

TOWN BOARD SPECIAL MEETING
TOWN HALL, MAHOPAC, N.Y.

A Special Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 9th day of October 2019 at 7:05 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Barile, Councilman Lupinacci, Councilwoman McDonough and Supervisor Schmitt. Councilman Schneider was absent.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces.

Supervisor Schmitt announced that the Town Board met at 6:00 p.m. in Executive Session with Legal Counsel Gregory Folchetti with regard to attorney-client matters.

ENTRY INTO EASEMENT AGREEMENT AUTHORIZED - LAKE MAHOPAC PROPERTIES, INC. - TM #76.9-1-11

RESOLVED, that the Town Board of the Town of Carmel hereby authorizes the entry into an easement agreement with Lake Mahopac Properties, Inc., for drainage and utility purposes in and over the real property known and designated as Town of Carmel Tax Map 76.9-1-11; and

BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt is hereby authorized to execute said agreement general substantive form and content as attached hereto.

Resolution

Offered by: Councilwoman McDonough
Seconded by: Councilman Lupinacci

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Michael Barile	<u>X</u>	<u> </u>	
Jonathan Schneider	<u> </u>	<u> </u>	Absent
John Lupinacci	<u>X</u>	<u> </u>	
Suzanne McDonough	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

CONSTRUCTION AND PERMANENT EASEMENT

THIS INDENTURE made this ____ day of October 2019 between LAKE MAHOPAC PROPERTIES, INC. a domestic corporation with offices at PO Box 770, Mahopac, New York 10541 (hereinafter referred to as “GRANTOR”) party of the first part, and the TOWN OF CARMEL (“TOWN” or “GRANTEE”), a municipal corporation of the State of New York with offices located at Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541, party of the second part,

WITNESSETH:

That the GRANTOR, in consideration of ONE (\$1.00) DOLLAR and good and other valuable consideration paid by the GRANTEE, receipt of which is hereby acknowledged, does

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hereby grant and release unto the GRANTEE, the heirs or successors of the GRANTEE forever, under and subject to the specific terms and conditions as hereinafter set forth, a TEMPORARY CONSTRUCTION AND PERMANENT EASEMENT over the GRANTOR'S property as described in Schedule A attached hereto for the installation, maintenance, repair, and replacement of the infrastructure elements hereinbelow referred to this by the GRANTEE, the location of which is more particularly shown, located and described on Exhibit "A" as attached hereto (hereinafter the "Easement Area"), to be replaced by a metes and bounds description upon completion of the work hereinbelow referred to.

TOGETHER WITH the right of the GRANTEE, its agents, servants, contractors or other authorized representatives, to enter upon said Easement Area for the aforementioned purposes as

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the GRANTEE may deem necessary to carry out the purposes of this Agreement but subject in all cases to the restrictions set forth herein;

1. Temporary Construction Easement

The GRANTOR hereby grants to the GRANTEE, its successors and assigns, a temporary construction easement over that portion of the GRANTOR's Property described in Exhibit A attached hereto and made part hereof (hereinafter referred to as "the Temporary Construction Easement"). Said Temporary Construction Easement shall be utilized by GRANTEE to construct and install the following infrastructure elements/construction components/construction specifications (hereinafter collectively referred to as the "Permitted Work") in the approximate locations as described in Exhibit A:

1. Installation of approximately 110-125 Linear feet of 18" to 24" corrugated HD Polyethylene drainage pipe;
2. Installation of two (2) new catch basins;
3. Multiple trench locations each approximately 24"-36" in excavation width;
4. Excavation approximately 36"- 48" in depth;
5. Installation of two (2) approximately 160 Linear Feet of 6" diameter SDR 35 PVC sewer pipe, one reserved for the GRANTOR's future use, capped at end;
6. All backfill material to be Item 4, to be installed to a depth of [to be specified];

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7. 2" (after compaction) top coat asphalt to grade, over all existing asphalt areas shown on Exhibit A, intention to install asphalt to give appearance of seamless parking lot in the asphalt areas shown on Exhibit A.

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8. The Permitted Work shall be substantially completed on or about November 27, 2019 with all work, including installation of the top coat referenced above, fully completed by September 1, 2020.

