Engineering, is no longer subject to change;

WHEREAS, the Board and the residents of the Shokan Sewer District have 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;

WHEREAS, the Board has endeavored and will continue to endeavor to acquire any necessary easements and acquisitions for the project by voluntary compliance with land owners, but the Board acknowledges that voluntary compliance may not be achieved for all the necessary acquisitions requiring the Board to exercise its powers of Eminent Domain;

WHEREAS, as reflected by the Project maps for the remaining easements needed for the Project, the Board has determined, pursuant to New York Eminent Domain Procedure Law § 206, that the remaining utility easement acquisitions are all minor in nature, affecting small portions of individual properties and constitute minor amounts of land and land interests, and therefore any of the individual acquisitions by Eminent Domain would be *de minimis* in nature so that the public interests will not be prejudiced by the acquisition of those property interests for construction of the Project;

WHEREAS, the Town had previously complied with the mandates of the State Environmental Quality Review Act (ECL Article 8 and 6 NYCRR Part 617) (“SEQRA”) for the Project, as reflected by the Board’s Negative Declaration adopted on May 10, 2022; and

WHEREAS, pursuant to the terms of SEQRA, utilizing Eminent Domain to acquire those utility easements for the Project is consistent with the Board’s prior SEQRA review and Negative Declaration for the Project.

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 the acquisition of contemplated remaining utility easements for the Project are *de minimis* in nature as provided by the Eminent Domain Procedure Law; and

THAT THE Town authorizes its legal agents to send final offer letters to remaining landowners with fair market value; and

THAT THE Town of Olive Town Board hereby determines that if the final offers are not accepted and/or voluntary compliance to acquire easements or fee acquisitions in furtherance of the Project is not practicable or would prejudice the Project, the Town and its legal agents are authorized to acquire the lands or interests by use of Eminent Domain; and

THAT THE Supervisor is authorized to execute and file the necessary Petitions, Acquisition Maps and Notices of Pendency as are required to secure the necessary property by eminent domain.

BE IT FURTHER RESOLVED, that the Board and Special Counsel for 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 Borgess		Yea/Nay
Victoria Read		Yea/Nay

Dated:

Dawn Giuditta
Town Clerk

DRAFT