

Evans Town Board

At the regular meeting of the Town Board of the Town of Evans, held at the Evans Town Hall, 8787 Erie Road, Angola, New York on Wednesday, September 28, 2011 at 7:00pm there were:

PRESENT:	Keith E. Dash	Councilman
	Paul T. Cooper	Councilman
	Francis J. Pordum	Supervisor
ALSO PRESENT:	Lynn R. Stoessel	Deputy Town Clerk
	J. Grant Zajas	Town Attorney
	Jeanne C. Ebersole	Assessor
	Charles LaBarbera	Building Dept. Head
	Lori Szewczyk	Dir. of Community Development
	Drew Eszak	Dir. of Finance
	Edward Michalski	Highway Superintendent
	Russ Manguso	Parks Commissioner
	Sandra Brant	Dir. of Planning
	Ernie Masullo	Police Chief
	Julie Roach	Seniors Dept. Head
	Patrick Conrad	St Pt Marina Dept Head
	Peggy Manning	Supervisor's Dept
	Gary Noel	Water Dept.
	Rick Hanavan	Wendel Duchscherer
	Rob Klavoon	Wendel Duchscherer

RESOLUTION 2011-253 Approve Minutes

Supervisor Pordum moved and Councilman Dash seconded that the reading of the minutes of the meeting of September 7, 2011 be dispensed with and approved as submitted by the Town Clerk.

VOTE RESULT: ADOPTED
 AYES - Dash, Cooper, Pordum
 NAYS - none

7:20 pm Public Hearing regarding the use of Federal Community Block Development Funds in the Town of Evans

Supervisor Pordum opened the public hearing by directing the Town Clerk to read the published legal notice as follows:

**LEGAL NOTICE
 TOWN OF EVANS**

Legal Notice

Town of Evans

Please take notice that the Town Board of the Town of Evans, Erie County, New York will hold a public hearing on September 28, 2011 at 7:20 pm at the Evans Town Hall, 8787 Erie Road, Angola, New York regarding the use of Federal Community Block Development Funds in the Town of Evans.

The Town of Evans is eligible for a Federal Community Block Development Grant under Title 1 of the Housing and Community Act, of 1974, as amended.

The purpose of the hearing is to provide an opportunity for citizens to express community development needs and to discuss possible projects which would benefit low and moderate income persons in the Town of Evans.

Citizens are urged to attend this meeting to make known their views and/or written proposals on the Town of Evans selection of potential projects to be submitted for possible funding under the Federal Community Block Development Grant Program.

The hearing will also present a review of prior Community Block Development projects and expenditures and discussion of eligible activities. The meeting room is wheelchair accessible.

By Order of the Town Board
of the Town of Evans
Jonica B. DiMartino
Town Clerk

Carol Kinn spoke on behalf of the Angola Public Library.

William Houston spoke on behalf of the Angola Public Library.

Robert Palmer, 1780 Eden Evans Center Road spoke on behalf of handicap accessibility and better lighting at the Derby Veterans area.

Ed Schneider III, 9575 Redwing, spoke on behalf of lighting around the skatepark as well as basketball court at Lake Erie Beach Park.

RESOLUTION 2011-254 Close the Community Development Block Grant Public Hearing

Supervisor Pordum moved and Councilman Cooper seconded to close the public hearing for the Community Development Block Grant public hearing.

VOTE RESULT: ADOPTED
 AYES - Dash, Cooper, Pordum
 NAYS - none

RESOLUTION 2011-255 Suspend the rules of order for the conduct of business at Evans Town Board meetings

Supervisor Pordum moved and Councilman Cooper seconded to suspend the rules of order for consideration of a resolution to authorize bids for a Town project.

VOTE RESULT: ADOPTED

AYES - Dash, Cooper, Pordum
 NAYS - none

RESOLUTION 2011-256 Advertise for bids for Replacement of Roadways & Installation of Waterline on Monroe Ave and Fairview St contract 11-2

Supervisor Pordum moved and Councilman Cooper seconded,

RESOLVED: that the Town Clerk is hereby authorized to set bid dates and advertise for bids for contract 11-2: Monroe Avenue Roadway and Waterline Improvements subject to the approval of the Town Attorney and Director of Finance.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash Aye
 Councilman Cooper Aye
 Supervisor Pordum Aye

Public Comment on Meeting Agenda Items

Edward Schneider III, 9575 Redwing St., submitted a FOIL request regarding the Revenue Anticipation Note resolution on tonight's agenda.

Stan Radwan, 8816 Lake Shore Road, spoke in regards to the Revenue Anticipation Note resolution on tonight's agenda.

Robert Palmer, 1780 Eden Evans Center Rd., spoke in regards to the Revenue Anticipation Note resolution on tonight's agenda.

Supervisor Pordum reported that the 2012 Tentative Budget has been received by the Town Clerk and it will be on the Town's website.

-Received a letter from Chief Masullo regarding the road closure of Holland road for the fundraising event to be held on October 22, 2011 by the Sturgeon Point Sportman Club.

-1st Congregational United Church of Christ is holding an Autumn Fair on October 29th.

Director of Finance Drew Eszak spoke on Resolution #6 on tonight's agenda (Revenue Anticipation Note).

Supervisor Pordum also stated that the NYS Department of State has completed their Internal Review of the Draft LWRP and advised the Town to move forward with the adoption of the LWRP and the Consistency Review Law. Both the Consistency Review Law and Final Draft LWRP will be on the Town's website.

-Erie County has notified the Town of the closure of Eden Evans Center Road between Versailles Plank and the NYS Thruway entrance from September 30th thru October 21st for complete reconstruction.