Said construction and use of the Temporary Construction Easement shall be in accordance with all applicable laws, codes and regulations of the TOWN and in accordance with the following standards, which such standards will be applicable at all times other than times of emergency:

- a. construction shall take place at a time mutually agreeable to GRANTOR and GRANTEE, it being understood that, as GRANTOR'S property is a retail center with active tenants, work will be scheduled in such a manner so as to not unduly interfere with the ability of the GRANTOR'S tenants to conduct their business operations once commenced, construction activities will diligently continue until fully completed;
- b. during the course of construction, upon the cessation of construction activities on any given day, all trenches will be either filled in or plated over to protect GRANTOR, GRANTOR'S tenants, GRANTOR'S tenants; invitee's, guests and employees;
- c. upon completion of the construction activities, the Easement Area shall be restored to at least its pre-existing condition (with any disturbed grass areas reseeded) except as to the installation of blacktop, which shall be in accordance with the standards referenced above;
- d. all work to be performed hereunder shall be performed in a good and workmanlike manner by persons licensed to perform such work in the County of Putnam using new, industry standard materials.

2. Permanent Easement

Once the Permitted Work has been completed, the area actually utilized for the installation of the infrastructure items hereinabove referred to shall be surveyed by GRANTEE and a metes and bounds

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description of the Easement Area thus determined shall be substituted for Exhibit A hereto as Schedule A hereto and shall henceforth be utilized to determine the Easement Area. The maximum extent of the Easement Area shall not exceed a distance of five (5) feet on either side of the installed infrastructure items. Thereafter, the GRANTEE shall be permitted to utilize the Easement Area for the maintenance,

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repair and replacement of the stormwater infrastructure items installed as part of the Permitted Work which such maintenance, repair and replacement of such stormwater infrastructure items shall, upon notice and subject to the reasonable consent of the GRANTOR as to timing, be conducted in the same manner as hereinabove provided for in connection with the initial installation of stormwater infrastructure items.

The sewer infrastructure to be installed pursuant to this Construction and Permanent Easement Agreement shall be utilized only by the GRANTOR and for the benefit of the American Legion Post 1080, with respect to whom GRANTOR shall grant an easement.

Nothing contained herein shall be deemed to in any way modify or restrict the right of access of the GRANTOR across the Easement Area or use of the Easement Area herein provided however that GRANTOR shall not erect any permanent structures in the Easement Area which might interfere or conduct any other activity which would interfere with the GRANTEE's use of the Easement Area.

3. Indemnification

The GRANTEE hereby agrees to indemnify and hold harmless the GRANTOR from any claims arising from the actions or omissions of the GRANTEE or any person or entity performing services on behalf of the GRANTEE in connection with the GRANTEE'S use of the Temporary Construction Easement and Permanent Easement as authorized by the terms of this

Agreement and the construction or installation of the Permitted Work and the subsequent maintenance, repair and replacement of the infrastructure items installed as part of the Permitted Work.

4. Binding Effect

All covenants, rights, easements, restrictions and conditions provided for in this Easement Agreement shall run with the land, and shall bind Grantor and Grantee and their respective successors.

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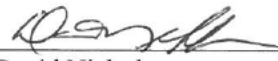
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5. Situs

This Agreement, shall be governed by, and construed and enforced in accordance with, the law of the State of New York without giving effect to the principles of conflict of laws or requiring construction against the draftsman.


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

LAKE MAHOPAC PROPERTIES, INC.


BY: David Nicholas
TITLE: President



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Denise Nizolek
Notary Public, State of New York
Registration no. 01N16218997
Qualified in Putnam County
Commission Expires March 15, 2022 

THE TOWN OF CARMEL.

BY: Kenneth Schmitt
TITLE: Supervisor

STATE OF NEW YORK) ss.:
COUNTY OF PUTNAM)

On the day of October in the year 2019 before me, the undersigned personally appeared David Nicholas, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Signature and Office of Individual
taking acknowledgment

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STATE OF NEW YORK) ss.:

On the _____ day of _____ in the year 2019 before me, the undersigned personally, appeared Kenny Schmitt, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Signature and Office of Individual
taking acknowledgment

RECORD & RETURN TO:
Gregory L. Folchetti, Esq.
Town Counsel
Town of Carmel
60 McAlpin Avenue
Mahopac, New York 10541

OWNER'S POLICY
Schedule A Continued (page 2)
Title No. AT06-8721P, Policy No. A75-2484657

(DESCRIPTION)

ALL that certain plot, piece or parcel of land situate, lying and being in the Town of Carmel, County of Putnam, and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly line of U.S. Route 6, also known as Baldwin Place-Mahopac State Highway NO. 569, where the same is intersected by the southwesterly line of lands now or formerly of North Lake Blvd. Corp. as described in Liber 711, page 11 of Deeds; thence running from said point and place of beginning, along said southwesterly line of lands now or formerly of North Lake Blvd. Corp.,

South 33° 38' 10" East 113.02 feet to the northwesterly line of lands of the People of the State of New York, designated at "Putnam County Bikeway II", Map No. 48, Parcel No. 54; thence turning and running along said lands of the People of the State of New York, "Putnam County Bikeway II", Map No. 48, Parcel No. 54,

South 56° 24' 07" West 291.92 feet to a point on the northeasterly line of lands now or formerly of Rowley Development Corp. as described in Liber 1463, Page 244 of Deeds; thence turning and running along the northeasterly and northwesterly lines of said lands of Rowley Development Corp.,

North 41° 19' 09" West 139.38 feet and
South 35° 27' 50" West 11.48 feet to a point on the easterly line of lands now or formerly of Diane and Carl Hochberger as described in Liber 700, Page 773 of Deeds; thence turning and running along said lands now or formerly of Hochberger,

North 1° 40' 50" West 79.56 feet to a point on the southerly line of U.S. Route 6, also known as Baldwin Place-Mahopac State Highway No. 569; thence turning and running along said southerly line of U.S. Route 6,

North 75° 33' 00" East 70.57 feet and
North 73° 30' 00" East 222.39 feet to the point and place of beginning.

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(Cont.)

SUBJECT to the permanent easements for drainage purposes in favor of the State of New York, as shown on Baldwin Place-Mahopac State Highway No. 569, Map 151, as Parcel No's. 182 and 183.0

ALTA Owner's Policy (10-17-92)

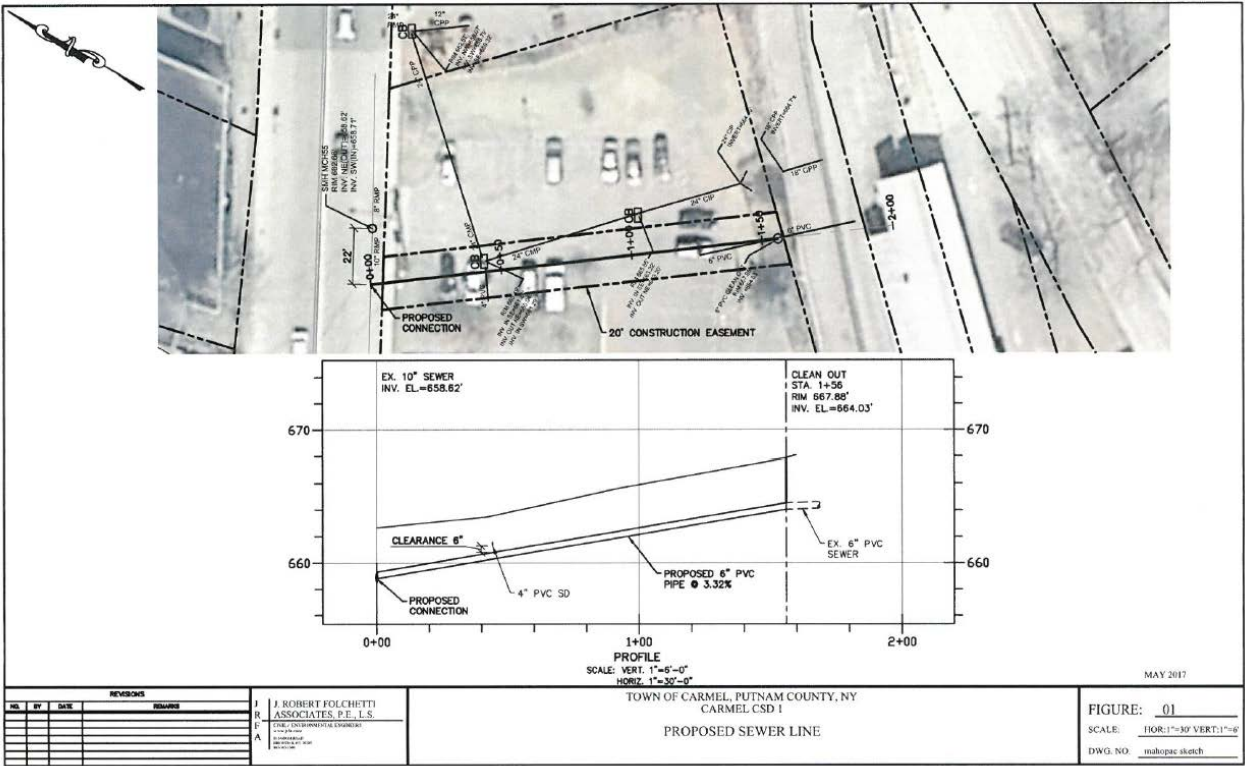


EXHIBIT A

Supervisor Schmitt explained that the easement agreement allows the way for the Highway Department to repair a Town-owned drainage pipe and for the subsequent sewer lateral replacement at the American Legion Hall Post 1080. He acknowledged the cooperation of all of the involved parties.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilwoman McDonough, seconded by Councilman Lupinacci, with all Town Board members present in agreement, the meeting was adjourned at 7:09 p.m.to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk