

THE MEETING TONIGHT IS FOR THE CONDUCT OF TOWN BUSINESS BY THE TOWN BOARD. THE PUBLIC IS INVITED TO PARTICIPATE AT THE ITEMS MARKED ON THE AGENDA "PUBLIC COMMENT." DURING THAT SEGMENT OF THE MEETING, IF YOU HAVE A QUESTION OR COMMENT FOR THE SUPERVISOR, PLEASE RAISE YOUR HAND AND WAIT TO BE ACKNOWLEDGED. PLEASE STATE YOUR FULL NAME AND LIMIT YOUR REMARKS TO THREE MINUTES. THANK YOU FOR YOUR ANTICIPATED COOPERATION.

FIRST MEETING OF THE MONTH  
TOWN BOARD TOWN OF MARLBOROUGH  
21 MILTON TURNPIKE, MILTON NY  
JULY 11, 2022 7:00 PM

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

ITEM #3 Motion to approve agenda.

ITEM #4 Motion to approve the June 27, 2022 Town Board Meeting minutes

ITEM #5 Authorize payment of bills

ITEM #6 Comments on the agenda

ITEM #7 Presentations

ITEM #8 Report of Departments and Boards

- A) SUPERVISOR – SCOTT CORCORAN
- B) BUILDING INSPECTOR - THOMAS CORCORAN
- C) POLICE CHIEF - GERALD COCOZZA
- D) HIGHWAY SUPERINTENDENT – JOHN ALONGE
- E) WATER SUPERINTENDENT - CHARLIE MUGGEO
- F) TOWN CLERK - COLLEEN CORCORAN
- G) WASTEWATER TREATMENT FACILITY- JULIAN FALCO
- H) DOG CONTROL OFFICER - ANDREW MCKEE
- I) ASSESSOR - CINDY HILBERT
- J) PLANNING - CHRIS BRAND

ITEM #9 Report of Committees

- A) RECREATION COMMITTEE
- B) EMERGENCY MANAGEMENT PREPAREDNESS COMMITTEE
- C) CONSERVATION ADVISORY COMMITTEE

- D) IT COMMITTEE
- E) MILTON TRAIN STATION FOUNDATION
- F) MILTON LANDING CITIZENS COMMITTEE
- G) MARLBORO HAMLET ECONOMIC DEVELOPMENT COMMITTEE
- H) MEET ME IN MARLBOROUGH
- I) HAMLET OF MILTON ASSOCIATION COMMITTEE
- J) TRANSFER STATION REVIEW COMMITTEE

ITEM #10 Old Business

- A). Tomvac Rehabilitation Update

ITEM #11 New Business

- A). July 25<sup>th</sup> meeting-change location to the upstairs conference room
- B). Board of Assessment Review-Advertise for open position

ITEM #12 Correspondences

ITEM #13 Public Comments

ITEM #14 Resolutions

- A). Resolution # 61 To appoint a summer camp employee
- B). Resolution # 62 To introduce a local law of the year 2022
- C). Resolution # 63 To introduce a local law of the year 2022
- D). Resolution #64 To authorize the Town Supervisor to sign an agreement

ITEM #15 Adjournment

July 11, 2022

A). Resolution # 61 To appoint a summer camp employee

Supervisor Corcoran proposes the following:

Be it resolved, that the following employee be appointed for the 2022 summer camp

**YOUTH COUNSELORS**

Dante Valentino

And moves for its adoption:

Councilman Molinelli	-----
Councilwoman Sessa	-----
Councilman Cauchi	-----
Councilman Zambito	-----
Supervisor Corcoran	-----

July 11, 2022

B). Resolution # 62 To introduce a local law of the year 2022

Supervisor Corcoran proposes the following:

\_\_\_\_\_, seconded by \_\_\_\_\_, introduced the following proposed local law, to be known as Local Law No. \_\_\_\_ of 2022, entitled, Local Law No. \_\_\_\_ of 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 “ZONING” OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 “TERMS DEFINED” TO AMEND DEFINITIONS FOR “BED AND BREAKFAST” AND “SHORT-TERM RENTAL”, SECTION 155-12 “USE REGULATIONS”, SECTION 155 ATTACHMENT 2, SECTION 155-27 “OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS”, SECTION 155-30 “MULTIPLE DWELLINGS”, AND ADDING SECTION 155-32.4 “BED AND BREAKFAST”.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 155-1 of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

## **BED AND BREAKFAST**

A home occupation allowing overnight accommodations in residential structures which takes place only in permanently owner-occupied structures. The use is limited to 50% of the structure. Meals may be served to guests of the business. Use is subject to site plan review by the Planning Board. Each owner of a Bed and Breakfast overnight accommodation must obtain an annual operating permit from the Building Department and must pay any related permitting or

inspection fees established by the Town. These fees from time to time may be updated and changed during the Town Board annual reorganization meeting.

## **SHORT-TERM RENTAL**

The rental by a tenant of all or part of a furnished, self-contained detached dwelling unit for a period of 30 days or less (the “short-term rental unit”), fee title to which is owned by the person who i) owns fee title to and ii) ~~permanently resides at the short-term rental unit or at owns~~ a dwelling unit which is next door to or directly across the street from the short-term rental unit as his or her primary residence (the “owner”). An owner shall not own or have an ownership interest in more than two short-term rental units within the Town of Marlborough. ~~one in which he or she resides as his or her primary residence and one which is next door to or directly across the street from such primary residence~~

Section 2. Section 155-12(A)(4)(i) of the Marlborough Town Code is amended to read as follows [deletions are stricken and additions are underscored]:

Bed-and-breakfast with the use limited to 50% of the structure.

Section 3. Section 155-12(B)(4)(i) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Bed-and-breakfast with the use limited to 50% of the structure.

Section 4. Section 155-12(C)(4)(n) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Bed-and-breakfast with the use limited to 50% of the structure.

Section 5. Schedule I, “Lot, Yard and Height Regulations” of Chapter 155 Attachment 2 of the Marlborough Town Code is amended to add “With public water and sewer and natural gas (square feet)” in the “Regulations” column, and to insert “7,500” in the column for District R.

Section 6. Section 155-27(B)(2) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Dimensions for required loading berths. Each required loading berth shall be ~~a minimum of 60 feet long, 14 feet wide and, if covered, 15 feet high.~~ determined at the discretion of the Planning Board. Minimum length may be increased depending on the dimensions of the transportation mode (vehicle or railroad car) customarily serving the building described in Table 2 above.

Section 7. Section 155-30(B)(2) of the Town Code of the Town of Marlborough is amended to read as follows [deletions are stricken and additions are underscored]:

Minimum distances between structures in all zones (except C-1 and R). Where there are two or more structures on a single lot devoted to multiple dwellings, the minimum distance between structures shall be 1 1/2 times the height of the highest structure.

Section 8. Section 155-32.4 of the Town Code of the Town of Marlborough is added to read as follows [deletions are stricken and additions are underscored]:

Section 155-32.4 Bed and Breakfast

Each owner of a Bed and Breakfast must obtain an annual operating permit from the Building Department, must pay any related permitting/inspection fees, and must comply with the following:

A. Application process and required submittals.

(1) Provide a completed annual permit application, including:

(a) A safety/egress plan, to be posted in the proposed Bed and Breakfast in a visible location and on the back of each bedroom door of a bedroom occupied by a renter.

(b) A parking layout plan identifying where parking is to be located as required in accordance with standards set forth in § 155-27 of this chapter.

(c) A garbage removal plan (garbage receptacles cannot be left out for more than 24 hours before and after pickup).

B. The name and contact information of the owner shall be provided to the Building Department and shall be posted in the Bed and Breakfast. Both the owner and the renter will be responsible for addressing rental issues and compliance with Bed and Breakfast requirements within 24 hours. The owner must notify the Building Department of any changes in Bed and Breakfast contact information and posted notice(s) in the Bed and Breakfast shall be revised accordingly.

C. Occupancy shall be limited to two guests per bedroom and total Bed and Breakfast rental occupancy shall be posted in the Bed and Breakfast. Children 12 years old and under shall not be counted as guests.

D. Owners of a Bed and Breakfast must register with Ulster County in accordance with Ulster County Local Law No. 5 of 1991. A copy of said registration must accompany each Bed and Breakfast application to the Town Building Department. Owners of properties in the Town of Marlborough that are listed on the Ulster County registry of homes used for short-term rentals or

Bed and Breakfasts shall receive notification from the Building Department of the provisions of the Town Code applicable to Bed and Breakfasts, including the registration and operational requirements.

E. A Bed and Breakfast must pass a yearly fire/safety inspection and a copy of the inspection report must be attached to the Bed and Breakfast annual renewal permit applications. All Bed and Breakfasts must comply with New York State Building Code requirements.

F. Only an owner is permitted to register a Bed and Breakfast. An individual owner must be a permanent resident of the Town of Marlborough and must occupy the residence to be used as the Bed and Breakfast full-time. The use is limited to 50% of the structure.

G. The Town Board may set limits on the number of Bed and Breakfasts permitted within the Town and shall establish the fee schedule on an annual basis.

H. Each owner will provide guests with copies of applicable local laws, including the noise, fire, safety ordinances and requirements. Each owner will also provide emergency contact information as well as the address of the property where the Bed and Breakfast is located and will ensure the property address is clearly identifiable from the street. Owner will provide guests with a property map that shows the property boundaries.

I. An approved Bed and Breakfast will be assigned a registration number that must be included in all rental listings, both print and online, and must also be posted within the Bed and Breakfast. Advertising on or at the site of the Bed and Breakfast is prohibited.

J. Failure to comply with the requirements of this section may result in denial of a Bed and Breakfast application by the Building Department.

K. Three or more convictions for violations of local laws may lead to revocation or nonrenewal of a Bed and Breakfast operating permit by the Building Department.

L. The owner shall be responsible for compliance with the provisions of this section and management of his or her Bed and Breakfast.

Section 9. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 10. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 11. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, the Town Board has determined that the action to amend the Town of Marlborough Zoning Law is a Type I Action under the New York State Environmental Quality Review Act (SEQRA).

WHEREAS, that because only the Town Board can consider and adopt changes to the Town Code, that it is the only involved agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.

WHEREAS, the Town Board has determined that the amendments must be referred to the Ulster County Planning Board for review and recommendation pursuant to General Municipal Law § 239-m.

WHEREAS, the Town Board refers this matter to the Town of Marlborough Planning Board pursuant to Town Code § 155-49.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilman \_\_\_\_\_, who moved its adoption:

WHEREAS, on July 11, 2022, \_\_\_\_\_ has introduced this local law for the Town of Marlborough, to be known as "Town of Marlborough Local Law No. \_\_\_\_ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO AMEND DEFINITIONS FOR "BED AND BREAKFAST" AND "SHORT-TERM RENTAL", SECTION 155-12 "USE REGULATIONS", SECTION 155 ATTACHMENT 2, SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS", SECTION 155-30 "MULTIPLE DWELLINGS", AND ADDING SECTION 155-32.4 "BED AND BREAKFAST".

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held on July 25, 2022, at 7:00 o'clock p.m., Prevailing Time, and that notice of said meeting shall be published in the official

newspaper of general circulation in the Town of Marlborough, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

## **NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on July 25,2022 at 7:00 o'clock, p.m., prevailing time, on proposed Local Law No. \_\_\_\_ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155 "ZONING" OF THE MARLBOROUGH TOWN CODE AS FOLLOWS: AMENDING SECTION 155-1 "TERMS DEFINED" TO AMEND DEFINITIONS FOR "BED AND BREAKFAST" AND "SHORT-TERM RENTAL", SECTION 155-12 "USE REGULATIONS", SECTION 155 ATTACHMENT 2, SECTION 155-27 "OFF-STREET PARKING; OFF-STREET LOADING; FILLING AND SERVICE STATIONS", SECTION 155-30 "MULTIPLE DWELLINGS", AND ADDING SECTION 155-32.4 "BED AND BREAKFAST".

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all person interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED:       Milton, New York  
\_\_\_\_\_, 2022

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COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran \_\_\_\_\_

Councilman Molinelli \_\_\_\_\_

Councilman Cauchi \_\_\_\_\_

Councilman Zambito \_\_\_\_\_

Councilwoman Sessa \_\_\_\_\_

DATED: Milton, New York  
\_\_\_\_\_, 2022

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COLLEEN CORCORAN, TOWN CLERK

July 11, 2022

C). Resolution # 63 To introduce a local law of the year 2022

Supervisor Corcoran proposes the following:

\_\_\_\_\_ , seconded by \_\_\_\_\_ , introduced the following proposed local law, to be known as Local Law No. \_\_\_\_ of 2022, entitled, Local Law No. \_\_\_\_ of 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING SECTION 134-2, “DEFINITIONS,” TO AMEND DEFINITIONS FOR “LOT LINE CHANGE” AND “SUBDIVISION” OF THE MARLBOROUGH TOWN CODE.

BE IT ENACTED by the Town Board of the Town of Marlborough that the Town Code is amended as follows:

Section 1. Section 134-2 of the Town Code of the Town of Marlborough is amended as follows [deletions are stricken and additions are underscored]:

## **LOT LINE CHANGE**

A reconfiguration of two adjoining lots which will result in the same number of lots with a different geometric configuration, however the public hearing requirements of § 134-9C of this chapter shall not apply to the consolidation of lots or to lot line realignments affecting no more than two lots in the R, R-1, and R-Ag-1 Zoning Districts, and the Planning Board shall be empowered to issue one unified approval in such circumstances as opposed to preliminary approval followed by final approval.

## **SUBDIVISION**

The division of any parcel of land into a number of lots, blocks or sites as specified in this chapter, with or without streets or highways, for the purpose of sale, transfer of ownership or development. The term "subdivision" shall include any alteration of lot lines or the dimensions of any lots, however the public hearing requirements of § 134-9C of this chapter shall not apply to the consolidation of lots or to lot line realignments affecting no more than two lots in the R, R-1, and R-Ag-1 Zoning Districts, and the Planning Board shall be empowered to issue one unified approval in such circumstances as opposed to preliminary approval followed by final approval.

Subdivisions may be defined and delineated by local regulation as either "major" or "minor," with the review procedures and criteria for each set forth in this chapter.

Section 2. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 3. This local law shall be effective upon filing with the Secretary of State.

WHEREAS, this legislation is a Type II Action under the New York State Environmental Quality Review Act ('SEQRA') and will not have a significant adverse effect on the environment.

Supervisor Corcoran advised the Town Board that, pursuant to the Municipal Home Rule of the State of New York, it will be necessary to hold a public hearing upon this law. He offered the following resolution which was seconded by Councilmember \_\_\_\_\_, who moved its adoption:

WHEREAS, on July 11, 2022, \_\_\_\_\_ has introduced this local law for the Town of Marlborough, to be known as "Town of Marlborough Local Law No. \_\_\_ of the Year 2022, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING SECTION 134-2, "DEFINITIONS," TO AMEND DEFINITIONS FOR "LOT LINE CHANGE" AND "SUBDIVISION" OF THE MARLBOROUGH TOWN CODE.

RESOLVED, that a public hearing be held in relation to the proposed changes set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard. The public hearing will be held at the Town Hall, 21 Milton Turnpike, Milton, New York, 12547 on July 25, 2022, at 7:00 p.m., Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Marlborough by the Town Clerk, at least five (5) days before such hearing and that notice shall be in the following form:

**NOTICE OF PUBLIC HEARING**

TAKE NOTICE, that the Town Board of the Town of Marlborough will hold a public hearing at the Town Hall facilities at 21 Milton Turnpike, Milton, New York on July 25, 2022 at 7:00 o'clock p.m., prevailing time, on proposed Local Law No. \_\_\_\_ of 2022, amending Section 134-2 "Definitions" of the Marlborough Town Code pertaining to the definitions of "lot line change" and "subdivision".

TAKE FURTHER NOTICE, that copies of the aforesaid proposed Local Law will be available for examination at the office of the Clerk of the Town of Marlborough, 21 Milton Turnpike, Milton, New York, 12547 between the hours of 8:00 a.m. to 4:00 p.m. on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all citizens and parties of interest shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED:      Milton, New York  
\_\_\_\_\_, 2022

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COLLEEN CORCORAN, TOWN CLERK

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran \_\_\_\_\_

Councilman Molinelli \_\_\_\_\_

Councilman Cauchi \_\_\_\_\_

Councilman Zambito \_\_\_\_\_

Councilwoman Sessa \_\_\_\_\_

DATED: Milton, New York  
\_\_\_\_\_, 2022

COLLEEN CORCORAN, TOWN CLERK

July 11, 2022

D). Resolution #64 To authorize the Town Supervisor to sign an agreement

Supervisor Corcoran proposes the following:

\_\_\_\_\_ offered the following resolution which was seconded by  
\_\_\_\_\_, who moved its adoption:

WHEREAS, Alan C. Guarino and Kathleen Guarino (the "Owners") own real property located at 5 Ashlyn Drive, Town of Marlborough, County of Ulster, State of New York, described in a deed recorded in the Ulster County Clerk's Office as Document 2012-00015128 in Book No./Volume 5410 of Deeds, page 233 and identified as SBL# 108.2-9-41.71 (the "Property"); and

WHEREAS, on June 21, 2022, the Planning Board of the Town of Marlborough granted preliminary and final approval of the Owners' plan to subdivide the Property into two (2) lots, upon the conditions set forth in Planning Board's resolution of approval; and

WHEREAS, conditions of subdivision approval include the obligation of the Owners to improve portions of the Town road known as Ruby Road (the "Town Road") which have not been suitably improved;

WHEREAS, the terms and conditions governing the Owners' obligations to make the Town Road improvements are set forth in an Agreement between the Town and the Owners (the "Agreement"), a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Supervisor of the Town of Marlborough is hereby authorized to sign the Agreement with the Owner substantially in the form presented to the Town Board.
2. The amounts of performance and maintenance security required under the Agreement shall the amount of \$12,676.00 as noted in the technical review comments of the Town Engineer, M.H.E. Engineering, D.P.C.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Corcoran \_\_\_\_\_  
Councilman Molinelli \_\_\_\_\_  
Councilman Cauchi \_\_\_\_\_  
Councilman Zambito \_\_\_\_\_  
Councilwoman Sessa \_\_\_\_\_

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DATED: Milton, New York  
July , 2022

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This AGREEMENT made as of July \_\_, 2022 (the “Agreement”) between the TOWN OF MARLBOROUGH, a municipal corporation with offices located at 21 Milton Turnpike #200, Milton, NY 12547 (the Town”), and ALAN C. GUARINO and KATHLEEN GUARINO, residing at 5 Ashlyn Drive, Town of Marlborough, County of Ulster, State of New York (the “Owners”).

WHEREAS, the Owners own real property located at 5 Ashlyn Drive, Town of Marlborough, County of Ulster, State of New York, described in a deed recorded in the Ulster County Clerk’s Office as Document 2012-00015128 in Book No./Volume 5410 of Deeds, page 233 and identified as SBL# 108.2-9-41.71 (the “Property”); and

WHEREAS, on June 21, 2022, the Planning Board of the Town of Marlborough granted preliminary and final approval of the Owner’s plan to subdivide the Property into two (2) lots, upon the conditions set forth in Planning Board’s resolution of approval; and

WHEREAS, conditions of subdivision approval include the obligation of the Owners to improve portions of the Town road known as Ruby Road (the “Town Road”) which have not been suitably improved;

WHEREAS, the parties enter into this Agreement to document the terms and conditions pursuant to which the Owners are obligated make the road improvements.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged the parties agree as follows:

#### 1. ACCESS

Subject to the terms of this Agreement, the Town grants to the Owners and their contractor a non-exclusive license to enter upon the unimproved segment of the Town Road for the sole purpose making improvements to such portion of the Town Road to meet the specifications for Town Roads set forth in Chapter 130 of the Town Code of the Town of Marlborough (the “Specifications”).

#### 2. ROAD SPECIFICATIONS/ SECURITY FOR PERFORMANCE/ PERFORMANCE OF IMPROVEMENTS.

Prior to such access, the Owners shall:

(A) enter into a contract with a reputable contractor (the “Contractor”) to improve the Town Road in accordance with the Specifications (the “Road Improvement Contract”) and to maintain the Town Road until it is accepted by the Town Board and by the Town Highway Superintendent. The Contractor and the Road Improvement

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Contract shall be subject to review and approval of the Town Highway Superintendent and Town Attorney. Upon the approval of the Contract and the Road Improvement Contract, the Contractor shall complete the Road Improvements in a good and workmanlike manner and the Owner shall pay the costs of the Road Improvements when due in accordance with the terms of the Road Improvement Contract. The work shall be periodically inspected by the Town Highway Superintendent. Upon completion of the construction of all improvements on the Property and the issuance of certificates of occupancy for such improvements by the

Town of Marlborough Building Department, the Road Improvements are subject to final inspection, approval and acceptance by the Town Highway Superintendent; and (B) Provide (i) performance security in the form specified in Town Code section 130-5(A) and (ii) maintenance security in the form specified in Town Code section 130-5(B) in amount approved by the Planning Board engineer and Superintendent of Highways and sufficient as to form and substance to the Planning Board attorney for the work to be performed on the Town Road, such maintenance security to remain in place until final inspection, approval and acceptance as provided in section 2(B) above.

### **3. TERM OF AGREEMENT**

The term of this Agreement shall be the period commencing on the date hereof and ending upon the Owners' fulfillment of their maintenance obligations which are described in section 2(A) and are to be secured by the maintenance security described in section 2(B) above.

### **4. INDEMNITY**

The Owners shall defend, indemnify and hold harmless the Town from and against any claims, actions, proceedings, damages, liabilities, losses and expenses, including, without limitation, reasonable attorney's fees and costs, arising out of or in connection with the performance or breach of the Owner's obligations hereunder or any negligent acts or omissions of the Owners, the Contractor, or any person working on their behalf.

### **5. WAIVER OF CLAIMS**

The Owner hereby waives all claims against the Town arising out of (a) the performance of their obligations under this Agreement and (b) the performance of the obligations of the Contractor under the Road Improvement Contract.

### **6. INSURANCE**

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The Contractor shall maintain worker's compensation, employer's liability, automobile liability, general liability, and property damage insurance. The minimum required limits are as follows: Workers Compensation-Statutory Limits; Auto Liability-\$1,000,000 Combined Single Limit; General Liability-\$1,000,000 per occurrence and having minimum aggregate limits of \$1,000,000 or greater. All policies shall name the Town as an additional insured on a primary basis. The Contractor shall furnish certificates of insurance evidencing the required insurance promptly after executed the Road Improvement Contract and thereafter upon promptly upon the request of the Town, but in any event prior to the commencement of any work hereunder or under the Road Improvement Contract.

### **7. JURISDICTION**

This Agreement is entered into pursuant to the laws of the State of New York, and any changes or amendments to this Agreement must be in writing and signed by an authorized officer of the Town. The Ulster County Supreme Court shall have exclusive jurisdiction over any controversy or claim arising out of or relating to this Agreement, or the breach thereof.

### **8. NO ASSIGNMENT OR SUBCONTRACTS**

No party shall assign or subcontract its right and obligations under this Agreement without the express written consent of the Town.

### **9. COMPLETE AGREEMENT**

This Agreement contain the complete understanding of the parties. No modification of any provisions hereof shall be valid unless in writing and signed by each party.

### **10. ELECTRONIC SIGNATURE AND COUNTERPARTS**

This Agreement may be executed and delivered by e-mail exchange of signed copies bearing the signatures of the parties. The facsimile or e-mail signatures shall be the same as original signatures in all respects. This Agreement may be signed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same Agreement.

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

TOWN OF MARLBOROUGH

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BY: \_\_\_\_\_

Name: Scott Corcoran

Title; Supervisor

\_\_\_\_\_  
Alan C. Guarino

\_\_\_\_\_  
Kathleen Guarino