Councilman Cooper reported on the following:

-that the Fire Departments have received their new radios and he commended the Firemen, D Units and Disaster Coordinators, Chief Masullo and Lori Szewczyk,

Director of Community Development for their assistance in the Town obtaining the \$564,000.00 grant

- Prescription drop-off collection on October 29th from 9am - 2pm at West Herr Ford, Camp Road, Cattaraugus Reservation Health Center on Route 438 and the MAC Center on Route 20

- Community Service Fair will be at Evans Center Volunteer Fire Department on October 15th from 9am - 2pm sponsored by the Ladies Auxillary

- Congratulations for the Evans Center Ladies Auxillary for 75 years of service

- Leaf Drop-Off at Bella Terra Greenhouse and Evans Town Park and do not leave the bags.

- Commend the Highway Department for the cleaning up of Holland Rd

Councilman Dash reported that he has received the 2012 Tentative Budget.

- Rural Metro

- Holland Road cleanup

- On October 19th at Theodore Roosevelt Inaugural Center the announcement will be made regarding the final determination of the application for Landmark Distinction for Pioneer Library, Evans Center Library and North Main Library

RESOLUTION 2011-257 Accept Committee and Department Head reports

Supervisor Pordum moved and Councilman Cooper seconded to accept as presented the reports of the Committee and Department Heads.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

RESOLUTION 2011-258 Bring OB #4 on tonights agenda to the floor

Supervisor Pordum moved and Councilman Cooper seconded to bring Old Business #4 (Change Order for Waterline Replacements Contract 09-2) on tonight's agenda to the floor to vote on it.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

RESOLUTION 2011-259 Change Order for Waterline Replacements Contract 09-2

Supervisor Pordum moved and Councilman Dash seconded,

WHEREAS: J.D. Northrup Construction Incorporated was retained by the Town of Evans to complete Contract No. 09-2, Waterline Replacement Contract, and

WHEREAS: due to unforeseen field conditions, additional materials and labor were needed in order to facilitate replacement of waterlines,

NOW THEREFORE BE IT

RESOLVED: that the Evans Town Board authorizes Change Order No. 1 as outlined in Attachment A.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011-260 Advertise for PH for PLL #8 (speed limit on Gowans Rd.)

Supervisor Pordum moved and Councilman Dash seconded,

WHEREAS: Erie County Highways Engineering Division has recommended a change in the speed limit of Gowans Road

THEREFORE BE IT

RESOLVED: that a public hearing be scheduled on October 19th, 2011 at 7:10pm to consider Proposed Local Law #8 of the year 2011, which would amend the Code of the Town of Evans, Chapter 193, Vehicles and Traffic, Article VII Section 193-35 Schedule II, Speed Limits to add:

<u>NAME OF STREET</u>	<u>SPEED LIMIT (MPH)</u>	<u>LOCATION</u>
Gowans Rd	40	From Versailles Plank Road to the western limits of the Village of Angola

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011-261 Delinquent Water Accounts are to be relieved on to 2012 County & Town Taxes

Councilman Dash moved and Councilman Cooper seconded,

RESOLVED: that all delinquent water account in the amount of \$35.00 or more not paid by October 6, 2011 will be re-levied onto the 2012 County and Town Tax Bills. WITH NO EXCEPTIONS!!!!

At present time the outstanding amounts per water billing districts are as follows:

District #1	\$115,599.67
District #2	\$110,831.94

District #3	\$96,451.96
Total	\$322,883.57

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011-262 Close Holland Road for Halloween charitable celebration

Councilman Cooper moved and Councilman Dash seconded,

WHEREAS: the Sturgeon Point Sportsman Club is sponsoring a charitable event on Holland Road in the Town of Evans to benefit local organizations;

THEREFORE BE IT

RESOLVED: that the Town Board of the Town of Evans hereby authorizes the closing of Holland Road, from Route 5 to Hardpan Road on Saturday, October 22, 2011 from 1:00pm to 12:00am (midnight) for the purpose of providing public safety to all participants, residents and traffic during the Halloween charitable celebration pending approval, permits and insurance requirements.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

RESOLUTION 2011-263 Celebration of Halloween

Councilman Dash moved and Councilman Cooper seconded,

WHEREAS: the Evans Town Board declares the celebration of Halloween in the Town of Evans for Monday, October 31, 2011

WHEREAS: the citizens of the Town of Evans are hereby requested to leave an outside light on during the hours from 6:00pm to 8:00pm to insure the safety of the children in their Trick or Treat travels and show willingness to participate in the celebration of Halloween with the children of the community;

WHEREAS: that a copy of this resolution be published by the Town Clerk in the Angola Pennyaver.

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

RESOLUTION 2011-264 Sales Agreement between Town and Erie County for approx.

53 acres on St. Pt. Rd.

Supervisor Pordum moved and Councilman Dash seconded,

WHEREAS: the Town of Evans has developed plan for the development of a parcel of land, or a portion thereof, presently owned by the County of Erie; and

WHEREAS: the County of Erie desires to transfer and the Town of Evans desires to obtain title to a certain parcel of land approximately 53 acres on Sturgeon Point Road; and

WHEREAS: the acquisition of such parcel is found to be in the best interest of the Town; and

WHEREAS: an agreement of sale between the County of Erie and the Town of Evans, a copy of which is on file in the Office of the Town Clerk, regarding such transfer and acquisition has been negotiated which more fully describes the aforesaid parcel to be transferred by the County of Erie and acquired by the Town of Evans; (Addendum B)

NOW THEREFORE BE IT

RESOLVED: that the Supervisor of the Town of Evans or his designee be and herby is authorized and directed to execute the aforesaid Agreement of Sale between the County of Erie and the Town of Evans in as many counterparts as he may deem appropriate and to deliver the same to the County of Erie for the execution of said agreement by the same;

AND BE IT FURTHER

RESOLVED: that the Town Board of the Evans hereby authorizes the expenditure of such sums heretofore made and in the future to be made as may seem reasonable and prudent in such acquisition.

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash aye
 Councilman Cooper aye
 Supervisor Pordum aye

RESOLUTION 2011-265 Revenue Anticipation Note resolution authorizing the issuance

of notes not to exceed \$1,200,000 in anticipation of revenues due and payable in the fiscal year ending 12/31/2011, such revenues being in the form of (i) water rates and charges and (ii) distributions of the county sales and compensating use taxes

The following resolution was offered by Supervisor Pordum, who moved its adoption, seconded by Councilman Cooper, to-wit:

REVENUE ANTICIPATION NOTE RESOLUTION AUTHORIZING THE ISSUANCE OF NOTES OF THE TOWN OF EVANS (THE "TOWN") IN AN AMOUNT NOT TO EXCEED \$1,200,000 IN ANTICIPATION OF REVENUES OTHER THAN REAL PROPERTY TAXES OR ASSESSMENTS DUE AND PAYABLE IN THE FISCAL YEAR ENDING DECEMBER 31, 2011, SUCH REVENUES BEING IN THE FORM OF (i) WATER RATES AND CHARGES AND (ii) DISTRIBUTIONS OF THE COUNTY SALES AND COMPENSATING USE TAXES.

BE IT RESOLVED, by the Town Board (the "Board") of the Town of Evans, Erie County, New York (the "Town") AS FOLLOWS:

Section 1. In anticipation of the collection of revenues other than real estate taxes and assessments, in the form of water rates and charges due and payable in the current fiscal year ending on December 31, 2011, and pursuant to the Local Finance Law of the State of New York (the "Law"), the Town is hereby authorized to issue and sell one or more revenue anticipation notes in an aggregate principal amount not to exceed \$500,000. The amount of the such revenues collected by the Town in the Fiscal Year ended December 31, 2010 was \$1,693,726, the amount of such revenues set forth in the Town's budget for the fiscal year ending December 31, 2011 is \$1,883,564, and the amount of such revenues which remain uncollected as the date of this resolution (as measured against the lesser of the amount of such revenues collected in the prior fiscal year and the amount of such revenues budgeted for the current fiscal year) is \$593,299.

Section 2. In anticipation of the collection or receipt of revenues other than real estate taxes and assessments in the form of distributions by Erie County (the "County") of County sales and compensating use taxes due and payable in the current fiscal year ending on December 31, 2011, and pursuant to the Law, the Town is hereby authorized to issue and sell one or more revenue anticipation notes in an aggregate principal amount not to exceed \$700,000. The amount of the such revenues collected by the Town in the Fiscal Year ended December 31, 2010 was \$1,424,740, the amount of such revenues set forth in the budget for the fiscal year ending December 31, 2011 is \$1,424,740, and the amount of such revenues which remain uncollected as the date of this resolution (as measured against the lesser of the amount of such revenues collected in the prior fiscal year and the amount of such revenues budgeted for the current fiscal year) is \$742,802.

Section 3. Subject to and in accordance with subdivision of Section 25.00 of the Law, the revenue anticipation notes authorized by Sections 1 and 2 of this Resolution may be issued as single issue of revenue anticipation notes (the “Notes”). The date of maturity of the Notes shall not extend beyond the applicable period approved by Section 25.00 of the Law for the maturity of the Notes, within one year from the date of issuance.

Section 4. Subject to the provisions of this Resolution and the Law, pursuant to the provisions of Sections 30.00, 50.00 and 56.00 of the Law, the powers and duties of the Board to issue and to sell the Notes, including any renewals thereof, and the authorization of the terms, form and content thereof, are hereby delegated to the Supervisor of the Town as the chief fiscal officer of the Town (the “Supervisor”). The Supervisor is authorized and directed to execute and deliver the Notes to the purchaser thereof and the Clerk of the Town is authorized and directed to attest the Notes.

Section 5. The full faith and credit of the Town are and shall be pledged to the punctual payment of principal of and interest on the revenue anticipation notes authorized herein.

Section 6. The Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Notes as excludable from gross income from federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate the Notes, if applicable, as qualified tax-exempt obligations in accordance with Section 265(b)(3)(B)(I) of the Code.

Section 7. This resolution shall take effect immediately.

The following vote was taken and recorded in the public or open session of said meeting:

VOTE RESULT:	ADOPTED BY ROLL CALL	
	Councilman Dash	aye*
	Councilman Cooper	aye
	Supervisor Pordum	aye

*Two (2) Councilmen had a conference call with the auditors to double check as far as the figures were concerned and to see checks and balances and they agreed that this was in the best interest of the Town that we pursue this at this time.

RESOLUTION 2011-266 Audit of Bills

Councilman Dash moved and Supervisor Pordum seconded that all properly audited bills be paid forth out of their respective accounts as set forth in the abstract brought forth on

Date: Prepaids Sept 2011
Abstract No. 17 (Prepaids Only)

Voucher No.
Prepaid: 36-48

GENERAL	15,711.80
PART TOWN	1,626.69
HIGHWAY D A	0
HIGHWAY	3,112.80
WATER	1,267.29
CAPITAL PROJECTS	365,932.38
SPECIAL DISTRICTS	0
DEBT SERVICE	0
COMMUNITY DEVELOPMENT	<u>0</u>
TOTAL	387,650.96

VOTE RESULT: ADOPTED BY ROLL CALL
 Councilman Dash Aye
 Councilman Cooper Aye
 Supervisor Pordum Aye

RESOLUTION 2011-267 Adjournment

Supervisor Pordum moved and Councilman Cooper seconded to adjourn to a Work Session on Monday, October 3, 2011 at 6:30pm and on Wednesday, October 12, 2011 at 6:30pm then to Wednesday, October 19, 2011 at 6:30pm for an Agenda Meeting with the regular Town Board meeting at 7:00pm

VOTE RESULT: ADOPTED
 AYES- Dash, Cooper, Pordum
 NAYS- none

Respectfully submitted,

Lynn R. Stoessel
 Deputy Town Clerk

Jonica B. DiMartino
 Town Clerk



140 John James Audubon Parkway, Suite 201, Amherst, New York 14228
P 716.688.0766 F 716.625.6825

Change Order

Change Order No.: 1

Date: September 28, 2011

Contract No.: 09-2

Sheet 1 of 1

Owner File No.: _____

Wendel Duchscherer Project No.: 2589-32

Project: Town of Evans Waterline Replacement Project

Owner's Name: Town of Evans

Contractor's Name: J.D. Northrup Construction Inc.

DESCRIPTION OF CHANGE TO CONTRACT OR EXTRA WORK:

- | | |
|---|------------------------------------|
| 1. Interconnection at Monroe Avenue and Granger Street. | 2. Sycamore Street Stream Crossing |
| 3. Tracer wire for PE long service waterline pipe | 4. Erie and Walden Interconnection |

REASON FOR MODIFICATION OR NEED FOR EXTRA WORK:

Due to unforeseen field conditions, additional materials and labor were needed in order to facilitate replacement of waterlines

CHANGE IN CONTRACT PRICE:

Original Contract Price

\$ 4,683,465.00

Net changes from previous Change Orders - -

\$ 0

Net Increase of this Change Order

\$ 51,920.00

Contract Price with all approved Change Orders

\$ 4,735,385.00

CHANGE IN CONTRACT SCHEDULE:

Original Contract Schedule

Substantial Completion: March 1, 2012

Ready for final payment: July 1, 2012
days or dates

Net change from previous Change Orders - -

0

Net Increase of this Change Order

0

Contract Schedule with all approved Change Orders

Substantial Completion: _____

Ready for final payment: _____
days or dates

APPROVALS:

Contractor Name Thomas Reed, J.D. Northrup Construction Inc.

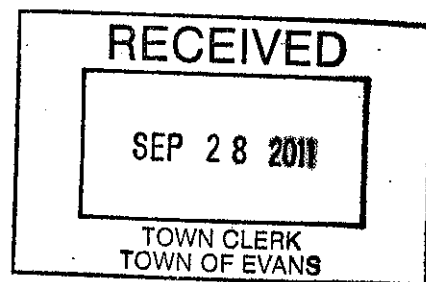
Contractor Signature _____ Date: _____

Engineer Name Robert D Klavoon, P.E., Wendel Duchscherer

Engineer Signature _____ Date: _____

Owner Name Francis Pordum, Town of Evans Supervisor

Owner Signature _____ Date: _____



**AGREEMENT OF SALE
BETWEEN
THE COUNTY OF ERIE AND
THE TOWN OF EVANS**

THIS AGREEMENT entered into on _____, 2011, by and between THE COUNTY OF ERIE, a municipal corporation, 95 Franklin Street, Buffalo, New York (hereinafter called the "County") and the TOWN OF EVANS, a municipal corporation, 8787 Erie Road, Angola, New York 14006 (hereinafter called the "Town").

RECITALS:

WHEREAS, the Town desires to obtain title to and the County desires to transfer a 53 acre parcel of land on Sturgeon Point Road, Evans, New York to the Town subject to the terms and conditions stated in this Agreement; and

WHEREAS, the real property to be transferred is known as Sturgeon Point Bluffs (hereinafter called the "Site") and is identified as SBL#: 205.03-1-16.1 (more specifically identified in the legal descriptions attached hereto and incorporated herein as Exhibit "A" and as shown on the attached maps which is incorporated herein as Exhibit "B"); and

WHEREAS, the Town will use the Site for public recreational purposes; and

WHEREAS, should the Town sell the Site at a future date, the County would be entitled to share in the profit of the sale(s); and

WHEREAS, the Erie County Legislature, in its proceedings of October 14, 2010, pursuant to Comm. 16E-4 (2010), approved the transfer of this Site.

WHEREAS, the Evans Town Board, in its proceedings of _____, 20____, approved the receipt of this Site.

NOW, THEREFORE, in consideration of terms, covenants and agreements contained in this Agreement and for other good and adequate consideration, the adequacy and receipt of which is hereby acknowledged, the parties do hereby mutually agree as follows:

1.) Definitions. As used in this Sale Agreement, the following terms shall have the meanings:

(a) Acquisition Expenses: all reasonable title costs, including search and survey costs, and title insurance; and recording costs incurred by the Town directly.

(b) Development Expenses: reasonable design and construction costs incurred by the Town directly.

(c) Sale Expenses: all reasonable title costs, including search and survey costs, and title insurance; and real estate closing costs incurred by the Town directly (collectively "Expenses").

2.) The County shall sell and the Town shall purchase the Site, which is comprised of Parcel A and Parcel B. The County shall provide quit-claim deeds to the Town for the transfer of the Site, unsigned deeds for Parcel A and Parcel B are attached hereto and incorporated herein as Exhibit "C".

3.) The County hereby sells to the Town in "as-is" condition, and the Town hereby purchases and takes from the County in "as-is" condition, the Site.

4.) The Town shall pay to the County a fee, for the purchase of the Site, in the amount of One U.S. Dollar (\$1.00), the payment of which is hereby acknowledged.

5.) The Town agrees to protect, defend, indemnify and save harmless the County and its officers, agents and employees, with respect to all causes of action in contract or tort including, but not limited to, those claims relating to pollution, hazardous waste, substance or material, latent or otherwise. The Town also agrees to indemnify and hold the County harmless from any and all liability from causes of action which accrued on and/or after the date of this transfer.

6.) The Town has an affirmative duty to operate the Site for public recreational purposes and agrees that the Park will be available to all County residents. A breach of said duty constitutes a default under this Agreement, except in the event the Town exercises its right to private sale pursuant to paragraph 7 herein. Failure to maintain the Site for public recreational purposes for an unreasonable amount of time shall result in the Town's forfeiture of its net sale proceeds to the County. However, it is specifically understood that the parcel to be conveyed to the southwest of Sturgeon Point Road, Parcel B, is not presently to be developed and the same shall not constitute a default under the terms hereof.

7.) If the Town sells the Site to a third party, the County is entitled to fifty percent of the net proceeds of such sale after reimbursement to the Town of Acquisition Expenses, Development Expenses and Sale Expenses actually incurred by the Town in the acquisition, development and sale of said Site. The Town will not be reimbursed for matching grant funds, including but not limited to, those provided by the state or federal government.

The rate of reimbursement of Town Expenses shall be dependent on the length of time the Town has owned, operated and maintained the Site for public recreational purposes. The percentage reimbursement rates shall be as follows:

Rate of Reimbursement	Time of Ownership
25%	0 - 3 years
50%	3 - 6 years
75%	6 - 9 years
100%	9 - 12 years

The Town must provide written notice and disclosure of terms of sale to the County before the Contract of Sale is executed and the County shall have thirty (30) days from the provision to the County of said notice to object to, or comment upon, the same in writing, delivered to the Town. Failure of the County to deliver such written objection and/or comment to the Town, within such period, shall be deemed the consent of the County to the sale as proposed in such notice from the Town. Failure to notify the County in advance of the executed Contract of Sale constitutes a breach of this Agreement, which shall result in the Town's forfeiture of its net sale proceeds to the County.

8.) Notices pursuant to this Agreement shall be in writing and shall either be delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such address as either party may specify in writing to the other party:

To the Town: Town Supervisor
 8787 Erie Road
 Angola, NY 14006

To the County: Commissioner
 Department of Environment & Planning
 95 Franklin Street
 10th Floor
 Buffalo, NY 14202

With copy to: County of Erie
 Department of Law
 95 Franklin Street
 Room 1634
 Buffalo, NY 14202

Such notices pursuant to this paragraph shall be deemed to have been given upon receipt or upon refusal of the party being notified to receive delivery of such notice.

9.) No failure of the County or the Town to require, and no delay by the County or Town in requiring, the other party to comply with any provision of this Agreement shall constitute a waiver of the right to require such compliance. No failure by the County or the Town to exercise, and no delay by the County or the Town in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by the County or the Town of any right of remedy under this Agreement shall be effective unless made in writing. Any waiver by the County or the Town of any right or remedy under this Agreement shall be limited to the specific instance referred to in such writing and shall not constitute a waiver of any other right or remedy under this Agreement.

10.) The terms and conditions of this Agreement shall survive closing.

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

COUNTY OF ERIE

TOWN OF EVANS

CHRIS COLLINS/JEFF HART
Erie County Executive/Deputy County Executive

Supervisor

APPROVED AS TO CONTENT

KATHY KONST
Commissioner
Department of Environment & Planning

APPROVED AS TO FORM

ERIC R. ZIOBRO
Assistant County Attorney
Document No.: _____
Dated: _____

Exhibit A

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Evans, County of Erie and State of New York, being part of Lot No. 69, Township 8, Range 9 of the Holland Land Company's Survey which according to Map titled Sturgeon Point Colony filed in the Clerk's Office of Erie County under Map Cover No. 1232, known and distinguished as Subdivision Lot No. 13 to Subdivision Lot No. 17, inclusive; Subdivision Lot No. 18, excepting that part conveyed to Minnie Burkhardt by deed dated September 11, 1928 and recorded in the Clerk's Office of Erie County in Liber 1965 of Deeds page 536 on January 11, 1929; Subdivision Lot No. 19 to Subdivision Lot No. 22, inclusive; Subdivision Lot No. 31 to Subdivision Lot No. 39, inclusive; Subdivision Lot No. 88 to Subdivision Lot No. 94, inclusive; Subdivision Lot No. 175 to Subdivision Lot No. 195, inclusive; Subdivision Lot No. 202 to Subdivision Lot No. 212, inclusive; Subdivision Lot No. 266; Subdivision Lot No. 267; Subdivision Lot No. 431 to Subdivision Lot No. 444, inclusive; excepting Subdivision Lot No. 434; Subdivision Lot No. 446; Subdivision Lot No. 447; Subdivision Lot No. 465 to Subdivision Lot No. 469, inclusive; Subdivision Lot No. 497 to Subdivision Lot No. 503, inclusive.

TOGETHER with all right, title and interest of, in and to any streets and roads abutting the above described premises.

EXCEPTING those portions of the above described Subdivisions conveyed to the Erie County Water Authority by deed dated July 27, 1971 and recorded in the Office of the Clerk of Erie County in Liber 7824 of Deeds page 527 on August 5, 1971.

PARCEL B

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Evans, County of Erie and State of New York, being part of Lot No. 69, Township 8, Range 9 of the Holland Land Company's Survey which according to Map titled Sturgeon Point Colony filed in the Clerk's Office of Erie County under Map Cover No. 1232, known and distinguished as Subdivision Lot No. 515 to Subdivision Lot No. 519, inclusive; Subdivision Lot No. 522 to Subdivision Lot No. 527, inclusive; Subdivision Lot No. 528 to Subdivision Lot No. 605, inclusive and Subdivision Lot No. 613 to Subdivision Lot No. 637, inclusive.

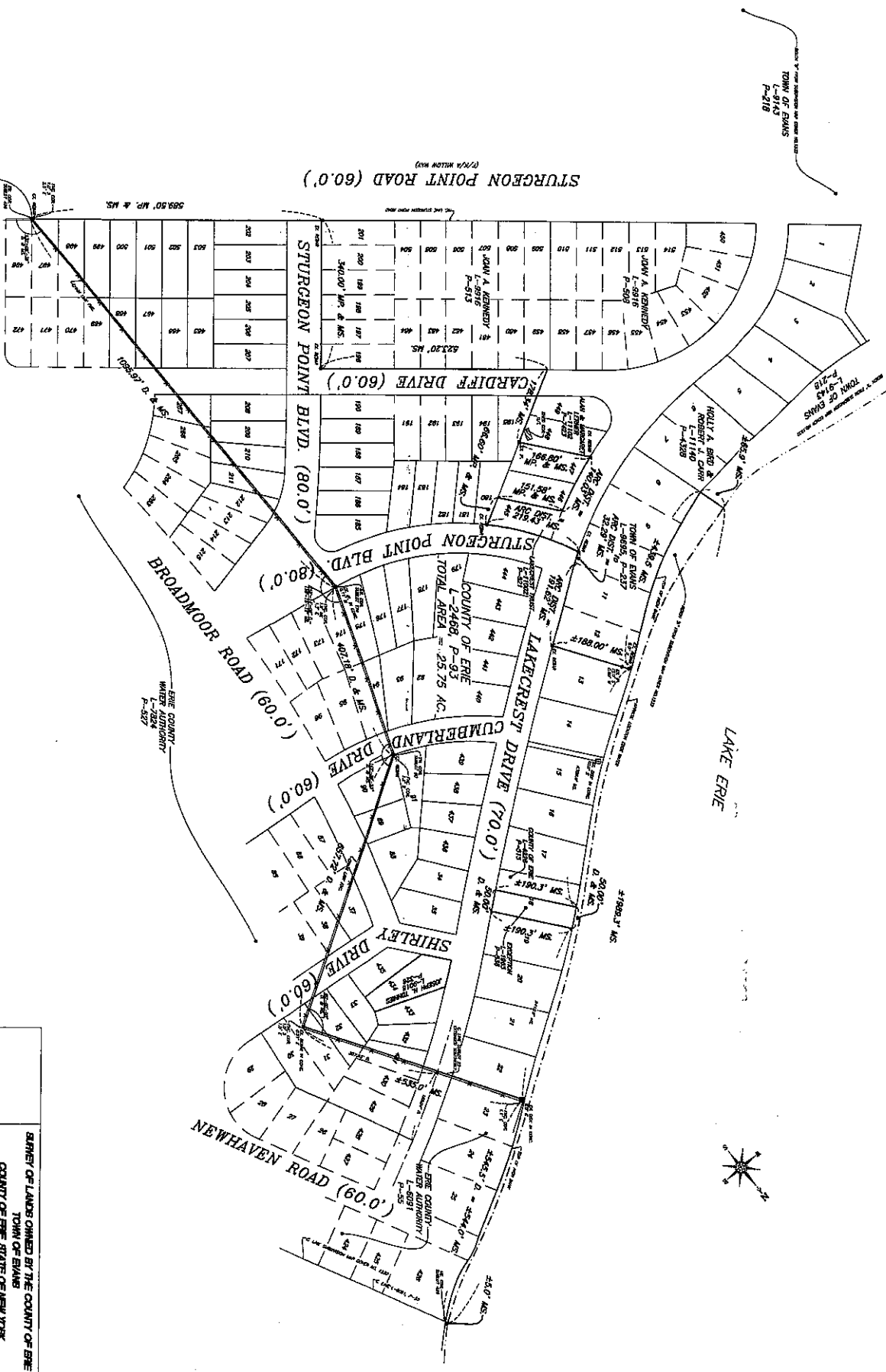
TOGETHER with all right, title and interest of, in and to any streets and roads abutting the above described premises.

EXCEPTING those portions of the above described Subdivisions conveyed to the Erie County Water Authority by deed dated July 27, 1971 and recorded in the Office of the Clerk of Erie County in Liber 7824 of Deeds page 527 on August 5, 1971.

Exhibit B

Legend:
 1. 1" = 100'
 2. 1" = 200'
 3. 1" = 400'
 4. 1" = 800'
 5. 1" = 1600'

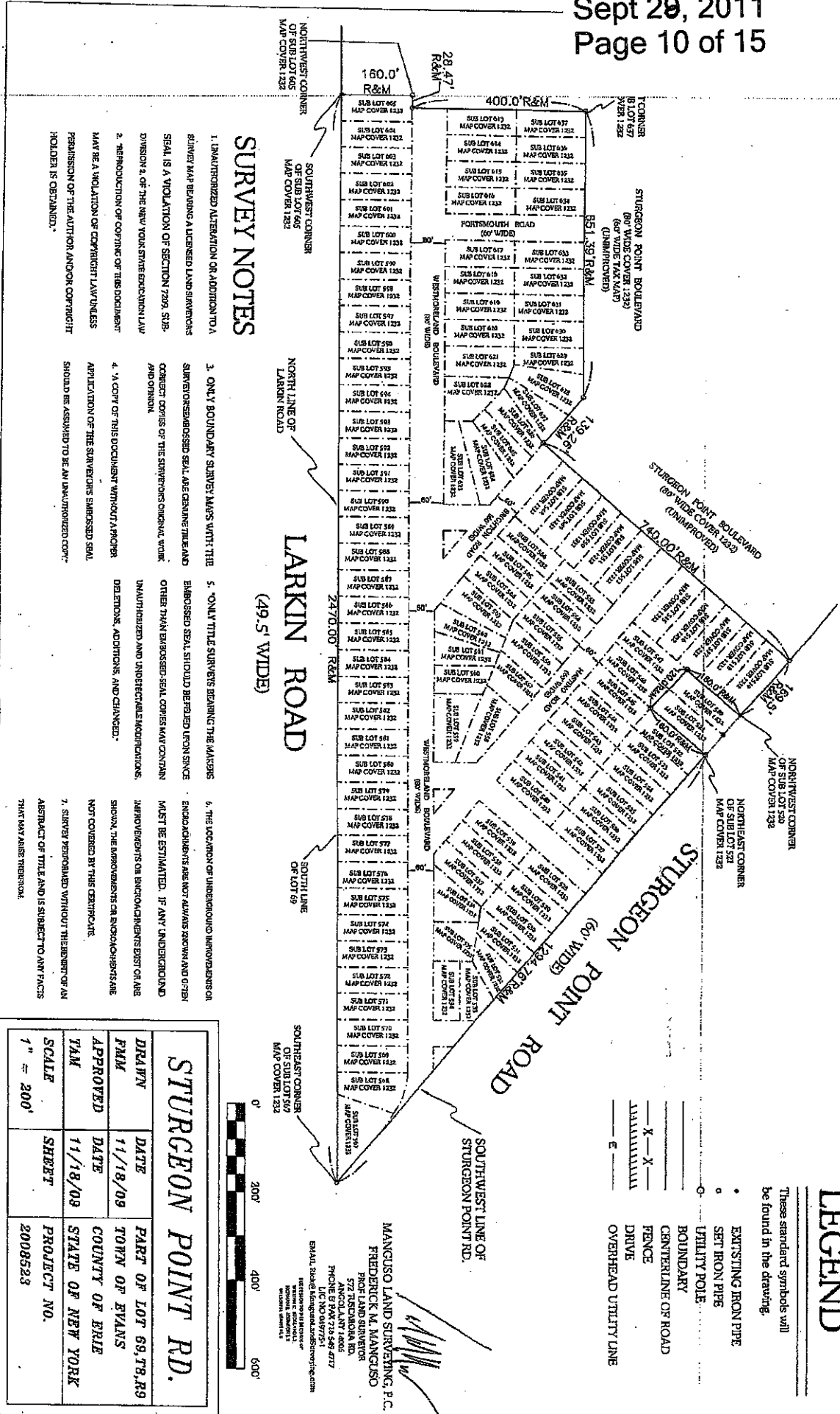
Notes:
 1. THIS PLAN IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE ENGINEER.
 2. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE PLAN.
 3. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREAS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAN.
 4. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAN.
 5. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT ROADS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE PLAN.



NO.	DATE	REVISION

**BARNEY OF LANDS OWNED BY THE COUNTY OF ERIE
 COUNTY OF ERIE STATE OF NEW YORK
 TOWN OF EWING**

VENDEL B. OLICH-SCHERER
 ENGINEER
 11220085
 1" = 100'
 11/2/2008
 11/2/2008
 11/2/2008



LEGEND

- These standard symbols will be found in the drawing.
- EXISTING IRON PIPE
 - SET IRON PIPE
 - UTILITY POLE
 - BOUNDARY
 - CENTERLINE OF ROAD
 - FENCE
 - DRIVE
 - OVERHEAD UTILITY LINE

SURVEY NOTES

1. UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUB-DIVISION 4, OF THE NEW YORK STATE EDUCATION LAW.
2. REPRODUCTION OF COPIES OF THIS DOCUMENT MAY BE A VIOLATION OF COPYRIGHT LAW UNLESS PERMISSION OF THE AUTHOR AND/OR COPYRIGHT HOLDER IS OBTAINED.
3. ONLY BOUNDARY SURVEY MAPS WITH THE SURVEYOR'S EMBOSSED SEAL ARE CHANGING TIME AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND ORIGINAL.
4. A COPY OF THIS DOCUMENT WITHOUT A PAPER APPLICATION OF THE SURVEYOR'S EMBOSSED SEAL SHOULD BE ASSURED TO BE AN UNAUTHORIZED COPY.
5. ONLY TITLE SURVEYS BEARING THE MASSERS EMBOSSED SEAL SHOULD BE REPLIED UPON SINCE OTHER THAN EMBOSSED SEAL COPIES MAY CONTAIN UNAUTHORIZED AND UNRELIABLE MODIFICATIONS, DELETIONS, ADDITIONS, AND CHANGES.
6. THE LOCATION OF UNDERGROUND UTILITIES OR ENCROACHMENTS ARE NOT ALWAYS KNOWN AND OTHER MUST BE ESTIMATED. IF ANY UNDERGROUND UTILITIES OR ENCROACHMENTS BEST OR ARE SHOWN, THE ARRANGEMENTS ON ENCROACHMENTS ARE NOT COVERED BY THIS CERTIFICATE.
7. SURVEY PERFORMED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY FACTS THAT MAY ARISE THEREAFTER.

STURGEON POINT RD.	
DRAWN	DATE
FMM	11/18/09
APPROVED	DATE
TAM	11/18/09
SCALE	SHEET
1" = 200'	2008523
PART OF LOT 69, T8, R9 TOWN OF EVANS COUNTY OF ERIE STATE OF NEW YORK PROJECT NO.	



