



Meeting Agenda – STAMP Committee
 Genesee County Economic Development Center
 Tuesday, August 3, 2021 - 10:30 a.m.
 Location: Innovation Zone Conference Room, Suite 107

Page #s	Topic	Discussion Leader	Desired Outcome
	1. Call to Order – Enter Public Session	P. Zelif	
	1a. Executive Session Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons: 1. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof. 1b. Enter Public Session	P. Zelif	
2-3	2. Chairman’s Report & Activities 2a. Agenda Additions / Deletions / Other Business 2b. Minutes: June 29, 2021	P. Zelif	Vote
4	3. Discussions / Official Recommendations to the Board: 3a. CC Environment 2021 Contract – Funding Reallocation	M. Masse	Disc / Vote
5-7	3b. Morsch Pipeline Change Order	M. Masse	Disc / Vote
8-10	3c. Dedication of Pembroke Line to Pembroke and Alabama	M. Masse	Disc / Vote
11	3d. Rent Payment for USFWS Force Main	M. Masse	Disc / Vote
12-18	3e. Professional Services for Proposal for ROW Easement Acquisition	M. Masse	Disc / Vote
	4. Adjournment	P. Zelif	Vote



GCEDC STAMP Committee Meeting

Tuesday, June 29, 2021

Location: Innovation Zone

10:30 a.m.

MINUTES

ATTENDANCE

Committee Members: C. Yunker, P. Zeliff, A. Vanderhoof, M. Clattenburg
 Staff: M. Masse, L. Casey, J. Krencik, S. Hyde, L. Farrell
 Guests: R. Crossen (Town of Alabama Supervisor)
 Absent:

1. Call to Order / Enter Public Session

P. Zeliff called the meeting to order at 10:32 a.m. in the Innovation Zone.

1a. Executive Session

M. Clattenburg made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 10:32 a.m., for the following reasons:

- 1. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

The motion was seconded by C. Yunker and approved by all members present.

1b. Re-Enter Public Session

C. Yunker made a motion to enter back into public session at 11:10 a.m., seconded by A. Vanderhoof and approved by all.

2. Chairman’s Report & Activities

2a. Agenda Additions / Other Business – Nothing at this time.

2b. Minutes: June 1, 2021

C. Yunker made a motion to approve the June 1, 2021 minutes; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Zeliff - Yes
 C. Yunker - Yes
 A. Vanderhoof - Yes
 M. Clattenburg - Yes

The item was approved as presented.

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3. Discussions / Official Recommendations to the Board:

3a. Appointment of Phillips Lytle as Special Counsel – M. Masse asked the Committee to recommend to the full Board 1) the appointment of Phillips Lytle as special counsel for the current litigation and 2) the approval to expend up to \$10,000 to cover the insurance deductible.

C. Yunker made a motion to recommend to the full Board the approval of Phillips Lytle as special counsel for the current litigation and approval to expend up to \$10,000 to cover the insurance deductible; the motion was seconded by A. Vanderhoof. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- A. Vanderhoof- Yes
- M. Clattenburg- Yes

The item was approved as presented.

3b. Phillips Lytle Contract Amendments –

Phillips Lytle 2021 contract for STAMP related work -Phillips Lytle has prepared a proposal to cover the scope of work for 2021 as it relates to Tech Team support for the off-site sewer permitting and wetland permitting, the wastewater treatment facility permitting, and force main installation. The last contract that was approved for Phillips Lytle for this work was March 2, 2019.

Fund Commitment: Not to exceed \$110,000 to be included in the \$8 million.

Phillips Lytle additional substation support

The GCEDC has requested a proposal from Phillips Lytle to continue its assistance with the design, permitting, planning, structuring and negotiation of agreements for the development, operation and financing for the 345 kV to 115 kV substation that would service the STAMP site.

Fund Commitment: Increase in the contract from \$40,000 to not to exceed \$185,000 to be included in the \$8 million.

A. Vanderhoof made a motion to recommend to the full Board the approval of the Phillips Lytle contracts as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

- P. Zeliff - Yes
- C. Yunker - Yes
- A. Vanderhoof- Yes
- M. Clattenburg- Yes

The item was approved as presented.

4. Adjournment

As there was no further business, A. Vanderhoof made a motion to adjourn at 11:17 a.m., seconded by M. Clattenburg and passed unanimously.

Mark Masse

**STAMP Committee
August 3, 2021**

CC Environment and Planning 2021 contract for STAMP related work

Discussion: In connection with ongoing work at STAMP, CC Environment and Planning has submitted a contract for 2021 work to cover the following:

1. Onsite regulatory, industry permitting and land management support
2. Offsite regulatory, industry and permitting support

The Board approved this contract at the May meeting but it was approved under the \$8 million ESD grant. This should have been approved under the \$33 million ESD grant.

Fund Commitment: \$10,000 under the \$33 million ESD grant.

Board Action Request: Recommend approval to the full Board of being covered under the \$33 million ESD grant.

Change order for Morsch contract for Pembroke line

Discussion: During construction of the Pembroke line, Morsch Pipeline has run into some unforeseen and unknown issues. One of the issues was sections of rock that were not found during the test bore drillings that were done prior to contracting. There was also one section of rock that was known, but had archeological issues so the plan was to directional drill through the rock. The rock proved to be too difficult to directional drill through so a switch was made to open trench cut that section, but the archeological issue needed to be cleared first. The change order reflects the two items listed above.

Fund Commitment: \$41,287.50 covered under operating funds.

Committee Action Request: We recommend the approval of change order number 4.

Date of Issuance: July 29, 2021	Effective Date: July 29, 2021
Owner: GCEDC	Owner's Contract No.:
Contractor: Morsch Pipeline, Inc.	Contractor's Project No.:
Engineer: CPL	Engineer's Project No.: 14351.00
Project: STAMP Offsite Water – Phase 4	Contract Name: STAMP Offsite Water -Phase 4

The Contract is modified as follows upon execution of this Change Order:

Description: Extension of Contract Times due to delays with meter vault production and delivery (occurred July 27, 2021, with installation, disinfection and ready to operate).

Costs associated with additional Rock Excavation required due to unforeseen subsurface conditions (see attached).

Attachments: See attached Rock detailed description.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>2,220,743.00</u>	Original Contract Times: 1. Initial 4,000 LF to Indian Falls Road: Substantial Completion: <u>July 1, 2020</u> Ready for Final Payment: <u>August 1, 2020</u> 2. All Work: Substantial Completion: <u>November 30, 2020</u> Ready for Final Payment: <u>December 31, 2020</u>
Modifications of previously approved Change Orders: \$ <u>59,945.00</u>	Modifications of previously approved Change Orders: 1. Initial 4,000 LF to Indian Falls Road: Substantial Completion: <u>(Achieved) August 1, 2020</u> Ready for Final Payment: <u>(Achieved) September 1, 2020</u> 2. All Work: Substantial Completion: <u>June 30, 2021</u> Ready for Final Payment: <u>July 31, 2021</u>
Contract Price prior to this Change Order: \$ <u>2,280,688.00</u>	Contract Times prior to this Change Order: 1. Initial 4,000 LF to Indian Falls Road: Substantial Completion: <u>(Achieved) August 1, 2020</u> Ready for Final Payment: <u>(Achieved) September 1, 2020</u> 2. All Work: Substantial Completion: <u>June 30, 2021</u> Ready for Final Payment: <u>July 31, 2021</u>
Increase of this Change Order: \$ <u>41,287.50</u>	Increase of this Change Order: 1. All Work: Substantial Completion: <u>(1 month – Actual) July 27, 2021</u> Ready for Final Payment: <u>(1 month) August 31, 2021</u>
Contract Price incorporating this Change Order: \$ <u>2,321,975.50</u>	Contract Times with all approved Change Orders: 1. All Work: Substantial Completion: <u>(Actual) July 27, 2021</u> Ready for Final Payment: <u>August 31, 2021</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (Authorized Signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: <u>Senior Vice President</u>	Title: <u>President</u>
Date: _____	Date: _____	Date: _____

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Additional description narrative:

During the design of the GCEDC STAMP Offsite Water Main – Phase 4 project CPL reviewed the United States Geological Survey (USGS) for the water main route along NYS Route 77. This review did not show any significant rock formations along NYS Route 77, only a small band crossing the proposed water main path south of Ledge Road. CPL retained SJB to perform a subsurface investigation along the proposed water main path which agreed with the USGS data, showing only a grouping of cobbles or loose rock south of Ledge Road.

During construction, Morsch Pipeline's drilling subcontractor Turner Underground encountered a substantial rock formation while attempting to drill below the Klotzbach Archaeologically Sensitive Area (ASA). A test pit was dug to determine if this was a large cobble or solid rock, which solid rock was found at a depth of approximately 30-inches below grade. An attempt was made to drill from the north side of the Area and rock was found at a depth of approximately 24-inches and the drill was not able to progress further. After several attempts to drill, it was determined that the standard drilling methods would not be capable of crossing the rock formation.

While waiting to determine the course of action for the Klotzbach ASA, Turner moved to the Kreher ASA and encountered similar difficulties with rock depths of 30 and 36-inches below grade. Morsch and CPL completed several test pits along the water main path and found bedrock as shallow as 24-inches below surface grade within the Kreher and Klotzbach ASA.

Given the limitations provided by SHPO for the ASA, Turner again moved their equipment to the south along NYS Route 77, between Phelps Road and Meiser Road, for two other directional drill installations. These also presented varying depths of bedrock at 24 to 48-inches below the surface when Morsch completed additional test pits along the water main path to determine if further drilling in these heavily treed areas between the NYSDOT curb line and houses would be feasible.

Morsch and Turner provided two options at this time: Continue with directional drilling as a "Rock Drill" which would increase the unit price from \$199.20/LF to \$555/LF or begin coordination with SHPO and the Seneca Nation for a Phase 2 Archaeologic Study to allow for open cut (trenched) installation of the water main in the ASA. Based upon the limited project budget, CPL recommended to GCEDC that coordination for the Phase 2 Study be undertaken, which was completed in December 2020 by Deuel Archaeologic and Morsch Pipeline. The additional cost for the work completed by Deuel Archaeologic and Morsch Pipeline was \$13,295.00 and previously included in Change Order No. 2.

Based upon the actual excavations for the water main installation of the remaining project path between the Klotzbach ASA and Phelps Road **an additional 550.50 cubic yards of rock was removed** above the previous increase of 622 CY in Change Order No. 2.

Morsch Pipeline has again agreed to maintain their **unit price of \$75 per cubic yard** for rock removal for **an additional increase of \$41,287.50**, which is the total increase in cost for this Change Order.

Dedicate water transmission line to Towns of Pembroke and Alabama

Discussion: The construction of the 12 inch transmission main from Pembroke to Alabama is substantially complete with a few punch list items remaining. The GCEDC is looking to dedicate the transmission line to the Town of Pembroke and the Town of Alabama based on the location of the line. See the attached map.

Fund Commitment: None.

Board Action Request: Recommend approval to the full Board of dedicating the transmission main to the Towns of Pembroke and Alabama.



CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: GCEDC Owner's Contract No.:
Contractor: Morsch Pipeline, Inc. Contractor's Project No.:
Engineer: CPL Engineer's Project No.: 14351.00
Project: STAMP Offsite Water - Phase 4 Contract Name: STAMP Offsite Water - Phase 4

This final Certificate of Substantial Completion applies to:

- [X] All Work [] The following specified portions of the Work:

July 27, 2021

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: [Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]

Amendments to Owner's responsibilities: [X] None [] As follows

Amendments to Contractor's responsibilities: [X] None [] As follows

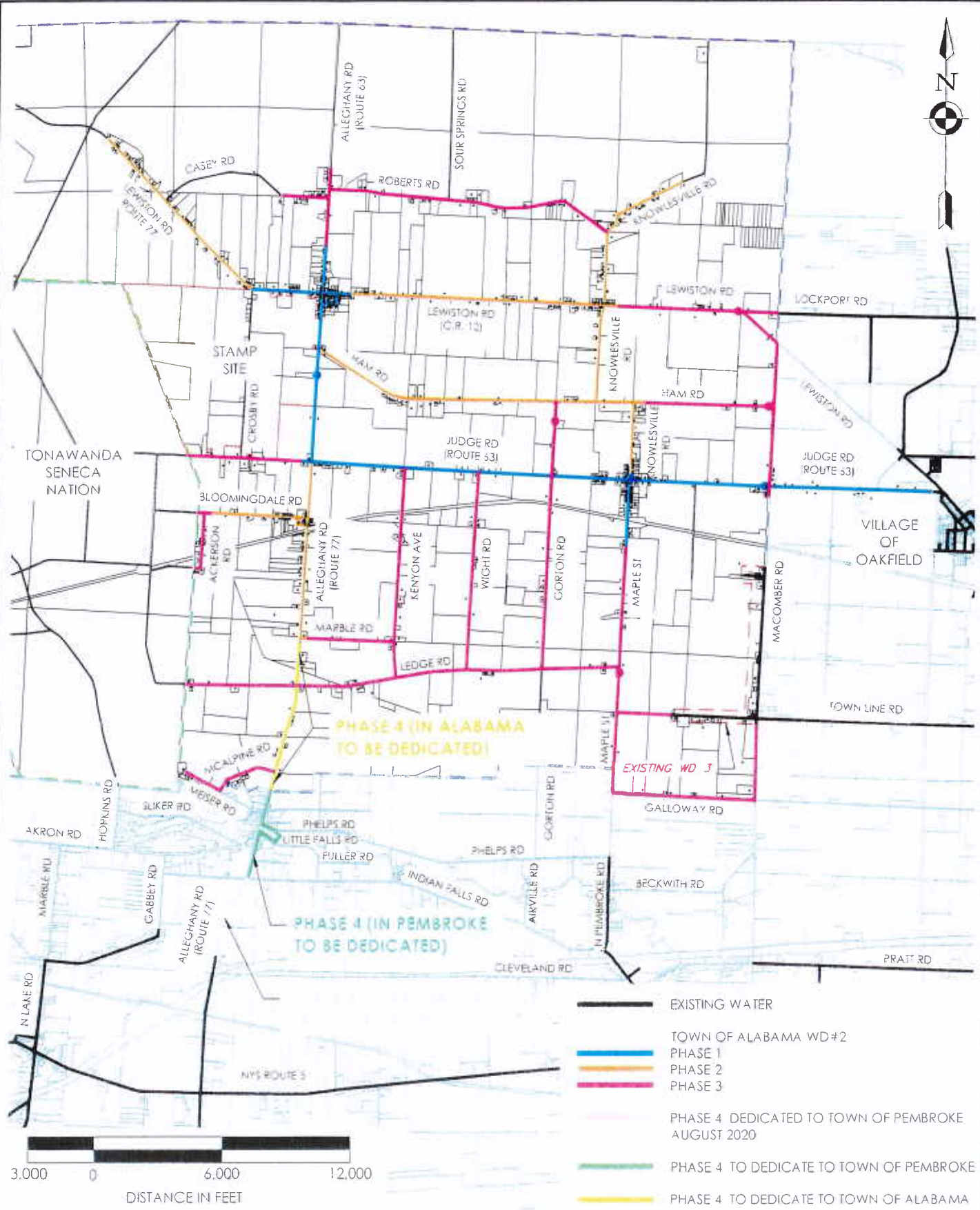
The following documents are attached to and made a part of this Certificate: Tentative List of Items to be Completed or Corrected, dated June 18, 2021; email from MCWA dated July 13, 2021.

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

EXECUTED BY ENGINEER: RECEIVED: RECEIVED:
By: (Authorized signature) By: Owner (Authorized Signature) By: Contractor (Authorized Signature)
Title: Project Manager Title: Senior Vice President Title: President
Date: July 29, 2021 Date: Date:

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PHASE 4 (IN ALABAMA TO BE DEDICATED)

PHASE 4 (IN PEMBROKE TO BE DEDICATED)

EXISTING WD 3









-  EXISTING WATER
-  TOWN OF ALABAMA WD#2
-  PHASE 1
-  PHASE 2
-  PHASE 3
-  PHASE 4 DEDICATED TO TOWN OF PEMBROKE AUGUST 2020
-  PHASE 4 TO DEDICATE TO TOWN OF PEMBROKE
-  PHASE 4 TO DEDICATE TO TOWN OF ALABAMA

FIGURE # 1



Referenced Drawings: Note



JOSEPH PAUL SPEER DATE 5/11/20
 100 CROSBY NEW YORK 14614
 TEL: (585) 214-4700
 FAX: (585) 212-3830
 WWW.CPCLP.COM

DATE: 9/16/2020
 DRAWN: NCB
 CHECKED: JED
 SCALE: AS NOTED
 PROJ. #: 14351.00

PROJECT LOCATION MAP

STAMP OFFSITE WATER - PHASE 4

TOWNS OF ALABAMA AND PEMBROKE, NEW YORK

Rent payment to USFWS for permit through Refuge

Discussion: The GCEDC has received its revised draft permit from the USFWS regarding the force main that will go from the STAMP site to Oak Orchard Creek in Shelby. The appraisal for the ROW was completed and sent into USFWS for their incorporation of a rent value into the permit. The amount for the rent charge is \$15,730 and is a one-time payment for the fifty year term of the permit.

Fund Commitment: \$15,730 from the \$33 million.

Committee Action Request: Recommend to the full Board approval of the rent payment of \$15,730.

Contract to secure ROW easements for process water force main

Discussion: The GCEDC has struggled to get property owners to enter into ROW agreements for the construction of the force main that will discharge into Oak Orchard Creek. Attached is a proposal from a company the does a lot of ROW work for municipalities and private companies.

Fund Commitment: Not to exceed \$24,000 from the \$33 million.

Committee Action Request: Recommend to the full Board approval of the not to exceed contract \$24,000.



2440 Sheridan Drive, Suite 100
Tonawanda, New York 14150
Ph. 716.685.0500
Fax: 716.558.2825

Website: www.rightowaypros.com

July 29, 2021

VIA ELECTRONIC MAIL

mmasse@gcedc.com

Mark A. Masse, CPA
Senior Vice President of Operations
Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, New York 14020

RE: Bid Proposal - Right of Way Services
Forcemain Project for Alabama STAMP site

Dear Mr. Masse,

This letter serves as our fee proposal for providing right-of-way services involving the above referenced project. The general services requested includes negotiation services to get owner signatures for permanent and temporary easements, in addition to signatures for the required documents for filing and payment purposes. Specific tasks included in the scope of services are:

- ROWP, LLC will act as a liaison between the property owners and the Client and maintain weekly progress reports for the Client. Contact diaries will be maintained for each property owner.
- Owners will be contacted by mail requesting the execution of the Client provided easement(s). Initial written correspondence and any offers will be approved by the Client.
- Base offers will be made based on the Client's instructions.
- Correspondence via phone and email is expected for the majority of the owners.
- Site visits at the owner's request will be made with the Client's approval.
- Any request for increase in the offer amount is to be approved by the Client.
- Facilitate delivery of executed documents required to file to the Client.

Rates are based on an hourly rate for tasks completed, plus expenses.

Right of Way Agent:	\$150/hour (including any travel time)
Secretarial:	\$75/hour
Postage:	Actual costs plus 20%
Mileage:	\$0.575/mile
Incidental expenses:	Actual costs plus 20%

The hourly rates are inclusive of all labor and equipment expenses. It is anticipated that all negotiation time and costs will not exceed \$24,000. Rolling costs related to this agreement can be reported to the client within the weekly progress reports.

Mark A. Masse, CPA
July 29, 2021
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If, after reviewing this bid proposal, you have any questions, or you require any additional information, please do not hesitate to contact me at (716) 685.0500, Ext 26.

Sincerely,

RIGHT-OF-WAY PROFESSIONALS, LLC

A handwritten signature in black ink, appearing to read "T. Magyar", written in a cursive style.

Timothy J. Magyar, SR/WA, R/W-AC
President



2440 Sheridan Drive, Suite 100
Tonawanda, New York 14150
Ph: 716.685.0500 Fax: 558.2825
Website: righofwaypros.com

Right-of-Way Professionals, LLC founded in 1999 is a Turn-Key Right-of-Way Acquisition Company that has completed over forty (40) Locally Administered Federal-Aid Projects. Our offices are located in the Town of Tonawanda in Erie County, in addition to acquiring various easements for private and utility companies.

For Federally Funded Projects, we routinely interface with NYSDOT & FHWA. Our staff includes former NYSDOT employees that are familiar with the acquisition process and the federal requirements. Legal aspects of the projects (title certification/contracts/closings) are handled by a former (retired) NYS Assistant Attorney General. Appraisals are completed by our sister company, ENPM, Inc., a full-service appraisal company well versed in appraisals for acquisitions and on NYSDOT's approved list.

In a brief synopsis, this is the mandated acquisitions process:

As part of the Incidental Phase of the project we will:

- Order Title Reports (subcontracted)
- Coordinate the preparation of real estate appraisal reports (subcontracted)
- Coordinate Appraisal Review Documentation

As part of the Acquisition Phase of the project the following will be performed:

- Contracts of purchase and/or less will be prepared
- Property Negotiations will be completed
- Our attorney will examine and certify title and will coordinate the recording of all documents at the County Clerk's Office

Also, as part of this process, we will maintain contact diaries detailing all correspondence with individual property owners and we will prepare and maintain project tracking reports for audit requirements.

Upon completion of the project an audit of our files will be completed by NYSDOT for compliance to EDPL. Once the audit is approved by DOT the Right-of-Way Clearance Certificate will be executed and the project can go to bid.

We have completed over forty (40) projects involving federal funds primarily in and around Western New York.

Attached are resumes and experience of key personnel.

PROFESSIONAL QUALIFICATIONS OF TIMOTHY J. MAGYAR, SR/ WA, R/W-AC

Timothy J. Magyar has been active in the real estate industry since 1994 and is President and co-owner of **Right-of-Way Professionals, LLC** a "Turn-Key" Right-of-Way acquisition company founded in 1999.

CERTIFICATIONS

Approved as Supervisory Appraiser by the New York State Real Estate Appraisal Board
New York State Certified General Real Estate Appraiser – Certificate Number: 46-41210
Pennsylvania State Certified General Real Estate Appraiser – Certificate Number: GA003897
Virginia State Certified General Real Estate Appraiser – Certificate Number: 4001 015122
Qualified by competitive exam to appraise Real Property for the New York State Department of Transportation as an Independent Fee Appraiser.
Senior Right of Way Professional (SR/WA) of the International Right of Way Association (IRWA)
Designation Number: 6341
Appraisal Designation R/W-AC- of the International Right-of-Way Association (IRWA)

PROFESSIONAL AFFILIATIONS

Senior Member: International Right of Way Association (IRWA) – Empire State Chapter 18
SR/WA Designation: 6341
R/W-AC Certification (Appraisal Certification)
Current Secretary of IRWA - Chapter 18 (2011-2021)

PROJECT EXPERIENCE – LOCALLY ADMINISTERED FEDERAL AID PROJECTS

We have completed over forty (40) projects involving federal funds primarily in and around Western New York. Our most recently completed project was for the City of Buffalo was for a bridge replacement that required acquisitions from five (5) properties (2020).

QUALIFIED EXPERT WITNESS BEFORE

New York State Court of Claims
New York State Supreme Court
United States Bankruptcy Court
Various Commissions of Appeal

William D. Loneragan
2440 Sheridan Drive, Suite 100
Tonawanda, New York 14150
Office: 716.685.0500
Cell: 716.548.9770

EDUCATION

- 1983 University of Buffalo School of Law, JD NYS
1978 Canisius College, B.S. in Accounting

WORK HISTORY

- 2012- present **Private Practice**
Specializing in real property acquisition and litigation
- 1987-2012 **N.Y.S Department of Law, Asst. Attorney General**
Represented S.O.N.Y, it's officer, agencies and employees in both N.Y.S courts and Federal District Courts/Conducted trials in N.Y.S. village, town, city and county courts, as well as, N.Y.S Supreme court and N.Y.S. Court of Claims. Also tried matters in U.S. Federal district court.
- 1984-1987 **Oneida County Public Defender's Office**
Asst. Public Defender represented indigent criminal defendants in local and county court
- 1983-1984 **Private Practice**
Represented clients both in civil and criminal matters
- 1972-1975 **United States Marine Corps, Sergeant, Honorable Discharge**
Meritorious promotion
Recipient of a Meritorious Mast

Hank W. Kozlowski
2440 Sheridan Drive, Suite 100
Tonawanda, New York 14150
Office: 716.685.0500
Cell: 716.472.4087

EDUCATION

State University of New York at Buffalo
Buffalo NY
Degree: Masters in Business Administration (MBA) - conferred 05/1990

Canisius College
Buffalo NY
Degree: Bachelor of Arts (BA) in Political Science – conferred 05/1978

EMPLOYMENT HISTORY

02/2015-present	Right-of-Way Professionals, LLC - Senior Right-of-Way Agent
12/2004-10/2013	New York State Department of Transportation, Real Estate Specialist II
03/1998-12/2004	New York State Department of Transportation, Assistant Right-of-Way Agent
03/1995-03/1998	New York State Department of Transportation, Junior Right-of-Way Agent
03/1994-03/1995	New York State Department of Transportation, Right-of-Way Aide II
03/1993-03/1994	New York State Department of Transportation, Right-of-Way Aide I
08/1982-03/1993	New York State Office of General Services, Stationary Engineer
05/1979—08/1982	New York State Office of General Services, Assistant Stationary Engineer
09/1974-05/1978	New York State Office of General Services, Cleaner

TRAINING SUMMARY

Upon Request

CERTIFICATIONS & AFFILIATIONS

Notary Public, New York State Department of State, Division of Licensing Services
International Right of Way Association Certification: Negotiation/Acquisition (R/W – NAC)
First Class Stationary Engineer License #14500, City of Buffalo, Department of Inspections
New York State Association of Transportation Engineers

ACHIEVEMENTS

2004 New York State Department of Transportation, Award of Excellence: I-86/Rt 15 Interchange Project
2001 New York State Department of Transportation, Award of Excellence: Quantity and Quality
1995 New York State Department of Transportation, Recognition of Quality
1993 New York State Department of Transportation, Certificate of Appreciation: Quality Circles