

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
FEBRUARY 13, 2023, 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 January 23, 2023 Town Board Meeting minutes
Motion to approve the January 23, 2023 Public Hearing minutes

ITEM #5 Authorize payment of bills

ITEM #6 Comments on the agenda

ITEM #7 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 #8 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 #9 Presentation

- A). Badger meter reading system

ITEM #10 Old Business

- A). Tomvac Rehabilitation Update

ITEM #11 New Business

- A). To write a letter to the Marlboro School District regarding the renewing of our lease

ITEM #12 Correspondences

ITEM #13 Public Comments

ITEM #14 Resolutions

- A). Resolution #30 To amend the Town of Marlborough Employee handbook
- B). Resolution #31 To introduce a local law of the year 2023
- C). Resolution #32 To authorize the filing of Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations
- D). Resolution #33 To authorize the Town Supervisor to sign an agreement
- E). Resolution #34 To appoint a member to the Zoning Board of Appeals
- F). Resolution #35 To authorize the supervisor to sign the SRO agreement

ITEM #15 Adjournment

February 13, 2023

A). Resolution #30 To amend the Town of Marlborough Employee handbook

Supervisor Corcoran proposes the following:

Whereas, the Town Board of the Town of Marlborough adopted the Town of Marlborough Employee Handbook by resolution on June 25, 2012, and

Whereas, the Town Board wishes to amend the handbook to include the following updates.

311 Holidays

The following are holidays and dates of observance for all regular, full-time employees

OMIT THE FOLLOWING: and planning board secretary (5 hours).

312 Vacation

OMIT THE FOLLOWING:

The Planning Board Secretary

<i>Date of Hire</i>	<i>Vacation Time (Working days)</i>
<i>After 3 years service</i>	<i>5 (25 hours)</i>
<i>After 7 years of service</i>	<i>10 (50 hours)</i>
<i>After 14 years service</i>	<i>15 (75 hours)</i>

And moves for its adoption:

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

February 13, 2023

Supervisor Corcoran proposes the following:

B). Resolution #31 To introduce a local law of the year 2023

_____ , seconded by _____,
introduced the following

proposed local law, to be known as Local Law No. 1 of 2023, entitled:

LOCAL LAW NO. 1 OF 2023 A LOCAL LAW PROVIDING FOR PARTIAL EXEMPTION
FROM TAXATION OF CERTAIN REAL PROPERTY OWNED BY AN ENROLLED
MEMBER OF AN INCORPORATED VOLUNTEER FIRE COMPANY OR FIRE
DEPARTMENT SERVING THE TOWN OF MARLBOROUGH PURSUANT TO SECTION
466-a OF THE REAL PROPERTY TAX LAW.

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

Section 1. Purpose.

This Local Law is enacted for the purpose of exempting from taxation certain real property owned by an enrolled member of an incorporated volunteer fire company or fire department which serves the Town of Marlborough to the extent of ten percent (10%) of the assessed value of such real property, as authorized by Section 466-a of Real Property Tax Law of the State of New York.

Section 2. Amendment.

The Town of Marlborough Code entitled **Chapter 137. TAXATION** shall be and hereby is amended by this Local Law by the addition of a new Article IV Exemption for Volunteer Firefighters, which shall read in its entirety as follows:

Article IV Tax Exemption for Volunteer Firefighters

§ 137-18. Legislative Intent.

The purpose of this Article is to provide a partial exemption from taxation imposed by the Town of Marlborough upon real property situated within the Town of Marlborough owned by persons who voluntarily serve as members of an incorporated volunteer fire company or fire department serving the Town of Marlborough (a “Volunteer Fire Company or Fire Department”) subject to the provisions set forth herein, pursuant to the authority granted to the Town by § 466-a of the Real Property Tax Law of the State of

New York.

§ 137-19. Partial Exemption Granted.

- A. Real property within the Town of Marlborough owned by an enrolled volunteer member of a Volunteer Fire Company or Fire Department or by such enrolled member and his or her spouse shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property for Town and Special District purposes, exclusive of special assessments, Water District, Water Improvement Area, Sewer District and Sewer Improvement Area ad valorem levies, and assessments for capital improvements, subject to the following requirements.
- B. Such exemption shall not be granted unless:
 1. The enrolled member/applicant of the Volunteer Fire Company or Fire Department resides within the Town of Marlborough;
 2. The real property is the primary residence of the enrolled member/applicant;
 3. The real property is used exclusively for residential purposes; provided however, that in the event any portion of such real property is not used exclusively for the enrolled member/applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion used for residential purposes shall be entitled to the exemption provided by this Article; and
 4. The enrolled member/applicant has been certified by the authority having jurisdiction of the Volunteer Fire Company or Fire Department (the "Governing Authority") as an enrolled member of such Company or Department having served a minimum of (2) two consecutive years of service. Such Governing Authority shall certify eligibility for the exemption utilizing the official service records of each enrolled member/applicant.

§ 137-20. Lifetime Partial Exemption Eligibility.

Eligible real property owned by an enrolled member of the Volunteer Fire Company or Fire Department who accrues more than (20) twenty years of active service and whose enrollment is so certified by the applicable Governing Authority of the Volunteer Fire Company or Fire Department shall be granted the ten percent (10%) exemption as authorized by this Article for the remainder of the enrolled member's life as long as such real property remains his or her primary residence in the Town of Marlborough.

§ 137-21. Line of Duty Death Partial Exemption Eligibility.

Un-remarried spouses of volunteer firefighters from the Volunteer Fire Company or Fire Department killed in the line of duty shall be entitled to continue the partial exemption granted hereunder; provided, however, that:

1. Such un-remarried spouse is certified by the Governing Authority as an un-remarried spouse of an enrolled member of the Volunteer Fire Company or Fire Department who was killed in the line of duty when so enrolled; and
2. such deceased volunteer firefighter had been an enrolled member of Volunteer Fire Company or Fire Department for at least (5) five years; and
3. the eligible real property owned by such deceased volunteer firefighter at the time of his or her death had been receiving the exemption prior to his or her death.

§ 137-22. Deceased Member Partial Exemption Eligibility.

Eligible real property owned by un-remarried spouses of deceased volunteer firefighters of a Volunteer Fire Company or Fire Department shall be entitled to continuation of the partial exemption granted hereunder, provided, however, that:

1. Such un-remarried spouse is certified by the Governing Authority as an un-remarried spouse of a person who was an enrolled volunteer member of a Volunteer Fire Company or Fire Department at the time of his or her death; and
2. such deceased volunteer firefighter had been an enrolled member of a Volunteer Fire Company or Fire Department for at least (20) twenty years; and
3. the eligible real property benefited from the partial exemption prior to his or her death.

§ 137-23. Application Procedure.

A volunteer firefighter must annually, on or before the applicable taxable status date, file an application for such property tax exemption with the assessor responsible for preparing the assessment roll for the Town of Marlborough on a form as prescribed by the New York State Commissioner of Taxation and Finance.

Section 3. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.

Section 4. Repeal

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

Section 5. Authority

This Local Law is enacted pursuant to the Municipal Home Rule Law and Real Property Tax Law §466-a. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Section 6. Effective Date

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with the Municipal Home Rule Law.

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 February 13, 2023, _____ has introduced this local law for the Town of Marlborough, to be known as LOCAL LAW NO. 1 OF 2023 A LOCAL LAW PROVIDING FOR PARTIAL EXEMPTION FROM TAXATION OF CERTAIN REAL PROPERTY OWNED BY AN ENROLLED MEMBER OF AN INCORPORATED VOLUNTEER FIRE COMPANY OR FIRE DEPARTMENT SERVING THE TOWN OF MARLBOROUGH PURSUANT TO SECTION 466-a OF THE REAL PROPERTY TAX LAW.

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, to be held at the Town Hall, 21 Milton Turnpike, Milton, New York, on February 27, 2023, 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, 21 Milton Turnpike, Milton, New York on February 27, 2023 at 7:00 o'clock, p.m., on Local Law No. 1 of the Year 2023, on a proposed Local Law of the Town of Marlborough, Ulster County, New York to be known as LOCAL LAW NO. 1 OF 2023 A LOCAL LAW PROVIDING FOR PARTIAL EXEMPTION FROM TAXATION OF CERTAIN REAL PROPERTY OWNED BY AN ENROLLED MEMBER OF AN INCORPORATED VOLUNTEER FIRE COMPANY OR FIRE DEPARTMENT SERVING THE TOWN OF MARLBOROUGH PURSUANT TO SECTION 466-a OF THE REAL PROPERTY TAX LAW.

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, at the Town Hall, 21 Milton Turnpike, Milton, New York, between the hours 8:00 a.m. and 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 persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Milton, New York
 February 13, 2023

COLLEEN CORCORAN, TOWN CLERK

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

Supervisor Corcoran _____

Councilman Molinelli _____

Councilman Cauchi _____

Councilwoman Sessa _____

Councilman Zambito _____

DATED: Milton, New York
February 13, 2023

COLLEEN CORCORAN, TOWN CLERK

February 13, 2023

Supervisor Corcoran proposes the following:

C). Resolution #32 To Authorize the filing of Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

**SEQRA NEGATIVE DECLARATION AND
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

WHEREAS, the Town of Marlborough Town Board, on behalf of the Hamlet of Marlboro Sewer Improvement Area, proposes to enter into a Reservation of Capacity Agreement with SDL Marlborough, LLC for the reservation of public wastewater collection and treatment capacity (the “Agreement”); and

WHEREAS, this determination of non-significance, i.e. negative declaration, is prepared in accordance with Article 8 of the Environmental Conservation Law: the NY State Environmental Quality Review Act (“SEQRA”) and its implementing regulations set forth in 6 NYCRR Part 617 (“Regulations”); and

WHEREAS, the Town Board is directly undertaking the Action of reviewing said Agreement and is the only involved agency and is therefore the lead agency for the environmental review of the Action pursuant to SEQRA and its implementing regulations; and

WHEREAS, the name and address of the lead agency is: Town of Marlborough Town Board, 21 Milton Turnpike, Milton, NY 12547, and the Responsible Officer is Scott Corcoran, Town of Marlborough Town Supervisor, with a telephone number at (845) 795-5100; and

WHEREAS, the Town of Marlborough Town Board, as lead agency, has classified this Action as an Unlisted action pursuant to 6 NYCRR § 617.6 of the Regulations; and

WHEREAS, the Town of Marlborough Town Board has caused the preparation of a Short Environmental Assessment Form (EAF) for review of the Action, including Parts 1, 2, and 3 of the EAF; and

WHEREAS, the Town of Marlborough Town Board, as lead agency for the environmental review of the Action, has reviewed the Action and all relevant supporting information and documentation, has identified the relevant areas of environmental concern, has compared the reasonably expected results

of the Action with the criteria set forth in 6 NYCRR § 617.7 and has determined that there will be no significant adverse environmental impacts associated with the Action; and

WHEREAS, this negative declaration is supported and substantiated by the following conclusions of the Lead Agency:

The proposed Agreement establishes terms for the reservation of public wastewater collection and treatment capacity for real property owned by SDL Marlborough, LLC located at 137 Dock Road, 8 Hudson Way, 103 Dock Road, and Dock Road in the Town of Marlborough, New York, identified collectively as Section 109.1 and Section 108.4, Block 3 and Lots 13, 14.2, 15, and 29.1 on the Tax Map of the Town of Marlborough (“Property”).

The reservation of capacity provides infrastructure which aids future development and use of the Property for multi-family residential development subject to any and all federal, state, and local approvals required by law, including but not limited to site plan approval by the Town of Marlborough Planning Board and any necessary amendments to the Zoning Code as authorized by Article X of Chapter 155, entitled “Zoning.”

The proposed Agreement is not inconsistent with the existing Comprehensive Plan of the Town of Marlborough. The proposed Agreement serves to implement growth and development policies established by the Town Board, none of which have any actual physical impact on the environment. The proposed Sewer Agreement does not, of itself, create any adverse physical impacts in the Town. In the policy judgment of the Town Board, the proposed Agreement will create positive and beneficial impacts including sound wastewater management of development and use of the Property.

The proposed Agreement does not, of itself, cause any new physical action to occur.

The proposed Agreement will not result in any direct or physical adverse environmental impact. It may result in indirect or secondary effects in the event of future use and development of the Property. The evaluation of use and development of the Property will not occur absent Environmental Impact Statement evaluation, where necessary, and findings by all reviewing agencies, which entail mitigation of all adverse impacts on the environment to the greatest extent practicable.

The potential for secondary effects does not support the conclusion that the proposed Agreement may create a significant adverse environmental impact requiring preparation of an environmental impact statement.

The proposed Agreement does not approve or permit development at the Property. This independent SEQRA review of the Sewer Agreement is not dependent upon review and approval of the

development and use of the project location, and it is no less protective of the environment, in that the Agreement does not entail use or development, nor does it commit any agency to approve the physical alteration of the Property. To the extent that this independent SEQRA review of the proposed Sewer Agreement precedes, and is separate from, the Environmental Impact Statement Review of the pending project for use and development of the Property, it is justifiable under the standards set forth within 6 NYCRR Section 617.3(g)(1).

NOW, THEREFORE, BE IT RESOLVED, that the Town of Marlborough Town Board makes the following findings based upon the conclusions identified above:

1. The Action will not result in a substantial adverse change in existing air quality, ground or surface water quality, traffic or noise levels, a substantial increase in solid waste production; or a substantial increase in potential for erosion, flooding, leaching or drainage problems;
2. The Action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movements of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial impacts on a threatened or endangered species of animal or plant or the habitat of such a species or other significant adverse impacts to natural resources;
3. The Action will not create a material conflict with the community's current plans or goals as officially approved or adopted;
4. The Action will not result in the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources of the existing community or neighborhood character;
5. The Action will not create a hazard to human health;
6. The Action will not cause a substantial change in the use or intensity of use of land, including agricultural, open space, or recreational resources, or in its capacity to support existing uses;
7. The Action will not result in the creation of a material demand for other actions that would result in one of the above consequences; and
8. The Action does not involve changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board, acting as lead agency for purposes of reviewing said Agreement, has examined the impacts which may be reasonably

anticipated to result from the Action, and has determined that it will not have any significant adverse impact on the environment and that therefore a Draft Environmental Impact Statement need not be prepared; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board hereby issues this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and its implementing Regulations; and

BE IT FURTHER RESOLVED, that the Town of Marlborough Town Board hereby authorizes the filing this Negative Declaration and notice thereof pursuant to the requirements of SEQRA and 6 NYCRR § 617.12 of its implementing Regulations.

The foregoing resolution was voted upon with all councilpersons voting as follows:

Supervisor Corcoran _____

Councilman Molinelli _____

Councilman Cauchi _____

Councilman Zambito _____

Councilwoman Sessa _____

This Negative Declaration is adopted this 13th day of February 2023 and is ordered into the record of the Town of Marlborough Town Board.

February 13, 2023

D). Resolution #33 To authorize the Town Supervisor to sign an agreement

Supervisor Corcoran proposes the following:

_____ introduced the following resolution, which was seconded by Councilman _____, as follows:

WHEREAS, SDL Marlborough, LLC (the “Developer”) owns certain real property located at 137 Dock Road, 8 Hudson Way, 103 Dock Road, and Dock Road, identified collectively as Section 109.1 and Section 108.4, Block 3 and Lots 13, 14.2, 15, and 29.1 on the Tax Map of the Town of Marlborough (the “Property”); and

WHEREAS, the Developer intends to construct a multi-family housing development including not more than 101 residential units and a clubhouse on the Property in the Town of Marlborough (the “Town”), State of New York; and

WHEREAS, to develop the Property, the Developer must obtain various land use approvals, including, without limitation, a zoning change and site plan approval (collectively, the “Approvals”); and

WHEREAS, applications for the Approvals shall be the subject of independent review by the Town Board, the Planning Board, and any other involved agencies; such review shall include, without limitation, review pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, to develop the Property, the Developer will need the Hamlet of Marlboro Sewer Improvement Area (the “HMSIA”) to provide municipal sewer service to the Property; and

WHEREAS, the Developer has requested to enter into an agreement with the Town of Marlborough on behalf of the HMSIA pursuant to which the HMSIA shall provide municipal sewer service to the Property; and

WHEREAS, the Town and the HMSIA are empowered to enter into contracts involving the HMSIA and properties located outside of the MSIA for purposes of providing municipal sewer service; and

WHEREAS, the Town Board, on behalf of the HMSIA, has negotiated a suitable agreement between the parties setting forth the terms and conditions of the Property's reservation of public wastewater collection and treatment capacity, of the HMSIA (the "Agreement"); and

WHEREAS, a copy of the Agreement is annexed hereto as Exhibit "A"; and

WHEREAS, the Town Board, acting as lead agency, classified this is an Unlisted Action pursuant to 6 NYCRR § 617.6 of the regulations; and

WHEREAS, the Town Board adopted a SEQRA determination of non-significance, i.e. negative declaration, on February 13, 2023 following review of the Action and supporting information; and

WHEREAS, the Town Supervisor and the Attorney to the Town negotiated the terms of the Agreement with the Developer; and

WHEREAS, the Agreement requires approval by the Marlborough Town Board.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves and authorizes the Supervisor to execute the proposed Agreement between the Developer and the Town, annexed hereto as Exhibit "A", in the same or substantially the same form.

The foregoing resolution was voted upon with all councilpersons voting as follows:

Supervisor Corcoran _____

Councilman Molinelli _____

Councilman Cauchi _____

Councilman Zambito _____

Councilwoman Sessa _____

DATED: Milton, New York
February ___, 2023

COLLEEN CORCORAN, TOWN CLERK

Exhibit A

AGREEMENT

AGREEMENT, made this _____ day of _____, 2022, between the TOWN OF MARLBOROUGH, on behalf of itself and the Hamlet of Marlboro Sewer Improvement Area (the “HMSIA”), a municipal sewer improvement area in the Town of Marlborough, with offices at Town Hall, 21 Milton Turnpike, Suite 200, Milton, New York 12547 (collectively the “Town”), and SDL MARLBOROUGH, LLC, a New York limited liability company with offices at 561 Seventh Avenue, Suite 903, New York, New York 10018 (the “Owner”);

WHEREAS, Owner is the beneficial owner of real property described as follows: 137 Dock Road, 8 Hudson Way, 103 Dock Road, and Dock Road in the Town of Marlborough, New York, identified collectively as Section 109.1 and Section 108.4, Block 3 and Lots 13, 14.2, 15 and 29.1 on the Tax Map of the Town of Marlborough, and more particularly described in Schedule A annexed hereto (the “Property”); and

WHEREAS, subject to receipt of all necessary governmental approvals, Owner intends to construct a multi-family housing development including not more than 101 residential units including 303 bedrooms on the Property (each a “Unit”) and a clubhouse (the “Project”); and

WHEREAS, the Property is situated outside the boundaries comprising and served by the HMSIA and therefore there is no existing municipal sewer system available to provide wastewater service for the Project; and

WHEREAS, Owner has requested to reserve and eventually to receive sewer collection and treatment capacity of 35,000 gallons per day for the Project in exchange for payment of a reserved capacity charge and amounts equal to the annual benefit assessments and usage charges charged by the HMSIA to properties within the HMSIA of similar use and character to the Property and the Project; and

WHEREAS, the Town and the HMSIA have the power to enter into contracts involving the MSIA and properties located outside of the HMSIA for purposes of providing municipal sewer service and the Town Board has approved the Owner's request, conditioned upon a suitable agreement between the parties setting forth the terms and conditions of the reservation of capacity and use of the facilities of the HMSIA.

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

1. Subject to the terms and conditions of this Agreement, the HMSIA shall reserve for and provide municipal wastewater service to the Property to the maximum extent of 35,000 gallons per day and Owner shall accept and compensate the MSIA for providing municipal wastewater service to the Property. Owner shall limit development of the Property and actual wastewater generation after development of the Property to stay within the reserved capacity amount set forth above. Owner may not assign the reserved capacity to any other person for the benefit of any other real property. The Property is the exclusive and sole real property to benefit from the reservation of capacity herein established.

2. Owner shall be responsible for all costs, including but not limited to the costs of all required permits and approvals, in connecting the Property to the existing sewer line(s) of the HMSIA. The method and manner of connection and the inter-connection point shall

be subject to advance written approval of the Town Engineer, as well as all local laws and regulations of the Town of Marlborough concerning, among other things, the disturbance of its municipal streets or highways.

3. The HMSIA has no obligation to provide sewer service until Owner has obtained all necessary permits and approvals for the Project and met all conditions of such permits and approvals. The Town has the right to inspect all improvements made by or on behalf of Owner and to witness all tests of such improvements. The Town's professional consultant costs for such inspections shall be paid by the Owner.

4. The Town reserves the right to include Owner's Property in the HMSIA or a future sewer district or sewer improvement area. If the Town Board, acting pursuant to Article 12 of the Town Law, determines to establish or extend the boundaries of a sewer district to include the Property, Owner will execute an irrevocable petition for the inclusion of the Property in the proposed sewer district or extension thereof. If the Owner fails to execute such a petition, the failure will constitute a material breach of this Agreement and cause for immediate termination of this Agreement by the Town. If the Town Board, pursuant to Article 12A of the Town Law, determines to establish or to extend the boundaries of a sewer improvement district on its own motion to include the Property, or pursuant to Article 12C of the Town Law, determines to establish a sewer improvement area on its own motion to include the Property, Owner covenants not to take any action or measures to oppose the Town Board's actions, including but not limited to petitioning for permissive referendum or challenging the determination in an Article 78 proceeding. Breach of such covenant will constitute a material breach of this Agreement and cause for immediate termination of this Agreement by the Town.

5. The Town's engineering, legal and/or administrative costs of the preparation, authorization and execution of this Agreement shall be defrayed out of funds deposited or to be deposited in escrow with the Town by Owner no later than the making of this Agreement. If the initial deposit is inadequate to cover such costs, the Owner shall replenish the escrow account in an amount reasonably determined by the Town to cover current and anticipated future costs. Replenishment of such account shall be a condition precedent to the Town's continuing performance hereunder. Owner shall defray actual costs incurred by the Town or the HMSIA over and above the amount deposited.

6. In consideration of the Property's connection to and use of the MSIA's facilities, Owner shall pay the following fees and charges (collectively the "Fees") to the MSIA:

a. A reserve capacity charge in the sum of \$609,000.00, entitling Developer to the Town's reservation of wastewater collection and treatment capacity of up to 35,000 gallons per day at the rate of \$17.40 per gallon, payable as follows: (1) the first payment in the amount of \$203,000.00 within thirty (30) days of the issuance of a final zoning map and text approval to be applied for by the Owner; (2) the second payment in the amount of \$106,000.00 within thirty (30) days of final site plan approval of the Project; and (3) the balance of \$300,000.00 paid in the incremental amount of \$2,970.30 upon the issuance of each certificate of occupancy for a Unit, provided, however, any remaining unpaid balance shall be immediately due and payable on the third (3rd) anniversary of the date of issuance of final site plan approval, notwithstanding the number of building permits issued as of that date. The reserved gallon capacity shall include existing capacity as well as any additional capacity, if necessary, following upgrades to the sewer system. Timely payment of these reserved capacity charges shall be made a consensual condition of any land use approvals issued by Town agencies for the Project.

b. An Operation and Maintenance (O&M) fees at the then prevailing HMSIA usage rate, which shall be fixed by the Town Board from time to time, based upon metered water consumption. O&M Fees shall be billed in arrears on a quarterly basis.

c. A Capital Debt Reduction Fee based on the assessment formula prevailing for the HMSIA. Owner shall pay this prevailing Capital Debt Reduction Fee as such charge is calculated and adjusted from time to time by the HMSIA for properties within the MSIA. The Capital Debt Reduction Fee shall be billed on an annual basis as part of the annual real property tax bill prepared by the County of Ulster for properties in the Town, or payable annually otherwise arranged billed by the Town. The Capital Debt Reduction Fee shall first become due as of the commencement of the tax year after which Owner connects to and uses the HMSIA sewer facilities, and the Fee shall be prospective to cover use during that year; the initial Annual Capital Debt Reduction Fee shall be adjusted upward to include a prorated adjustment to cover any earlier period of connection and use.

d. A Late Payment Fee of ten percent (10%) per month in the event the Fees have not been paid within thirty (30) days of the payment due date.

e. If any metering device is found to read incorrectly or is out of service, the MSIA shall bill Owner for each day the meter is not functioning at the average daily consumption rate as determined by the records for the previous four quarters actually billed by the MSIA. If four quarters of data are not available, the calculation will employ all of the data that is available. The charge shall be added to the regular billing to Owner.

7. Owner's usage of the HMSIA's sewer system shall be governed by all prevailing rules and regulations established by the Town.

8. If the Owner fails timely to pay the fees described in Section 6, or otherwise fails to fulfill its obligations under this Agreement, the MSIA and/or Town may exercise the enforce the following remedies in its discretion:

a. with respect to the payments identified in Section 6 (b), (c), (d), and (e), charging any unpaid Fees relating to the Property against the Property by adding that charge to and making it part of the next annual property tax assessment roll of the Town of Marlborough, and such charges shall be levied and collected at the same time and in the same manner as Town-assessed real property taxes, subject to giving Owner written notice and opportunity to be heard by the Town Board on not less than 14 days' notice;

b. Recovery by action commenced in a court of appropriate jurisdiction, in which case the Owner shall be responsible for payment of reasonable attorney's fees expended by the HMSIA and/or the Town in prosecuting such action;

c. Failure of timely payment of reserved capacity charges under paragraph 6(a) of this Agreement shall be a material default which entitles the Town to accelerate the balance of payments due and to cancel the reservation of capacity for the gallons unpaid for, until and unless the Town receives payment of the accelerated balance in full within 30 days of notice of default and demand.

The Town's remedies under this section 8 shall be cumulative, and there shall be no obligation on the part of the Town to elect any particular remedy.

9. The term of this Agreement shall be four (4) years (the “Term”). If the Contingencies described in section 12 below are not fulfilled within the Term, the Town may (a) extend the Term for a reasonable period of time if the Town reasonably determines that (i) the Owner has exercised due diligence and good faith efforts to fulfill the Contingencies on its part to fulfill, (ii) the unfulfilled Contingencies are reasonably likely to be fulfilled within a reasonable period of time, and (iii) there have been no material changes to the Project; (b) propose reasonable alternatives to provide the required amount of wastewater service to the Property if other feasible sources wastewater services are then available or (c) terminate this Agreement if the Town reasonably determines that Contingencies cannot be fulfilled or are unlikely to be fulfilled within a reasonable amount of time and there are no other reasonable alternatives to provide the required amount of wastewater service to the Property. Upon the fulfillment of the Contingencies and connection to the facilities in accordance with this Agreement and all required permits and approvals, the Property shall be entitled to receive wastewater service from the MSIA.

10. This Agreement benefits and binds Owner and any subsequent owner of the Property or any portion of the Property. This Agreement is binding upon the heirs, successors and assigns of Owner and shall run with the land comprising the Property. The parties shall record this Agreement or a Memorandum of this Agreement with the Clerk of Ulster County, indexed to the Property.

11. Miscellaneous.

a. Nothing in this Agreement, express or implied, is intended to confer upon any third-party any rights or remedies under or by reason of this Agreement. Each

party represents that it is entering into this transaction as principal for its own account and not as an agent for any other party.

b. This Agreement is deemed to be a contract entered into and shall be interpreted under the laws of the State of New York, except the provisions thereof pertaining to the conflicts of laws.

c. Each party will, at any time and from time to time, at the request of any other party, make, execute, acknowledge, and deliver, or cause to be done, all such further acts, deeds or other documents as may reasonably be necessary or appropriate to complete the transactions contemplated by this Agreement.

d. This Agreement, together with the terms and conditions in effect from time to time, constitutes the entire agreement of the parties as to the subject matter hereof, supersedes all prior understandings (whether written or oral) and may not be amended or modified except by a written document signed by both parties and stating that it is intended to amend this Agreement.

e. Each party represents to the other party that it has the power and authority to execute, deliver and perform this Agreement, that all actions necessary to authorize the execution, delivery and performance of this Agreement have been duly taken, that it has duly executed and delivered this Agreement and that this Agreement is legal, valid and binding on it, and enforceable against it, in accordance with its terms.

f. This Agreement and the right, duties and obligations contained herein shall be solely for the benefit of the parties hereto and their permitted assignees and transferees, and no third party, customer, resident, Owner or other user or prospective user of

sewer service within the service area of the HMSIA or otherwise, shall have any rights hereunder as a third-party beneficiary, or otherwise.

g. The parties agree that the Supreme Court, Ulster County, New York, shall have exclusive jurisdiction of any disputes arising under this Agreement, and that all disputes shall be tried before the Court without a jury.

h. All notices and written communications between the parties concerning this Agreement, except the Town's invoices and Owner's remittances, shall be deemed to have been delivered upon receipt or refusal of delivery to the following addresses:

If to the Town: Supervisor
Town of Marlborough
Town Hall
21 Milton Turnpike, Suite 200
Milton, New York 12547

If to Owner: SDL Marlborough LLC
561 Seventh Avenue, Suite 903
New York, New York 10018

Either party may change the address to which notice is to be sent by like notice. In the event of transfer by Owner of the Property, Owner shall notify the Town of such transfer within ten days of the transfer and supply the Town with the name and mailing address of the transferee. Any successor elected official shall be deemed to have been changed as to this notice provision by virtue of his or her assumption of their office.

i. This Agreement may only be amended by a written agreement of the Town and Owner. If any provision, clause or part of this Agreement or the application thereof under certain circumstances, is held invalid, the remainder of this Agreement, or the

application of each provision, clause or part under other circumstances, shall not be affected thereby.

j. The failure of the Town or Owner to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement, shall not be construed as a waiver or relinquishment of any rights or benefits granted hereunder or the future performance of any such term, covenant or condition.

12. Contingencies. This Agreement shall be conditioned on the Town's approval of the upgrading and improvement of the facilities of the HMSIA pursuant to Town Law section 202-b. Owner's payment obligations under this Agreement shall be conditioned on Owner's receipt of conditional final approvals from the Town of Marlborough Planning Board, the Town Board and any other governmental agency having jurisdiction over the Project. The Town has made no warranties or representations to the Owner concerning the future development of the Property, the outcome of any review by the Town Board or the Planning Board of the Project, or any other approvals that may be needed from any agency or department of the Town.

TOWN OF MARLBOROUGH

SDL MARLBOROUGH, LLC

By: _____
Name: Scott Corcoran
Title: Supervisor

By: _____
Name:
Title:

STATE OF NEW YORK, COUNTY OF ULSTER) ss.:

On the ____ day of _____, 2023 before me, the undersigned, a notary public in and for said state, personally appeared **Scott Corcoran**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in

his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK, COUNTY OF) ss.:

On the ____ day of _____, 2023, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

February 13, 2023

E). Resolution #34 To appoint a member to the Zoning Board of Appeals

Supervisor Corcoran proposes the following:

Whereas, a vacancy has occurred on the Zoning Board due to the resignation of member William Giametta, and

Whereas, the current board wishes to fill the vacancy, and

Whereas, the Town Clerk has posted an ad in the official newspaper seeking an interested person to fill the vacancy.

Now therefore be it resolved, that Lawrence Bartolotti is hereby appointed to fill the zoning board seat effective immediately with a term ending date of December 31, 2024

And moves for its adoption:

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

February 13, 2023

F). Resolution #35 To authorize the supervisor to sign the SRO agreement

Supervisor Corcoran proposes the following:

Whereas, the Town of Marlborough (the “Town”) entered into that certain Inter-Municipal Agreement with the Marlborough Central School District (the “School District”) on or about October 28, 2019 (“the IMA”) pursuant to which the Town provided SRO services to the School District; and

Whereas, the IMA was amended by Addendum dated on or about February 28, 2022; and

Whereas, the Town and the School District wish to further amend the IMA to provide for the services of a fourth “floating” SRO and to extend the term of the IMA on the terms and conditions set forth in the Amendment to Inter-Municipal Agreement in the form attached to this Resolution (the “Amendment”); and

Whereas, it is deemed to be in the best interests of the Town and the School District to be further amend the IMA as set forth in the Amendment;

It is hereby resolved that the Amendment is approved and that the Supervisor of the Town is authorized sign the Amendment in substantially the form attached hereto on behalf of the Town.

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

Supervisor Corcoran _____

Councilman Molinelli _____

Councilman Cauchi _____

Councilwoman Sessa

Councilman Zambito

DATED: Milton, New York
February 13, 2023

COLLEEN CORCORAN, TOWN CLERK