MANGLISO LAND SURVEYING, P.C.
 FREDERICK M. MANGLISO
 PROFESSIONAL SURVEYOR
 572 TROSCORRA RD.
 ANCONA, NY 14006
 PHONE: 607.735.849 4717
 LIC. NO. 0457751
 E-MAIL: fman@manglisolandsurveying.com

Exhibit C

QUIT CLAIM DEED

THIS INDENTURE made this ____ day of _____, 20__, between the COUNTY OF ERIE, a municipal corporation organized under the laws of the State of New York, having its main office and principal place of business at 95 Franklin Street, City of Buffalo, County of Erie and State of New York ("Grantor"), and the TOWN OF EVANS, 8787 Erie Road, Angola, NY 14006-9600 ("Grantee").

WITNESSETH:

That Grantor, in consideration of One and No More Dollars (\$1.00 and No More) lawful money of the United States, paid by Grantee, does hereby remise, release and quit claim unto Grantee, its heirs or successors and assigns forever,

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Evans, County of Erie and State of New York, being part of Lot No. 69, Township 8, Range 9 of the Holland Land Company's Survey which according to Map titled Sturgeon Point Colony filed in the Clerk's Office of Erie County under Map Cover No. 1232, known and distinguished as Subdivision Lot No. 13 to Subdivision Lot No. 17, inclusive; Subdivision Lot No. 18, excepting that part conveyed to Minnie Burkhardt by deed dated September 11, 1928 and recorded in the Clerk's Office of Erie County in Liber 1965 of Deeds page 536 on January 11, 1929; Subdivision Lot No. 19 to Subdivision Lot No. 22, inclusive; Subdivision Lot No. 31 to Subdivision Lot No. 39, inclusive; Subdivision Lot No. 88 to Subdivision Lot No. 94, inclusive; Subdivision Lot No. 175 to Subdivision Lot No. 195, inclusive; Subdivision Lot No. 202 to Subdivision Lot No. 212, inclusive; Subdivision Lot No. 266; Subdivision Lot No. 267; Subdivision Lot No. 431 to Subdivision Lot No. 444, inclusive; excepting Subdivision Lot No. 434; Subdivision Lot No. 446; Subdivision Lot No. 447; Subdivision Lot No. 465 to Subdivision Lot No. 469, inclusive; Subdivision Lot No. 497 to Subdivision Lot No. 503, inclusive.

TOGETHER with all right, title and interest of, in and to any streets and roads abutting the above described premises.

EXCEPTING those portions of the above described Subdivisions conveyed to the Erie County Water Authority by deed dated July 27, 1971 and recorded in the Office of the Clerk of Erie County in Liber 7824 of Deeds page 527 on August 5, 1971.

THIS CONVEYANCE is made on the condition that the Town of Evans shall use, maintain, and/or develop said premises exclusively for public recreational purposes, and that the premises will be open to all Erie County residents. Divestiture of the premises for private residential development, commercial development and/or any other non-municipal development is strictly prohibited. In the event the premises ceases to be used for public recreational purposes, or should the Town attempt to divest itself of the land, title to the premises shall immediately revert to the County of Erie, whereupon the County may take immediate possession.

THIS CONVEYANCE is made on the condition that the Town of Evans shall not exercise its right of eminent domain to acquire private property contiguous to the premises described herein.

THIS CONVEYANCE is made and accepted with the reservation of and subject to any and all easements and rights of way heretofore separately acquired by the County as if same had not merged with the fee title included, but not limited to, any portion of the above-described premises conveyed to or

dedicated by the County of Erie for highway, drainage or other purposes as may appear in the records of the Clerk of the County of Erie; subject also to taxes, local assessments, easements and restrictions or other matters of record affecting the premises.

THIS CONVEYANCE is made pursuant to a Resolution passed by the Erie County Legislature on the 14th day of October 2010.

TOGETHER with the appurtenances and all the estate rights of the Grantor and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, his or her heirs and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused its corporate seal to be hereunto affixed and these presents to be signed by its duly authorized officer the day and the year first above written.

COUNTY OF ERIE

CHRIS COLLINS/JEFF HART
Erie County Executive/Deputy County Executive

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 20___, before me, the undersigned, personally appeared Chris Collins, Erie County Executive/Jeff Hart, Deputy Erie County Executive, 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 entity or individual upon behalf of which the individual acted, executed the instrument.

Notary Public

APPROVED AS TO CONTENT

Joseph L. Maciejewski
Director of Real Property Tax Services

Date:

APPROVED AS TO FORM:

Eric R. Ziobro
Assistant County Attorney

Document No.: _____

Date:

QUIT CLAIM DEED

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PARCEL B

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TOGETHER with all right, title and interest of, in and to any streets and roads abutting the above described premises.

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TO HAVE AND TO HOLD the premises herein granted unto the Grantee, his or her heirs and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused its corporate seal to be hereunto affixed and these presents to be signed by its duly authorized officer the day and the year first above written.

COUNTY OF ERIE

CHRIS COLLINS/JEFF HART
Erie County Executive/Deputy County Executive

UNIFORM CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 20__, before me, the undersigned, personally appeared Chris Collins, Erie County Executive/Jeff Hart, Deputy County Executive, 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 entity or individual upon behalf of which the individual acted, executed the instrument.

Notary Public

APPROVED AS TO CONTENT

Joseph L. Maciejewski
Director of Real Property Tax Services

Date:

APPROVED AS TO FORM:

Eric R. Ziobro
Assistant County Attorney

Document No.: _____

Date: