

Town Board Meeting
Town of Bergen
July 14th, 2020
Meeting to be conducted via Teleconferencing
Agenda

I. Audit of the Bills 6:45 pm, Call to Order 7:00 pm

Prayer Almighty God, as we meet today to conduct matters of Town business, grant us the wisdom to remember as we work that we are servants of our constituency. Assist us to be sure our decisions should be in the best interests of the Town and its citizens, entirely unblemished by any thoughts of personal benefit. Amen.

Pledge to the flag

II. Privilege of the Floor:

III. Approval of meeting Minutes for: Regular Meeting 6/22/2020

IV. Communications included with this agenda:

1. Supervisor Report for June 2020
2. Summary spreadsheets for June 2020
3. Town Clerk Report for June 2020
4. ZEO/CEO Report for June 2020
5. Resignation letter from Laura Smith, Planning and Zoning Board Secretary dated 7/2/2020 and effective 7/31/2020
6. Correspondence date 6/18/2020 from NYS Ag. and Markets regarding outcome of Genesee County dog shelter.
7. Proposed Facility Encroachment Agreement with CSX Transportation for Water Benefit Area #1 work.
8. 7/2/2020 e-mail from Accountants for Water Benefit Area #1 in regard to terms of Bond Anticipation Notes (short-term financing) and attached WIBA #1 Financing timeline and draft amortization schedule
9. July 1, 2020 correspondence from Charter Communication.

V. Board Members' items for addition to the agenda

VI. Reports:

Supervisor

Clerk

Board Members

Zoning / Code Enforcement:

-Update on Permits

-Follow up on Appletree concern

Highway

Committees

-Building, Grounds, and Facilities (cemeteries)

-Parks

-Local History & Museum

-Policy and Personnel: Negotiations

-Transfer Station

VII. Old Business:

- Town of Bergen Water Improvement Benefit Area #1 project- Update:
- COVID- 19 Updates- Re-entry plan updates- Clerk's office/Town Hall

VIII. New Business:

- Resolution authorizing the Supervisor to execute the Facility Encroachment Agreement between the town of Bergen and CXS Transportation Inc., for work necessary for the Water Improvement Benefit Area #1 Project and to pay the fee up to 8,880.000
- Resolution to authorize the Supervisor to approve the Financing Terms for the Bond Anticipation Note in the amount of \$1,000,000. As outlined in the E-mail dated 7/2/2020 from Bernard Donegan Inc.

IX- Reports & Bills:

- Action to file Town Clerks Report
- Action to file Supervisors Report
- Approve payment of the bills

X. Meeting and Other Upcoming Dates:

- Town Board Meeting: 7/28/2020 at 7 pm in the town hall or via teleconference if so, required due to COVID-19 pandemic.

XI. Adjournment

DRAFT

June 22, 2020 BERGEN TOWN BOARD

REGULAR 2nd MEETING-TELECONFERENCE

The Bergen Town Board convened in a regular session at 7:00 p.m. conducted via zoom due to COVID-19 Pandemic with Supervisor Haywood presiding.

PRESENT:

Supervisor Ernest Haywood
Councilman Mark Anderson
Councilman James Starowitz
Councilwoman Anne Sapienza

ALSO PRESENT:

Michele M. Smith, Town Clerk
Mike Johnson, Highway Superintendent

ABSENT:

Councilwoman Belinda Grant

OTHER ATTENDEES:

Christian Yunker, Legislator
Nancy Bailey

PLEDGE OF ALLEGIANCE TO THE FLAG

PRAYER

Christian Yunker, County Legislator introduced himself to the board and gave an update on County activities. Sale tax distribution within the county, NYS cuts 20 - 50 %; Jail on hold possible spending to update current facility, state may loosen regulations on joint project with neighboring county.

MINUTES: *Councilman Starowitz made a motion to approve the May 26, 2020 minutes; seconded by Councilman Anderson and it carried by a vote 3-0. Councilwoman Sapienza abstained. Councilwoman Sapienza made a motion to approve the June 9, 2020 minutes; seconded by Councilman Anderson and it carried by a vote 3-0. Councilman Starowitz abstained.*

COMMUNICATIONS:

Mercy EMS report for May 2020

Retail Agreement for operations of Water Districts between the Town of Bergen and MCWA

Letter from TRC in regard to Visual Impact Survey Request – Excelsior Energy Center

REPORTS:

SUPERVISOR: Congratulations to all the Byron-Bergen Graduates, Leonard Bus complaint about IAA at Apple Tree; COVID meetings with Village, School, Fire Dept. and Library will now be Bi-weekly and may continue as being informative; working on the Village/Town Bookkeeping agreement with attorneys; finishing SAM Grant reimbursement paperwork.

TOWN CLERK: Reminder that the Town Hall will be closed due to budget constraints June 26th – July 6th and tentatively planning on opening to the public on July 7th

HIGHWAY/SOLID WASTE: Complaint from Leonard Bus on number of vehicles, reducing speed limit and dust from traffic to Insurance Auto Auctions – Mike will look into issues. Road projects will proceed after July 4th; crew helped with Rt. 33 & 19 milling project.

COMMITEES:

BUILDINGS AND CEMETERIES: Library air conditioner repaired for \$217 the unit continues to have issues; Nancy reported that there are still items that haven't been addressed by Whitney East and they still have keys to the building.

PARKS: Nothing to report

LOCAL HISTORY AND MUSEUM: Nothing to report

POLICY AND PERSONNEL: scheduling a meeting with Teamsters for union negotiations

OLD BUSINESS:

Water Benefit Improvement area #1 – still on schedule for Band August 19th, bid project in October and start construction in December

Continued discussion of revised spending plan due to potential loss of state and county funding Supervisor Haywood still working on reducing spending and making budget cuts

NEW BUSINESS:

Resolution Retail agreement with MCWA Councilwoman Sapienza made offered Resolution #12-2020

Approving the Retail Lease Agreement for the Operation of Water Districts between the Town of Bergen and MCWA; seconded by Councilman Anderson and it carried by a vote 4-0.

**TOWN OF BERGEN
RESOLUTION #12-2020**

**APPROVING THE RETAIL LEASE AGREEMENT FOR THE OPERATION OF WATER DISTRICTS -
TOWN OF BERGEN TO MONROE COUNTY WATER AUTHORITY**

WHEREAS, the Town of Bergen and the Monroe County Water Authority entered into a Retail Lease Agreement for Operation of Water districts dated December 13th, 1990 and its Amendment No.1, dated April 12, 2011 that is currently in effect; and

WHEREAS, the Town of Bergen is seeking United States Department of Agriculture Rural Development (USDA-RD) financing for the Water Improvement Benefit Area No. 1; and

WHEREAS, the Town of Bergen has requested and updated Agreement with the Monroe County Water Authority for the Operations of Water Districts to now include Water improvement Benefit Area No. 1, pursuant to Section 198, par. 12(b) of Town Law of the State of New York, to replace the Existing lease in its entirety; and

WHEREAS, the Town of Bergen acted as lead agency for the Water Improvement Benefit Area No. 1, in compliance with the State Environmental Quality Review Act and has duly notified the County of Genesee of the same; and

WHEREAS, The Genesee County legislature on June 11th, 2020, through resolution No. 233, and pursuant to Subdivision 7 of Section 1096 of the Public Authorities Law, approved the Retail Lease Agreement between the Town of Bergen and the Monroe County Water Authority; Now therefore , Be it

RESOLVED, the Town board of the Town of Bergen does hereby approve the Retail Lease Agreement for the Operation of Water Districts between the Town of Bergen and the Monroe County Water Authority, and Be it further

RESOLVED; that the Supervisor of the Town of Bergen is hereby authorized and directed to execute the Retail Lease Agreement for the Operation of Water Districts between the Town of Bergen and the Monroe County Water Authority and any additional documents necessary to effectuate this resolution.

NEXT MEETING:

Regular – Tuesday, July 14, 2020 at 7:00 pm at the Town Hall with the audit of the bills at 6:45

ADJOURNMENT was at 7:36 pm on a motion by Councilman Anderson; seconded by Councilwoman Sapienza and carried by a vote 4-0.

Respectfully submitted,

Michele M. Smith

Michele M. Smith, Town Clerk

TOWN OF BERGEN
JUNE 2020
EXECUTIVE SUMMARY

BALANCE SHEET

- Bank accounts were reconciled as of 6/30/20.
- The Town has \$1,325,818.85 in the bank.

REVENUES AND EXPENSES

• **REVENUES**

- Total receipts for the month were: \$99,607.08
- Major receipts were:
 - Town Clerk Report (May) - \$2,541.84
 - Justice Fees - \$4,154.00
 - Mortgage Tax - \$14,956.42
 - Sale of 2009 Ford F550 - \$15,200.00
 - County Snow & Ice - \$62,739.04
 - Other - \$15.78

• **EXPENSES**

Expenditures through June on average should equal 50% of the annual budget.

General Fund Townwide:

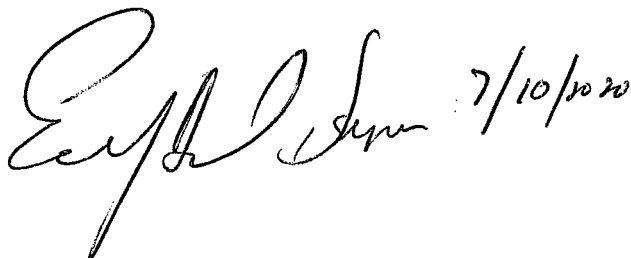
- Year to date expenses are \$412,142.00 compared to the annual budget of \$891,291 or 46.24% of the budget.

General Fund Outside Village:

- Year to date expenses are \$43,016.40 compared to the annual budget of \$543,409 or 7.92% of the budget.

Highway Outside Village:

- Year to date expenses are \$298,640.96 compared to the annual budget of \$697,6050 or 42.81% of the budget.


E. J. S. 7/10/2020

**Town of Bergen
Cash Summary Report
June 2020**

						#9970	#4277	#9988
		5/31/2020			6/30/2020	Joint	Joint	Trust &
FUND Account		BALANCES	Increases	Decreases	BALANCES	Checking	Savings	Agency
A	200.000	General TW Checking	242,485.91	88,630.09	87,599.83	243,516.17	243,516.17	
A	201.000	General TW Savings	128,717.07	19,493.04	122,987.62	25,222.49	25,222.49	
B	200.000	General OV Checking	4,531.19	1,412.59	1,412.59	4,531.19	4,531.19	
B	201.000	General OV Savings	386,599.89	2,175.00	3,907.40	384,867.49	384,867.49	
DB	200.000	Highway OV Checking	92,827.27	14,165.33	14,165.33	92,827.27	92,827.27	
DB	201.000	Highway OV Savings	175,787.16	77,939.04	31,910.60	221,815.60	221,815.60	
HH	200.001	Robins Brook Park Checking	-	-	-	-	-	
HH	201.001	Robins Brook Park Savings	-	-	-	-	-	
HH	200.004	Water District #4 Checking	-	38,189.97	38,189.97	-	-	
HH	201.004	Water District #4 Savings	-	-	-	-	-	
HH	200.050	Nioga Grant Checking	-	-	-	-	-	
HH	201.050	Nioga Grant Savings	(14,136.50)	-	-	(14,136.50)	(14,136.50)	
HH	200.051	Library SAMS Grant Checking	-	300.00	300.00	-	-	
HH	201.051	Library SAMS Grant Savings	-	-	-	-	-	
LL	200.000	Library Checking	5,932.00	3,530.34	3,530.34	5,932.00	5,932.00	
LL	201.000	Library Savings	181,171.40		3,431.09	177,740.31	177,740.31	
SM	200.000	Special District Fire Checking	-			-	-	
SM	201.000	Special District Fire Savings	1,803.42	-		1,803.42	1,803.42	
SW	200.002	Water District Checking	-			-	-	
SW	201.002	Water District Savings	20,138.80	-		20,138.80	20,138.80	
SW	200.003	Water Peachey Rd Checking	-	-	-	-	-	
SW	201.003	Water Peachey Rd Savings	59,642.34	-	15,930.00	43,712.34	43,712.34	
TA	200.000	Trust & Agency	67,326.22	42,130.11	41,499.31	67,957.02		67,957.02
VV	200.003	Town Hall Reloc Checking	-	-	-	-	-	
VV	201.003	Town Hall Reloc Savings	15,015.49	-	-	15,015.49	15,015.49	
VV	200.005	Peachey Water Checking	-	-	-	-	-	
VV	201.005	Peachey Water Savings	34,875.76	-	-	34,875.76	34,875.76	
			1,402,717.42	287,965.51	364,864.08	1,325,818.85	346,806.63	911,055.20
		Reconciliation						
		Bank Statement Balances		99,607.08	178,166.71	1,328,548.87	347,589.63	911,258.64
		Deposits In Transit				-	-	(203.44)
		Outstanding Checks				(2,730.02)	(783.00)	-
		Balance on General Ledger				1,325,818.85	346,806.63	911,055.20
		Difference				-	-	-

Pursuant to Section 125 of the Town Law, I hereby render the following detailed statement of all moneys received and disbursed by me during the month of:

6/30/2020

Statement of Activity - MTD and YTD by Fund w/ Variance
Town of Bergen
For 6/30/2020

	M-T-D Actual	Y-T-D Actual	Annual Budget	Variance	Variance Percentage
Revenues					
AA.1001.000.000 Real Property Taxes	\$ 0.00	\$ 381,389.00	\$ 381,389.00	\$ 0.00	100.00
AA.1081.000.000 Other Payments in Lieu of Taxes	0.00	3,804.94	3,746.00	58.94	101.57
AA.1090.000.000 Interest & Penalties on Real Property Taxes	0.00	2,456.29	2,500.00	(43.71)	98.25
AA.1120.000.000 County Sales Tax Distribution	0.00	0.00	100,000.00	(100,000.00)	0.00
AA.1255.000.000 Clerk Fees	228.84	1,651.58	1,500.00	151.58	110.11
AA.2130.000.000 Landfill Host Revenue	0.00	27,050.36	50,000.00	(22,949.64)	54.10
AA.2401.000.000 Interest & Earnings	15.78	196.31	400.00	(203.69)	49.08
AA.2410.000.000 Rental of Real Property	0.00	300.00	1,200.00	(900.00)	25.00
AA.2530.000.000 Games of Chance	0.00	10.00	0.00	10.00	0.00
AA.2544.000.000 Dog Licenses	138.00	1,105.00	2,200.00	(1,095.00)	50.23
AA.2610.000.000 Fines and Forfeited Bail	608.00	24,768.00	65,000.00	(40,232.00)	38.10
AA.2770.000.000 Unclassified Revenues	0.00	1,743.03	0.00	1,743.03	0.00
AA.3001.000.000 State Aid, Revenue Sharing	0.00	0.00	10,000.00	(10,000.00)	0.00
AA.3005.000.000 State Aid, Mortgage Tax	14,956.42	14,956.42	20,000.00	(5,043.58)	74.78
AA.5031.000.000 Interfund Transfer	0.00	0.00	20,000.00	(20,000.00)	0.00
AA.5999.000.000 Unexpended Balance	0.00	0.00	233,356.00	(233,356.00)	0.00
Total Revenues	15,947.04	459,430.93	891,291.00	(431,860.07)	51.55
Expenses					
AA.1010.100.000 Town Board Personal Services	975.48	7,072.08	12,925.00	(5,852.92)	54.72
AA.1010.400.000 Town Board Contractual	14.99	492.79	1,500.00	(1,007.21)	32.85
AA.1110.100.000 Justices Personal Services	2,333.34	14,000.04	27,258.00	(13,257.96)	51.36
AA.1110.102.000 Justice Pers Svc, Clerk	1,556.27	10,217.34	21,792.00	(11,574.66)	46.89
AA.1110.400.000 Justices Contractual	98.54	1,819.96	9,670.00	(7,850.04)	18.82
AA.1220.100.000 Supervisor Personal Services	758.18	5,496.93	10,046.00	(4,549.07)	54.72
AA.1220.102.000 Deputy Supervisor Personal Services	165.74	286.57	1,184.00	(897.43)	24.20
AA.1220.103.000 Supervisor's Secretary Personal Services	914.57	5,990.77	13,170.00	(7,179.23)	45.49
AA.1220.400.000 Supervisor Contractual	0.00	1,207.80	8,350.00	(7,142.20)	14.46
AA.1320.400.000 Auditors Contractual	1,250.00	5,000.00	15,000.00	(10,000.00)	33.33
AA.1355.200.000 Assessor Equipment	0.00	0.00	300.00	300.00	0.00
AA.1355.400.000 Assessor Contractual	0.00	13,257.28	34,150.00	(20,892.72)	38.82
AA.1410.100.000 Town Clerk Personal Services	3,295.70	21,422.05	42,844.00	(21,421.95)	50.00
AA.1410.102.000 Deputy Town Clerk Personal Services	0.00	1,074.55	2,112.00	(1,037.45)	50.88
AA.1410.200.000 Town Clerk Equipment	0.00	3,600.00	3,600.00	0.00	100.00
AA.1410.400.000 Town Clerk Contractual	54.39	1,725.46	3,000.00	(1,274.54)	57.52
AA.1420.400.000 Attorney Contractual	750.00	1,500.00	8,000.00	(6,500.00)	18.75
AA.1420.401.000 Court Prosecutor	400.00	2,800.00	8,166.00	(5,366.00)	34.29
AA.1440.400.000 Engineer Contractual	135.00	135.00	7,100.00	(6,965.00)	1.90
AA.1450.400.000 Elections Contractual	0.00	2,739.56	6,000.00	(3,260.44)	45.66
AA.1460.400.000 Records Management Contractual	0.00	1,195.00	2,500.00	(1,305.00)	47.80

Statement of Activity - MTD and YTD by Fund w/ Variance
Town of Bergen
For 6/30/2020

	M-T-D Actual	Y-T-D Actual	Annual Budget	Variance	Variance Percentage
AA.1480.400.000 Public Info Services OARS Contractual	0.00	981.75	1,200.00	218.25	81.81
AA.1620.100.000 Buildings Personal Services	372.62	2,149.99	4,800.00	2,650.01	44.79
AA.1620.400.000 Building Operation Contractual	6,257.61	22,354.18	65,000.00	42,645.82	34.39
AA.1620.401.000 Building Operation Lease Fire Hall	0.00	18,650.62	18,651.00	0.38	100.00
AA.1660.400.000 Central Storeroom Contractual	0.00	100.22	500.00	399.78	20.04
AA.1670.400.000 Central Printing & Mailing Contractual	255.31	2,668.80	5,000.00	2,331.20	53.38
AA.1680.200.000 Computers Equipment	0.00	0.00	4,000.00	4,000.00	0.00
AA.1680.400.000 Computers Contractual	455.20	2,333.58	7,000.00	4,666.42	33.34
AA.1910.400.000 Unallocated Insurance	33,001.67	33,242.61	34,000.00	757.39	97.77
AA.1920.400.000 Municipal Association Dues	0.00	900.00	900.00	0.00	100.00
AA.1950.400.000 Taxes and Assessments on Property	0.00	6,015.59	6,500.00	484.41	92.55
AA.1990.400.000 Contingency	0.00	0.00	83,979.00	83,979.00	0.00
AA.3120.100.000 Constables Personnel Services	0.00	369.62	3,525.00	3,155.38	10.49
AA.3120.400.000 Constables Contractual	0.00	0.00	200.00	200.00	0.00
AA.3310.400.000 Traffic Control Contractual	0.00	0.00	8,000.00	8,000.00	0.00
AA.3510.400.000 Control of Dogs Contractual	0.00	0.00	250.00	250.00	0.00
AA.5010.100.000 Supt. of Highways Personal Services	4,880.30	31,721.95	63,444.00	31,722.05	50.00
AA.5010.102.000 Supt. of Highways, Pers Svc, Deputy	115.38	749.97	1,500.00	750.03	50.00
AA.5010.200.000 Superintendent of Highways Equipment	0.00	0.00	840.00	840.00	0.00
AA.5010.400.000 Superintendent of Highways Contractual	0.00	200.00	760.00	560.00	26.32
AA.5132.400.000 Garage Contractual	750.33	7,467.78	23,000.00	15,532.22	32.47
AA.5182.400.000 Street Lighting Contractual	194.50	1,966.38	5,650.00	3,683.62	34.80
AA.6410.400.000 Publicity - Newsletter Contractual	0.00	0.00	5,000.00	5,000.00	0.00
AA.6420.400.000 Promotion of Industry Contractual	0.00	275.24	3,000.00	2,724.76	9.17
AA.7410.400.000 Library Contractual	4,094.28	96,341.68	82,600.00	(13,741.68)	116.64
AA.7510.100.000 Historian Personal Services	688.50	1,377.00	2,930.00	1,553.00	47.00
AA.7510.200.000 Historian Equipment	0.00	0.00	500.00	500.00	0.00
AA.7510.400.000 Historian Contractual	0.00	0.00	250.00	250.00	0.00
AA.7550.400.000 Celebrations Contractual	0.00	0.00	700.00	700.00	0.00
AA.8810.100.000 Cemetery Services	0.00	0.00	1,000.00	1,000.00	0.00
AA.8810.400.000 Cemetery Contractual	0.00	0.00	6,000.00	6,000.00	0.00
AA.9010.800.000 NYS Retirement	0.00	23,340.00	23,340.00	0.00	100.00
AA.9030.800.000 Social Security & Medicare	1,521.43	8,734.14	17,000.00	8,265.86	51.38
AA.9040.800.000 Worker's Compensation	0.00	11,170.00	13,086.00	1,916.00	85.36
AA.9055.800.000 Disability Insurance	0.00	75.60	150.00	74.40	50.40
AA.9060.800.000 Medical Insurance	2,164.52	12,987.12	23,434.00	10,446.88	55.42
AA.9720.600.000 Debt Principal Highway Garage	0.00	0.00	75,000.00	75,000.00	0.00
AA.9720.601.000 Debt Principal on Court/Town Offices	0.00	0.00	35,000.00	35,000.00	0.00
AA.9720.700.000 Interest on Debt Highway Garage	9,562.50	19,125.00	19,125.00	0.00	100.00
AA.9720.701.000 Interest on Debt Court/Town Offices	2,905.00	5,810.00	5,810.00	0.00	100.00
Total Expenses	79,921.35	412,142.00	891,291.00	479,149.00	46.24

Statement of Activity - MTD and YTD by Fund w/ Variance
Town of Bergen
For 6/30/2020

	<u>M-T-D</u> <u>Actual</u>	<u>Y-T-D</u> <u>Actual</u>	<u>Annual</u> <u>Budget</u>	<u>Variance</u>	<u>Variance</u> <u>Percentage</u>
Excess Revenue Over (Under) Expenditures	\$ 63,974.31 \$	(47,288.93)\$	0.00 \$	911,009.07 \$	0.00

Statement of Activity - MTD and YTD by Fund w/ Variance
Town of Bergen
For 6/30/2020

	M-T-D Actual	Y-T-D Actual	Annual Budget	Variance	Variance Percentage
Revenues					
BB.1120.000.000 County Sales Tax Distribution	\$ 0.00	\$ 329,012.70	\$ 500,000.00	\$ (170,987.30)	65.80
BB.1170.000.000 Franchise Fees	0.00	12,510.78	18,000.00	(5,489.22)	69.50
BB.1560.000.000 Safety Inspection Fees	0.00	0.00	50.00	(50.00)	0.00
BB.2110.000.000 Zoning Fees	220.00	865.00	1,800.00	(935.00)	48.06
BB.2115.000.000 Planning Board Fees	0.00	0.00	200.00	(200.00)	0.00
BB.2130.000.000 Refuse & Garbage Charges	1,955.00	9,830.00	21,000.00	(11,170.00)	46.81
BB.5999.000.000 Unexpended Balance	0.00	0.00	2,359.00	(2,359.00)	0.00
Total Revenues	2,175.00	352,218.48	543,409.00	(191,190.52)	64.82
Expenses					
BB.1355.400.000 Board of Assessment Review, Contr	0.00	0.00	450.00	450.00	0.00
BB.1420.400.000 Attorney, Contractual	0.00	0.00	2,000.00	2,000.00	0.00
BB.1440.400.000 Engineer Contractual	0.00	0.00	5,000.00	5,000.00	0.00
BB.1990.400.000 Contingency	0.00	0.00	20,645.00	20,645.00	0.00
BB.6772.400.000 Programs for the Aging Contractual	0.00	5,000.00	5,000.00	0.00	100.00
BB.7110.400.000 Parks Contractual	160.00	3,800.00	10,000.00	6,200.00	38.00
BB.7310.400.000 Youth Programs Contractual	0.00	5,000.00	5,000.00	0.00	100.00
BB.8010.100.000 Zoning Pers Svc	55.83	334.98	836.00	501.02	40.07
BB.8010.400.000 Zoning Contractual	0.00	0.00	2,500.00	2,500.00	0.00
BB.8020.100.000 Planning Personal Services	272.92	1,637.52	4,000.00	2,362.48	40.94
BB.8020.400.000 Planning Contractual	28.40	298.40	4,000.00	3,701.60	7.46
BB.8160.100.000 Refuse & Garbage Personnel Services	769.20	4,996.80	11,715.00	6,718.20	42.65
BB.8160.400.000 Refuse & Garbage Contractual	1,186.80	6,672.45	22,500.00	15,827.55	29.66
BB.8664.100.000 Code Enforcement Personnel Services	1,219.90	8,966.87	15,670.00	6,703.13	57.22
BB.8664.400.000 Code Enforcement Contractual	37.39	594.65	4,000.00	3,405.35	14.87
BB.9010.800.000 NYS Retirement	0.00	2,585.00	2,585.00	0.00	100.00
BB.9030.800.000 Social Security & Medicare	176.96	1,216.73	2,745.00	1,528.27	44.33
BB.9040.800.000 Workers Compensation	0.00	1,913.00	2,241.00	328.00	85.36
BB.9901.900.000 Interfund Transfers	0.00	0.00	422,522.00	422,522.00	0.00
Total Expenses	3,907.40	43,016.40	543,409.00	500,392.60	7.92
Excess Revenue Over (Under) Expenditures	\$ 1,732.40	\$ (309,202.08)	0.00	\$ 691,583.12	0.00

Statement of Activity - MTD and YTD by Fund w/ Variance
Town of Bergen
For 6/30/2020

	M-T-D Actual	Y-T-D Actual	Annual Budget	Variance	Variance Percentage
Revenues					
DB.2300.000.000 Service to Other gov't	\$ 62,739.04	\$ 160,254.46	\$ 137,909.00	\$ 22,345.46	116.20
DB.2665.000.000 Sale of Equipment	15,200.00	26,014.00	0.00	26,014.00	0.00
DB.3501.000.000 Consolidated Highway Aid	0.00	0.00	55,275.00	(55,275.00)	0.00
DB.5031.000.000 Interfund Transfers	0.00	0.00	422,522.00	(422,522.00)	0.00
DB.5999.000.000 Unexpended Balance	0.00	0.00	81,899.00	(81,899.00)	0.00
Total Revenues	77,939.04	186,268.46	697,605.00	(511,336.54)	26.70
Expenses					
DB.5110.100.000 General Highway Repairs Personal Services	0.00	0.00	90,134.00	90,134.00	0.00
DB.5110.400.000 General Highway Repairs Contractual	3,387.38	3,387.38	82,270.00	78,882.62	4.12
DB.5112.200.000 Permanent Highway Improvements	5,036.96	5,036.96	55,275.00	50,238.04	9.11
DB.5130.100.000 Machinery Personal Services	0.00	3,098.40	11,860.00	8,761.60	26.12
DB.5130.200.000 Machinery Equipment	0.00	32,858.00	85,000.00	52,142.00	38.66
DB.5130.400.000 Machinery Contractual	973.35	5,882.86	30,000.00	24,117.14	19.61
DB.5140.100.000 Brush & Weeds, Pers Serv	0.00	10,947.68	11,860.00	912.32	92.31
DB.5140.400.000 Brush & Weeds, Contr	0.00	0.00	1,750.00	1,750.00	0.00
DB.5142.100.000 Snow and Ice Control Personal Services	16,524.81	99,732.12	123,340.00	23,607.88	80.86
DB.5142.400.000 Snow & Ice Control Contractual	150.00	33,567.72	90,120.00	56,552.28	37.25
DB.9010.800.000 NYS Retirement	0.00	33,382.00	33,382.00	0.00	100.00
DB.9030.800.000 Social Security & Medicare	1,220.46	8,425.96	17,572.00	9,146.04	47.95
DB.9040.800.000 Workers Compensation	0.00	12,694.00	14,871.00	2,177.00	85.36
DB.9055.800.000 Disability Insurance	0.00	67.98	300.00	232.02	22.66
DB.9060.800.000 Medical Insurance	4,617.64	27,705.84	49,871.00	22,165.16	55.56
DB.9785.600.000 Installment Purchase Debt, Principal	0.00	20,325.45	0.00	(20,325.45)	0.00
DB.9785.700.000 Installment Purchase Debt, Interest	0.00	1,528.61	0.00	(1,528.61)	0.00
Total Expenses	31,910.60	298,640.96	697,605.00	398,964.04	42.81
Excess Revenue Over (Under) Expenditures	\$ (46,028.44)	\$ 112,372.50	\$ 0.00	\$ 910,300.58	\$ 0.00

Account#	Account Description	Fee Description	Qty	Local Share
A1255	Clerk Fees	Certified Copies	29	290.00
			Sub-Total:	\$290.00
A2544	Dog Licensing	Female, Spayed	12	60.00
		Female, Unspayed	1	18.00
		Male, Neutered	15	75.00
		Male, Unneutered	5	90.00
	Senior Discount	Senior Discount	1	-3.00
			Sub-Total:	\$240.00
B2130	Solid Waste	Garbage Bag	154	770.00
		Transfer Sta. 10.00	4	40.00
		Transfer Sta. 20.00	12	240.00
			Sub-Total:	\$1,050.00
			Total Local Shares Remitted:	\$1,580.00
Amount paid to: NYS Ag. & Markets for spay/neuter program				45.00
Total State, County & Local Revenues:				\$1,625.00
			Total Non-Local Revenues:	\$45.00

To the Supervisor:

Pursuant to Section 27, Sub 1, of the Town Law, I hereby certify that the foregoing is a full and true statement of all fees and monies received by me, Michele M. Smith, Town Clerk, Town of Bergen during the period stated above, in connection with my office, excepting only such fees and monies, the application of which are otherwise provided for by law.

Supervisor

Date

Michele M. Smith

Town Clerk

7/7/2020

Date

Cash Receipts Report

06/30/2020
2:18:43PM

From: 06/01/2020 To: 06/30/2020

For User: All

Payment Date: 06/03/2020

Module: Permit

Transaction: 15-20

Type: Permit App

Payor: Rob Rowland

Payment Amount: \$70.00

Payment Type:

Payment #:

Payment Detail:

Cash

00000301

\$70.00

Fee Type	Fee Amount
Acc Structure Attach	\$40.00
Zoning Permit	\$30.00

Permit Group Totals: \$70.00

06/03/2020 Group Totals: \$70.00

Payment Date: 06/18/2020

Module: Permit

Transaction: 16-20

Type: Permit App

Payor: Luis A Altache

Payment Amount: \$85.00

Payment Type:

Payment #:

Payment Detail:

Check #142

00000302

\$85.00

Fee Type	Fee Amount
Zoning Permit	\$30.00
Deck	\$55.00

Permit Group Totals: \$85.00

06/18/2020 Group Totals: \$85.00

Payment Date: 06/27/2020

Module: Permit

Transaction: 17-20

Type: Permit App

Payor: William C Scharvogel

Payment Amount: \$25.00

Payment Type:

Payment #:

Payment Detail:

Cash

00000303

\$25.00

Fee Type	Fee Amount
Swimming Pool Insp	\$25.00

Permit Group Totals: \$25.00

06/27/2020 Group Totals: \$25.00

Payment Date: 06/29/2020

Module: Permit

Transaction: 18-20

Type: Permit App

Payor: Gerald E Birge

Payment Amount: \$55.00

Payment Type:

Payment #:

Payment Detail:

Check #1755

00000304

\$55.00

Fee Type	Fee Amount
Swimming Pool Insp	\$25.00
Zoning Permit	\$30.00

Permit Group Totals: \$55.00

06/29/2020 Group Totals: \$55.00

Totals:

Check	\$140.00
Cash	\$95.00

Grand Total:

\$235.00

supervisor@bergenny.org

From: secretary@bergenny.org
Sent: Thursday, July 2, 2020 1:52 PM
To: bergenclerk@bergenny.org
Cc: Gary Fink; Mike Lovett; supervisor@bergenny.org
Subject: Resignation

Hi Michele,

This is my formal resignation as the Planning and Zoning Board secretary. Due to changes in my home and work schedules, I no longer have time to put in my best effort with this position. I appreciate the last 11 years and everyone with whom I have worked with. My apologies for any inconvenience this causes, but I would like to be officially done by July 31st.

Best regards,

Laura Smith



**Agriculture
and Markets**

June 18, 2020

Ernest Haywood
Town Supervisor - Town of Bergen
PO Box 249
Bergen, NY 14416

Enclosed is the **Municipal Shelter Inspection Report** completed on **06/11/2020**. This inspection relates to Agriculture and Markets Laws and Regulations which may be viewed on the website below.

As the report indicates, dog shelter services were rated "Satisfactory". Please make note of any comments listed on the report.

Municipal dog shelters are subject to inspection by this agency on a regular basis.

Please notify this office within 30 days of any changes in municipal shelter services.

If you have any questions regarding this inspection, please call me.

Emily Bailey
Animal Health Inspector
(716) 913-4111

MUNICIPAL SHELTER INSPECTION REPORT - DL-90

Rating: **Satisfactory365**

Purpose: **Inspection**

DATE/TOA: **6/11/20 1:45 pm**

**GENESEE COUNTY ANIMAL SHELTER
GENESEE COUNTY SHERIFF DCO
3841 W MAIN ST ROAD
BATAVIA NY 14020**

Inspector: **Emily Bailey**

Inspector #: **68**

These are the findings of an inspection of your facility on the date(s) indicated above:

- | | |
|---|-----|
| 1. Shelter is structurally sound | Yes |
| 2. Housing area and equipment is sanitized regularly | Yes |
| 3. Repairs are done when necessary | Yes |
| 4. Dogs are handled safely | Yes |
| 5. Adequate space is available for all dogs | Yes |
| 6. Light is sufficient for observation | Yes |
| 7. Ventilation is adequate | Yes |
| 8. Drainage is adequate | Yes |
| 9. Temperature extremes are avoided | Yes |
| 10. Clean food and water is available and in ample amount | Yes |
| 11. Veterinary care is provided when necessary | Yes |
| 12. Dogs are euthanized humanely, by authorized personnel | Yes |
| 13. Complete intake and disposition records are maintained for all seized dogs | Yes |
| 14. Dogs transferred for purposes of adoption in compliance with Article 7 | Yes |
| 15. Redemption period is observed before adoption, euthanasia or transfer | Yes |
| 16. Owners of identified dogs are properly notified | Yes |
| 17. Redeemed dogs are licensed before release | Yes |
| 18. Proper impoundment fees paid before dogs are released | Yes |
| 19. Written contract or lease with municipality | Yes |

Town - City - Village Information for Inspection:

TCV CODE TCV NAME

1801	Town of Alabama
1802	Town of Alexander
1803	Town of Batavia
1804	Town of Bergen
1805	Town of Bethany
1806	Town of Byron
1807	Town of Darien
1808	Town of Elba
1809	Town of Le Roy
1810	Town of Oakfield
1811	Town of Pavilion
1812	Town of Pembroke
1813	Town of Stafford
1814	City of Batavia

REMARKS:

REPRESENTATIVE PRESENT FOR INSPECTION: **Ann Marie Brade**
TITLE: **DCO**

REVIEWED BY: **Emily Cacchione**
REVIEWED DATE: **06/17/2020**

supervisor@bergenny.org

From: BPD <team@bpdinc.net>
Sent: Thursday, July 2, 2020 1:48 PM
To: Ernest Haywood (supervisor@bergenny.org); Michele Smith (bergenclerk@bergenny.org)
Cc: Leisa Strabel (lstrabel@bergenny.org); Kristine Bryant (kmb_mcgill@frontier.com); Michelle Nardecchia (front_desk_mcgill@frontier.com); Timothy McGill
Subject: Bergen T - \$8,958,000 WIBA#1 Capital Project – Financing Plan
Attachments: RD Town.pdf; Draft Maturity Schedule.pdf

Importance: High

Good Afternoon Ernie:

Pursuant to new Municipal Securities Rulemaking Board (“MSRB”) regulations as an outcome of the Dodd-Frank Act, as municipal advisor to the Town we are coordinating the following information with you in regards to the attached financial plan and upcoming issuance of debt:

Dollar Amount of Issue:	\$1,000,000
Type of Issue:	Bond Anticipation Notes (short-term financing)
Funding Date:	On or about August 19, 2020
Term:	157 days (August 19, 2020 to January 26, 2021)
Callable:	Non-Callable
Payment Dates:	Interest only due January 26, 2021
Bank Qualified Status:	Designated as Qualified
Arbitrage Tracking:	May not be required

We ask that you please acknowledge that you approve the above financing terms by replying to this email.

If you have any questions or wish to discuss these financing terms, please do not hesitate to contact us.

Thank you,

Laura M. Hance
Client Administrator

Bernard P. Donegan, Inc.
345 Woodcliff Drive, 2nd Floor
Fairport, NY 14450
(585) 924-2145
(585) 924-4636 FAX

This email and any files transmitted with it are confidential and intended solely for the use of the individual to whom they are addressed. If you are not the named addressee, you should not disseminate, distribute, or copy this email. Please notify the sender immediately by email if you received this email by mistake and delete this email from your system. Thank you.



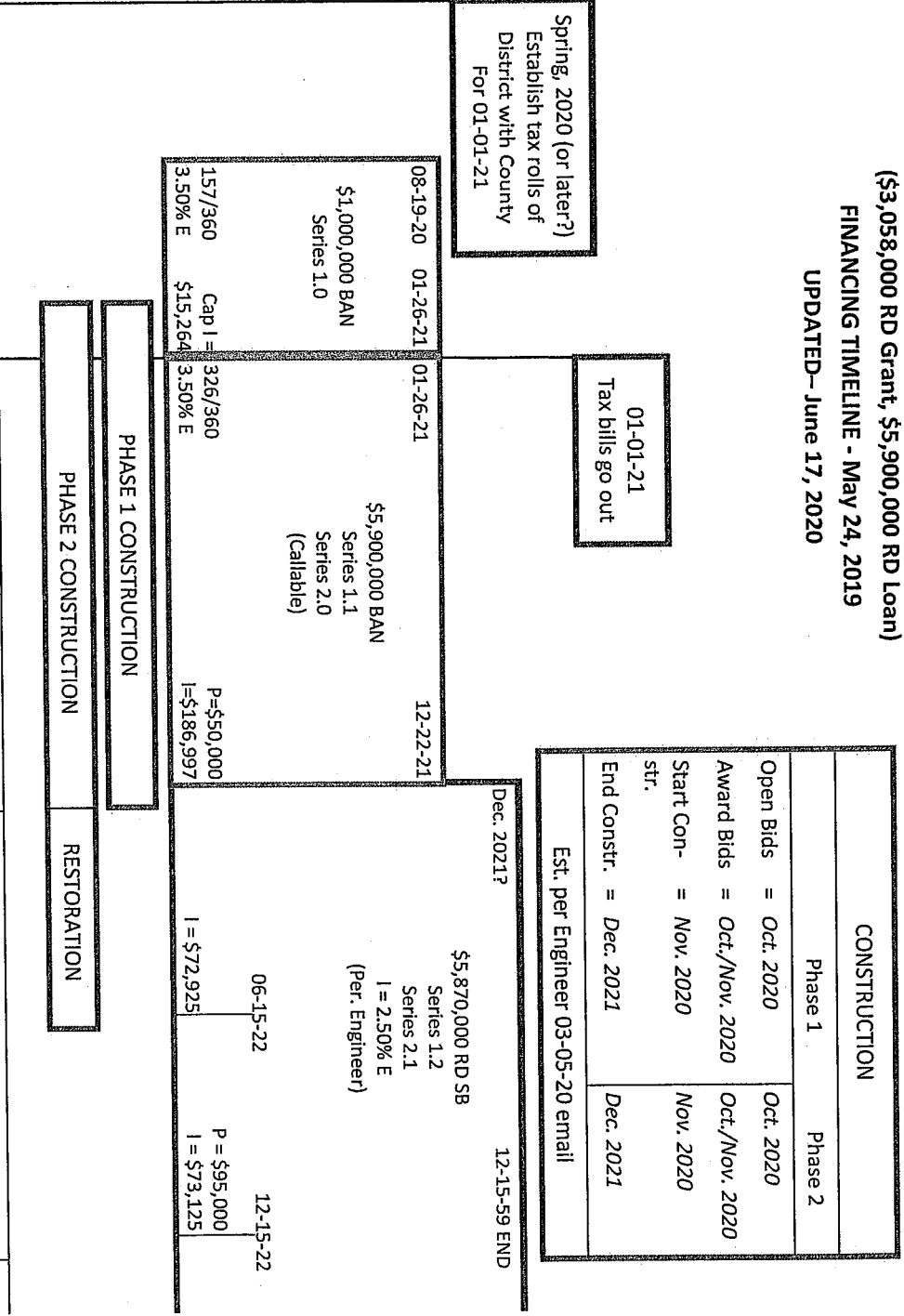
MUNICIPAL FINANCE

LOC Letter 05-10-19	Engineer Est. 05-17-19
Loan = \$5,900,000	\$5,900,000
@ 2.50% P / I / M	2.50%
Grant = \$3,058,000	\$3,058,000
Total = \$8,958,000	\$8,958,000
	435 EDU'S
DS =	\$557.04
O&M =	367.90
Total =	\$924.94

Water District Formation 09-05-19	Audit & Control Approval 01-29-20
FINALIZE FORMATION OF WATER DISTRICT 02-11-20	ADOPT BOND RESOLUTION \$8,958,000 PPU=40 YRS 02-11-20
NOTICE OF ESTOPPEL 02-13-20	NOTICE OF ESTOPPEL 03-10-20
LATEST CDU FILING N/A	

TOWN OF BERGEN
\$8,958,000 WATER IMPROVEMENT BENEFIT AREA (WIBA) NO. 1 PROJECT

(\$3,058,000 RD Grant, \$5,900,000 RD Loan)
FINANCING TIMELINE - May 24, 2019
UPDATED - June 17, 2020



Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec	Jan Feb Mar Apr May Jun Jul Aug Sept Oct Nov Dec
2019	2020	2021	2022				

Budget	Projected	Budget	Projected	Budget	Projected	Budget	Projected
\$	\$	\$	\$	\$	\$	\$	\$
BAN I			\$202,261		0		0
BAN P			50,000		0		146,050
SBI			0		0		95,000
SB P			0		0		??
O&M			252,261		241,050		
			(15,264)				
			(145,000)				
Gross DS							
Less Cap I							
Net DS			\$236,997				\$241,050

/lmh
06-17-20
RD Town

DRAFT

Town of Bergen, Genesee County, New York
 \$8,958,000 WIBA No.1 Capital Project
 Proposed 39-Year Maturity Schedule

RD

December	Annual Principal Payment	Remaining Principal Amount Outstanding	Annual Interest Payment	Annual Debt Service	Less Capitalized Interest	Net Debt Service	EDUs	Annual Debt Service/ Unit
2.50% Est. Bonds (Engineer Est.) 3.50% Est. Notes								
		\$5,900,000						
2021	\$ 50,000	5,850,000	202,261 ¹	\$ 252,261	\$ (15,264)	\$ 236,997	435.00	544.82
2022	95,000	5,755,000	146,050	241,050		241,050	435.00	554.14
2023	95,000	5,660,000	143,875	238,875		238,875	435.00	549.14
2024	100,000	5,560,000	141,500	241,500		241,500	435.00	555.17
2025	100,000	5,460,000	139,000	239,000		239,000	435.00	549.43
2026	105,000	5,355,000	136,500	241,500		241,500	435.00	555.17
2027	105,000	5,250,000	133,875	238,875		238,875	435.00	549.14
2028	110,000	5,140,000	131,250	241,250		241,250	435.00	554.60
2029	115,000	5,025,000	128,500	243,500		243,500	435.00	559.77
2030	115,000	4,910,000	125,625	240,625		240,625	435.00	553.16
2031	120,000	4,790,000	122,750	242,750		242,750	435.00	558.05
2032	120,000	4,670,000	119,750	239,750		239,750	435.00	551.15
2033	125,000	4,545,000	116,750	241,750		241,750	435.00	555.75
2034	125,000	4,420,000	113,625	238,625		238,625	435.00	548.56
2035	130,000	4,290,000	110,500	240,500		240,500	435.00	552.87
2036	130,000	4,160,000	107,250	237,250		237,250	435.00	545.40
2037	135,000	4,025,000	104,000	239,000		239,000	435.00	549.43
2038	140,000	3,885,000	100,625	240,625		240,625	435.00	553.16
2039	145,000	3,740,000	97,125	242,125		242,125	435.00	556.61
2040	150,000	3,590,000	93,500	243,500		243,500	435.00	559.77
2041	150,000	3,440,000	89,750	239,750		239,750	435.00	551.15
2042	155,000	3,285,000	86,000	241,000		241,000	435.00	554.02
2043	155,000	3,130,000	82,125	237,125		237,125	435.00	545.11
2044	160,000	2,970,000	78,250	238,250		238,250	435.00	547.70
2045	165,000	2,805,000	74,250	239,250		239,250	435.00	550.00
2046	170,000	2,635,000	70,125	240,125		240,125	435.00	552.01
2047	175,000	2,460,000	65,875	240,875		240,875	435.00	553.74
2048	180,000	2,280,000	61,500	241,500		241,500	435.00	555.17
2049	185,000	2,095,000	57,000	242,000		242,000	435.00	556.32
2050	185,000	1,910,000	52,375	237,375		237,375	435.00	545.69
2051	190,000	1,720,000	47,750	237,750		237,750	435.00	546.55
2052	195,000	1,525,000	43,000	238,000		238,000	435.00	547.13
2053	205,000	1,320,000	38,125	243,125		243,125	435.00	558.91
2054	210,000	1,110,000	33,000	243,000		243,000	435.00	558.62
2055	215,000	895,000	27,750	242,750		242,750	435.00	558.05
2056	215,000	680,000	22,375	237,375		237,375	435.00	545.69
2057	220,000	460,000	17,000	237,000		237,000	435.00	544.83
2058	225,000	235,000	11,500	236,500		236,500	435.00	543.68
2059	235,000	-	5,875	240,875		240,875	435.00	553.74
Totals	\$ 5,900,000		\$ 3,477,936	\$ 9,377,936		\$ 9,362,672		
Averages	\$151,282		\$89,178	\$240,460		\$566.40		

Cumulative Outstanding Principal \$142,835,000

Note: 1 Includes estimated \$1,000,000 Bond Anticipation Notes interest for 157 days and estimated \$5,900,000 Bond Anticipation Notes Interest for 326 days.

FACILITY ENCROACHMENT AGREEMENT

THIS AGREEMENT, Made and effective as of July 2, 2020, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and TOWN OF BERGEN, a municipal entity of New York, whose mailing address is 10 Hunter Street, PO Box 249, Bergen, New York 14416, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct (unless previously constructed and designated as existing herein), use and maintain the below described facility(ies), hereinafter called "Facilities," over, under or across property owned or controlled by Licensor, at the below described location(s):

1. One (1) eight inch (8") diameter sub-grade pipeline crossing, solely for the conveyance of potable water, located at or near Bergen, Genesee County, New York, Albany Division, Rochester Subdivision, Milepost QC-392.41, Latitude N43:04:05.00, Longitude W78:00:17.00;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes, including but not limited to Licensor's track(s) structures(s), power lines, communication, signal or other wires, train control system, cellular or data towers, or electrical or electronic apparatus other property, or any appurtenances thereto ("Licensor's Facilities") and any other facilities as now exist or which may in the future be located in, upon, over, under or across the property;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee and its agent or contractor ("Licensee's Contractor") with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term Facilities, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

1.4 The term Licensor Facilities, as used herein shall include Licensor's track(s) structures(s), power lines, communication, signal or other wires, train control system, cellular or data towers, or electrical or electronic apparatus other property, or any appurtenances thereto and any other facilities as now exist or which may in the future be located in, upon, over, under or across the property.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensor a one-time nonrefundable Encroachment Fee of FIVE THOUSAND ONE HUNDRED AND 00/100 U.S. DOLLARS (\$5,100.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part. Licensee agrees that it shall not assess Licensor any stormwater fee associated with such Facilities. Furthermore, Licensee shall be responsible for any stormwater fees assessed by any County or State agency managing such systems.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (CSXT Specifications), or Licensee's

particular industry, National Electrical Safety Code, or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from Licensor, or when applicable, an official field representative of Licensor permitted to approve changes, authorizing the necessary field changes and Licensee shall provide Licensor with complete As-Built Drawings of the

completed work. As-Built Drawings shall be submitted to Licensor in either electronic or hard copy form upon the substantial completion of the project and upon Licensor's request.

3.11 In the event of large scale maintenance/construction work to railroad bridges Licensee is required to protect power lines with insulated covers or comparable safety devices at their costs during construction/maintenance for safety of railroad employees.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

- (A) support track(s) and roadbed in a manner satisfactory to Licensor;
- (B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and
- (C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

- (A) Restore any track(s), roadbed and other disturbed property; and
- (B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 In the event that rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of track(s) or other facilities, or in the event future use of Licensor's rail corridor or property necessitate any change of location, height or depth in the Facilities or Encroachment, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in the Facilities or Encroachment to accommodate such track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's Facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of Licensor's Facilities; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 To the fullest extent permitted by State law (constitutional or statutory, as amended), Licensee hereby agrees to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.2 Licensee's Contractor shall hereby agree to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whosoever, arising out of resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, to the fullest extent permitted by State law, during any period of actual construction, repair, maintenance, replacement or removal of the Facilities, wherein agents, equipment or personnel of Licensee are on the railroad rail corridor, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.3 Use of Licensor's rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon

Licensor's rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.4 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Encroachment area, arising from or in connection with the use of this Encroachment or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through the Facilities; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; and (c) any subsidence or failure of lateral or subjacent support of the tracks arising from such Facilities leakage.

9.5 Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities, whether or not such loss(es) result(s) in whole or part from Licensor's contributory negligence or joint fault.

9.6 Obligations of Licensee hereunder to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.7 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

9.8 Notwithstanding anything contained in this Agreement, the limitation of liability contained in the state statutes, as amended from time to time, shall not limit Licensor's ability to collect under the insurance policies required to be maintained under this Agreement.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

- (i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00).
- (ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS

(\$5,000,000.00) in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement and naming Licensor, and/or its designee, as additional insured. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor, or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.

- (iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence naming Licensor, and/or its designee, as additional insured.
- (iv) The insurance policies must contain a waiver of subrogation against CSXT and its Affiliates, except where prohibited by law. All insurance companies must be A. M. Best rated A- and Class VII or better.
- (v) Such other insurance as Licensor may reasonably require.

(vi) Licensee shall require its contractors to meet minimum insurance requirements above when performing work in relation to this agreement. Licensee will procure and review contractor's insurance certificates to confirm requirements are met. Licensor may request a copy of the insurance certificate.

10.2 If Licensee's Contractor's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee's Contractor. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.4 To the extent permitted by law and without waiver of the sovereign immunity of Licensee, securing such insurance shall not limit Licensee's liability under this Agreement, but shall be security therefor.

10.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require Licensee's Contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor,

i) Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 04 13) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

OR

ii) The CGL policy shall include endorsement ISO CG 24 17 and the Auto Liability Policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsements are not included, RPL insurance must be provided.

(B) At Licensor's option, in lieu of purchasing RPL insurance or the 50 foot endorsements from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

10.6 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

11. GRADE CROSSINGS; PROTECTION SERVICES:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, or field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or changes to Licensor's Facilities shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to

Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:
https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 585-494-1121.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

17. **TITLE:**

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Facilities and Encroachment are located.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Within thirty (30) days of an overpayment in a cumulative total amount of One Hundred Dollars (\$100.00) or more by Licensee to Licensor, Licensee shall notify Licensor in writing with documentation evidencing such overpayment. Licensor shall refund the actual amount of Licensee's overpayment within 120 days of Licensor's verification of such overpayment.

18.10 This Agreement may be executed in any number of counterparts, and such counterparts may be exchanged by electronic transmission. Upon execution by the parties hereto, each counterpart shall be deemed an original and together shall constitute one and the same instrument. A fully executed copy of this Agreement by electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

19. CONTRACTOR'S ACCEPTANCE:

19.1 Licensee shall observe and abide by, and shall require Licensee's Contractors to observe and abide by the terms, conditions and provisions set forth in this Agreement. Prior to any commencement of work under this Agreement by Licensee's Contractor, Licensee shall require Licensee's Contractor to execute and deliver to Licensor the Contractor Acceptance form attached hereto as Schedule A to acknowledge Licensee's Contractor's agreement to observe and abide by terms and conditions of the Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

Witness for Licensor:

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee:

TOWN OF BERGEN

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: _____

Print/Type Title: _____

Tax ID No.: _____

Schedule "A"

CONTRACTOR'S ACCEPTANCE

This Amendment is and shall be a part of Agreement No. CSX913617, and is incorporated therein.

To and for the benefit of CSX TRANSPORTATION, Inc. (Licensor") and to induce Licensor to permit Contractor on or about Licensor's property for the purposed of performing work in accordance with the Agreement dated July 2, 2020, between Licensee and Licensor, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Sections 3, 9, 10 of the Agreement.

Witness for Licensor:

CSX TRANSPORTATION INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee's Contractor

LICENSEE'S CONTRACTOR

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement

NAME: _____

TITLE: _____

DATE: _____

CSX913617 EXHIBIT A

CSX913617

CSX GENERAL NOTES:

1. REFER TO THE CSX PIPELINE DESIGN & CONSTRUCTION SPECIFICATIONS FOR ADDITIONAL INFORMATION.
2. THE FRONT OF THE PIPE SHALL BE PROVIDED WITH MECHANICAL ARRANGEMENTS OR DEVICES THAT WILL POSITIVELY PREVENT THE AUGER FROM LEADING THE PIPE SO THAT NO UNSUPPORTED EXCAVATION IS AHEAD OF THE PIPE.
3. THE OPERATION SHALL BE PROGRESSSED ON A 24-HOUR BASIS WITHOUT STOPPAGE (EXCEPT FOR ADDING LENGTHS OF PIPE) UNTIL THE LEADING EDGE OF THE PIPE HAS REACHED THE RECEIVING PIT.
4. THE AUGER AND CUTTING HEAD ARRANGEMENT SHALL BE REMOVABLE FROM WITHIN THE PIPE IN THE EVENT AN OBSTRUCTION IS ENCOUNTERED.
5. PIPELINE SHALL BE PROMINENTLY MARKED AT BOTH SIDES OF THE CSX PROPERTY LINES BY DURABLE, WEATHERPROOF SIGNS LOCATED OVER THE CENTERLINE OF THE PIPE IN ACCORDANCE WITH CSX SPECIFICATIONS.
6. NO CONSTRUCTION OR ENTRY UPON THE CSX CORRIDOR IS PERMITTED UNTIL THE DOCUMENT TRANSACTION IS COMPLETED, YOU ARE IN RECEIPT OF A FULLY EXECUTED DOCUMENT, AND YOU HAVE OBTAINED AUTHORITY FROM THE LOCAL ROADMASTER.
7. IF REQUIRED, A DEWATERING PLAN IN ACCORDANCE WITH CSX SPECIFICATIONS WILL BE SUBMITTED TO THE CSX REPRESENTATIVE FOR REVIEW AND APPROVAL PRIOR TO ANY DEWATERING OPERATIONS. CSX PROHIBITS THE DISCHARGE OF WATER ONTO ITS PROPERTY WITHOUT PRIOR APPROVAL.
8. BLASTING IS NOT PERMITTED UNDER OR ON CSX PROPERTY.
9. CSX DOES NOT GRANT OR CONVEY AN EASEMENT FOR THIS INSTALLATION.
10. EXISTING PIPES TO BE ABANDONED WILL BE COMPLETELY FILLED WITH CEMENT GROUT OR COMPACTED SAND.
11. PROJECTS THAT GENERATE SOILS FROM CSX PROPERTY MUST ADHERE TO CSX'S SOIL MANAGEMENT POLICIES. CSX REQUIRES SOILS GENERATED FROM ITS PROPERTY TO EITHER BE PROPERLY DISPOSED IN A CSX APPROVED DISPOSAL FACILITY OR REUSED ON CSX PROPERTY. THE MANAGEMENT OF SOILS GENERATED FROM CSX PROPERTY SHOULD BE PLANNED FOR AND PROPERLY PERMITTED (IF APPLICABLE) PRIOR TO INITIATING ANY WORK ON CSX PROPERTY.
12. USE OF CONSTRUCTION SAFETY FENCING IS REQUIRED WHEN A CSX FLAGMAN IS NOT PRESENT. DISTANCE OF SAFETY FENCE FROM NEAREST RAIL TO BE DETERMINED BY CSX ROADMASTER AND WILL BE REMOVED UPON COMPLETION OF PROJECT.

CSX PROPERTY SERVICES REVIEW	
<input checked="" type="checkbox"/> No Exceptions	<input type="checkbox"/> Exceptions Noted
This review does not constitute approval of the design or construction of the project. The review is limited to the safety and health aspects of the overall design and shall remain with the facility owner. This review does not constitute approval to proceed without meeting all of CSX's safety and construction requirements.	
By: <u>DEBRAE ZIMLY</u>	

07/02/2020

CSX913617

EXHIBIT A

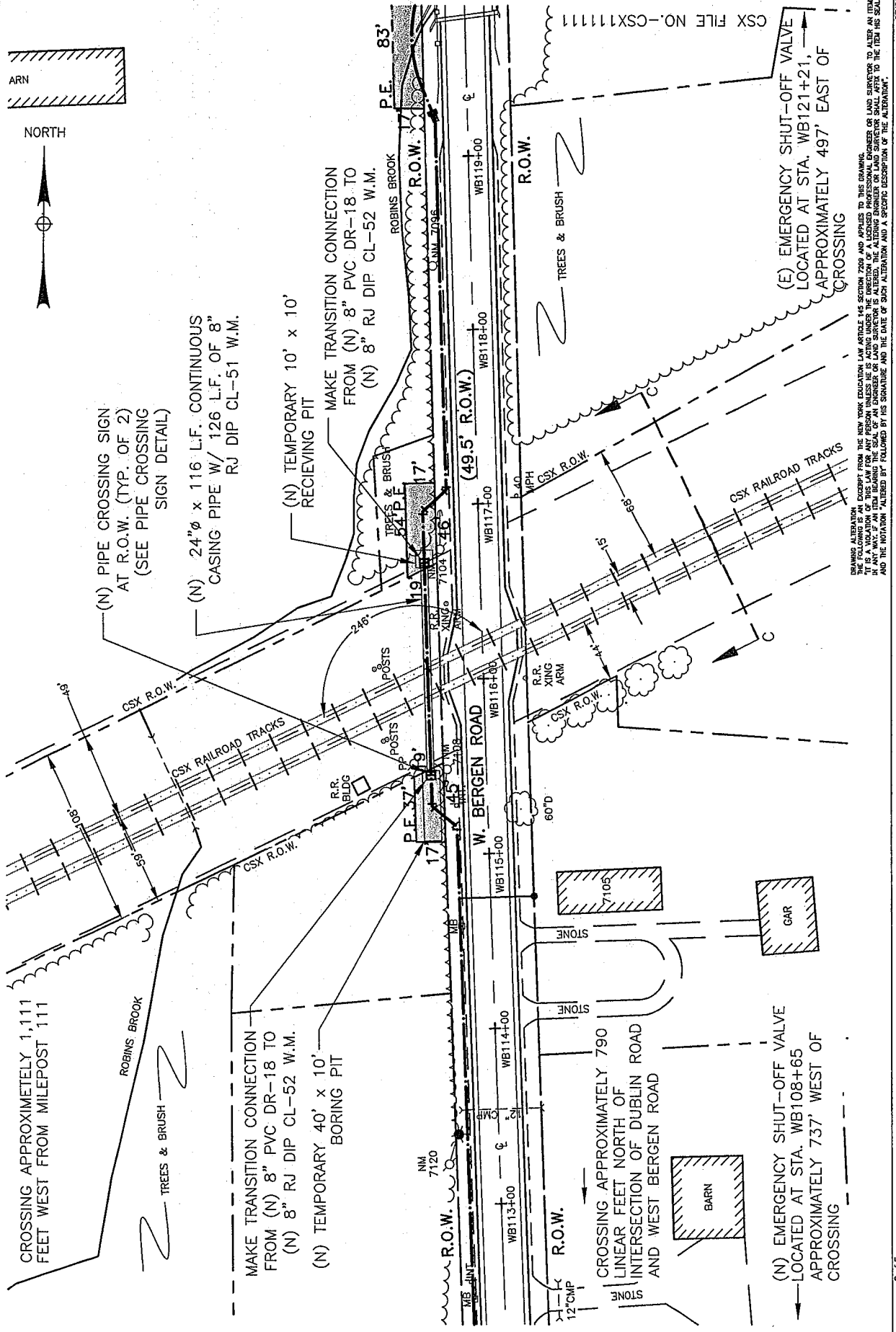
No.	REVISIONS AND DESCRIPTIONS	BY	DATE

Project Title
W.B.A. NO. 1 CONTRACT B
TOWN OF BERGEN
GENESEE COUNTY, NEW YORK
 W. BERGEN ROAD RAILROAD CROSSING

Scale
 1" = 50'
 Checked By
 Date

MRB | group
 Engineers, Architects & Surveyors, P.C.
 The Colver Road Annex, 145 Colver Road, Suite 100, Rochester, New York 14620
 Phone: 585-411-7520
 www.mrbgroup.com

Sheet No. **DWG**
 SHEET OF
 Project No. **0202-18003**
 Date **07/02/2020**



DRAWING ALTERATION
 THIS DRAWING IS A REVISION TO THE ORIGINAL DRAWING. ANY CHANGES TO THIS DRAWING SHALL BE MADE BY THE DESIGNER OR LAND SURVEYOR TO ALTER AS SHOWN IN ANY WAY. IF AN ITEM BEARING THE SEAL OF AN ENGINEER OR LAND SURVEYOR IS ALTERED, THE ALTERING ENGINEER OR LAND SURVEYOR SHALL AFFIX TO THE ITEM HIS SEAL AND THE NOTATION "ALTERED BY FOLLOWED BY HIS SIGNATURE AND THE DATE OF SUCH ALTERATION AND A SPECIFIC DESCRIPTION OF THE ALTERATION."
 07/02/2020

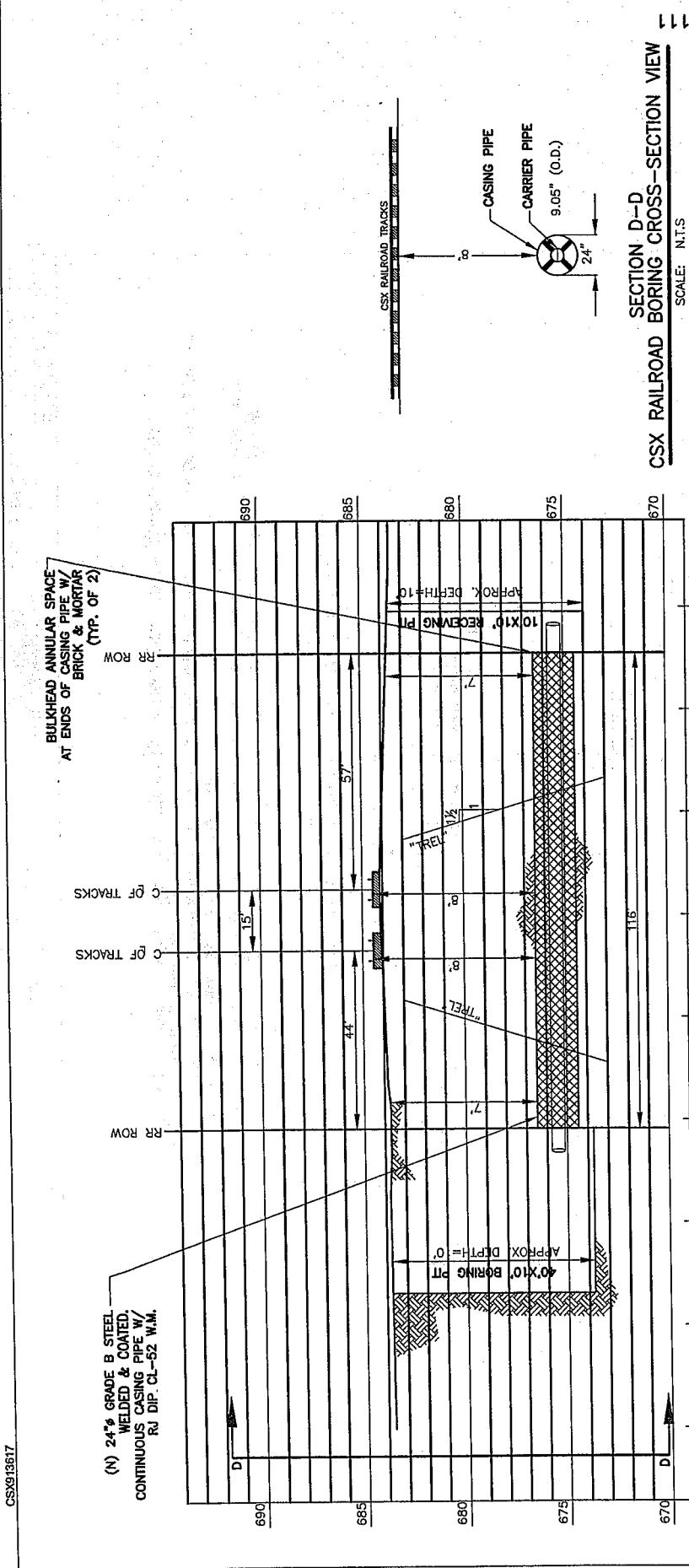
No.	REVISIONS AND DESCRIPTIONS	BY	DATE

Project Title
W.B.A. NO. 1 CONTRACT B
TOWN OF BERGEN
GENESEE COUNTY, NEW YORK
 Drawing Title
W. BERGEN ROAD RAILROAD CROSSING

Drawn By
 Checked By
 Scale
 1" = 50'
 Date

MRB | group
 Engineering, Architecture & Surveying, LLC
 The Calver Road Annex, 145 Calver Road, Rockton, New York 14280
 Phone: 552-341-9200
 www.mrbgroup.com

Sheet No. **DWG**
 SHEET
 Project No. **0202-18003**
 07/02/2020



BULKHEAD ANNULAR SPACE
 AT ENDS OF CASING PIPE W/
 BRICK & MORTAR
 (TYP. OF 2)

(N) 24\"/>

SECTION D-D
CSX RAILROAD BORING CROSS-SECTION VIEW
 SCALE: N.T.S.

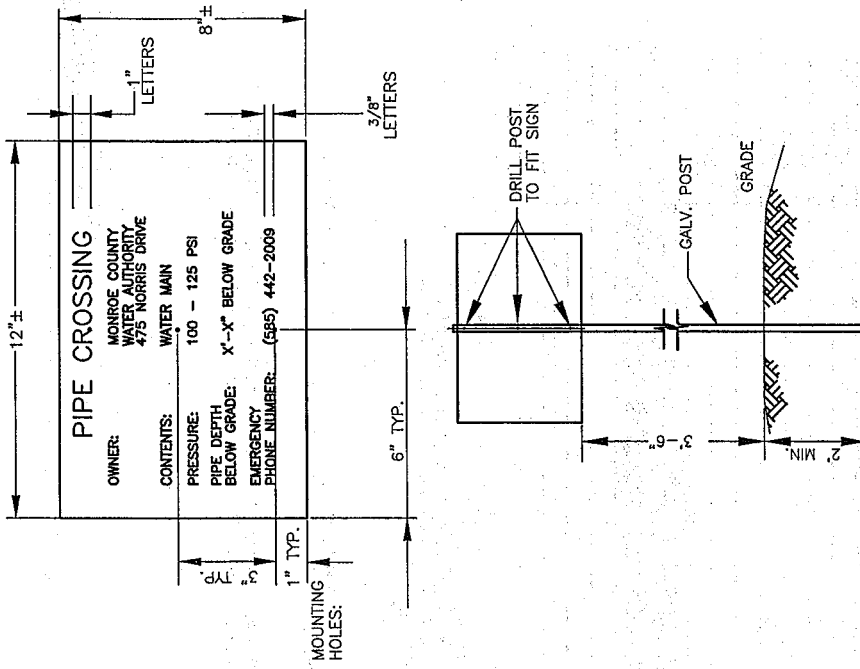
SECTION C-C
WEST BERGEN ROAD - CSX RAILROAD BORING PROFILE
 LOOKING WESTERLY

SCALE: 1" = 25' H
 1" = 5' V

NOTES:

1. THE FRONT OF THE CASING PIPE SHALL BE PROVIDED WITH MECHANICAL ARRANGEMENTS OR DEVICES THAT WILL POSITIVELY PREVENT THE AUGER FROM LEADING THE PIPE SO THAT NO UNSUPPORTED EXCAVATION IS AHEAD OF THE PIPE.
2. CASINGS FOR CARRIER PIPES OF NON-FLAMMABLE SUBSTANCES SHALL HAVE BOTH ENDS OF THE CASING BLOCKED UP IN SUCH A WAY AS TO PREVENT THE ENTRANCE OF A FOREIGN MATERIAL, BUT ALLOWING LEAKAGE TO PASS IN THE EVENT OF A CARRIER BREAK.

THIS DRAWING IS AN EXCERPT FROM THE NEW YORK EDUCATION LAW ARTICLE 145 SECTION 7209 AND APPLIES TO THIS DRAWING.
 THE FOLLOWING IS AN EXCERPT FROM THE NEW YORK EDUCATION LAW ARTICLE 145 SECTION 7209 AND APPLIES TO THIS DRAWING.
 NO PERSON SHALL ACT AS ARCHITECT, ENGINEER OR SURVEYOR OR AS EMPLOYER THEREOF UNLESS HE OR SHE IS A LICENSED PROFESSIONAL ENGINEER OR SURVEYOR OR ARCHITECT.
 IT IS A VIOLATION OF THIS LAW FOR ANY PERSON UNLESS HE OR SHE IS A LICENSED PROFESSIONAL ENGINEER OR SURVEYOR OR ARCHITECT TO SEAL OR SIGN OR
 AND THE NOTATION FOLLOWS BY HIS SIGNATURE AND THE DATE OF SUCH ALTERATION AND A SPECIFIC DESCRIPTION OF THE ALTERATION.



PIPE CROSSING SIGN DETAIL

NOTE:

1. BLACK LETTERS ON YELLOW SIGN - REFLECTORIZED 1/8" THICK ALUMINUM SIGN MATERIAL.
2. DRILL 3 MOUNTING HOLES EACH SIDE FOR 1/2" STAINLESS STEEL BOLTS WITH WASHERS AND DOUBLE NUTS.
3. POSTS TO STRADDLE PIPE, AT R.O.W. LINE.
4. OFFSET LABELS OF WATER MAIN ARE TO BE LOCATED SPECIFIC, AND VERIFIED PRIOR TO PLACEMENT OF EACH OF THE TWO (2) SIGNS.
5. ACTUAL DEPTH OF PIPE SHALL BE DETERMINED IN FIELD PRIOR TO FABRICATION OF SIGN.

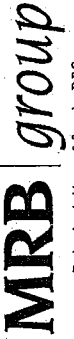
DRAWING ALTERATION
 THE FOLLOWING IS AN EXCERPT FROM THE
 STATE ENGINEERING EDUCATION LAW AND THE
 REGULATIONS THEREUNDER WHICH APPLY TO THIS
 DRAWING. YOU ARE ADVISED TO THE
 PERSON UNLESS OTHERWISE NOTED IN THE
 DIRECTION OF A LICENSED PROFESSIONAL
 ENGINEER OR LAND SURVEYOR SHALL AT ALL
 TIMES BE FOLLOWED BY HIS SIGNATURE AND THE
 SPECIFIC ASSOCIATION OF THE ALABAMA.

MRB | group
 Engineering, Architecture & Surveying, D.P.C.
 The Colver Road Alimony, 145 Colver Road, Suite 100, Buckhannon, New York 14030
 Phone: 888-981-9250
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SCALE: N.T.S.	PROJECT NAME W.I.B.A. NO. 1 CONTRACT B TOWN OF BERGEN GENESEE COUNTY, N.Y.
DATE: 6/2020	
PROJECT No. 0202.18003	

PIPE DATA	
8"-10" CARRIER PIPE	CASING PIPE
CONTENTS TO BE HANDLED	RJ DIP WATER MAIN
NORMAL OPERATING PRESURE	100 - 125 PSI
NOMINAL SIZE OF PIPE	8"=8", 10"=10"
OUTSIDE DIAMETER	8"=9.05", 10"=11.10"
INSIDE DIAMETER	8"=8.45", 10"=10.46"
WALL THICKNESS	8"=0.30", 10"=0.32"
WEIGHT PER FOOT	8"=26.4LB/FT, 10"=34.8LB/FT
MATERIAL	RESTRAINED JOINT DUCTILE IRON PIPE
PROCESS OF MANUFACTURE	CENTRIFUGALLY CAST
SPECIFICATION	ANSI/AWWA c151/A21.51
GRADE OR CLASS	CLASS 51
TEST PRESSURE	150 PSI
TYPE OF JOINT	PUSH-ON, RESTRAINED JOINT
TYPE OF COATING	CEMENT-MORTAR LINED
DETAILS OF CATHODIC PROTECTION	N/A
DETAILS OF SEALS OR PROTECTION AT ENDS OF CASING	N/A
METHOD OF INSTALLATION	INSERTION INTO CASING PIPE
CHARACTER OF SUBSURFACE MATERIAL AT THE CROSSING LOCATION	TO BE DETERMINED
APPROXIMATE GROUND WATER LEVEL	TO BE DETERMINED
SOURCE OF INFORMATION ON SUBSURFACE CONDITIONS	TO BE DETERMINED
	WELDED PER AWWA C-203
	BITUMASTIC
	N/A
	BULKHEAD W/ BRICK & MORTAR
	BORING
	TO BE DETERMINED
	TO BE DETERMINED
	TO BE DETERMINED

CSX FILE NO.-CSX111111

SCALE: N.T.S.	PROJECT NAME W.I.B.A. NO. 1 CONTRACT B TOWN OF BERGEN GENESEE COUNTY, N.Y.	 <p>Engineering, Architecture & Surveying, P.C. The Colver Road, Ramsey, NJ 07646 Phone: 908-381-9750 www.mrbgroup.com</p>	<p>DRAWING ALTERNATION IS A VIOLATION OF THE NEW YORK EDUCATION LAW, ARTICLE 145, SECTION 145.1 AND APPLIES TO THIS DRAWING. THIS AND APPLIES TO THIS DRAWING.</p> <p>IT IS A VIOLATION OF THIS LAW FOR ANY ENGINEER OR ARCHITECT TO PREPARE OR DIRECT THE PREPARATION OF ANY DRAWING OR SPECIFICATION IN THE PROFESSIONAL CAPACITY OF A LICENSED PROFESSIONAL ENGINEER OR ARCHITECT WITHOUT BEING THE SEAL OF AN ENGINEER OR ARCHITECT IN THE STATE OF NEW YORK. ANY ENGINEER OR ARCHITECT WHO VIOLATES THIS LAW SHALL BE SUBJECT TO THE PENALTIES AND THE DISCIPLINE PROVIDED BY THE EDUCATION LAW AND THE REGULATION AND THE RULES OF THE BOARD OF PROFESSIONAL ENGINEERS AND ARCHITECTS AND THE BOARD OF PROFESSIONAL LAND SURVEYORS AND THE BOARD OF PROFESSIONAL SURVEYORS AND THE BOARD OF PROFESSIONAL ENGINEERS AND ARCHITECTS AND THE BOARD OF PROFESSIONAL LAND SURVEYORS AND THE BOARD OF PROFESSIONAL SURVEYORS.</p> <p>DATE OF SUCH ALTERNATION AND THE SPECIFICATION OF THE ALTERNATION</p> <p>07/02/2020</p>
DATE: 6/2020	PROJECT No. 0202.18003		

Charter

COMMUNICATIONS

July 1, 2020

Re: Charter Communications – Upcoming Changes

Dear Municipal Official:

This letter will serve as notice that on or around August 1, 2020, Charter Communications ("Charter"), locally known as Spectrum, will launch Big Ten Network, channel 382, to Spectrum TV Sports Pack on the channel lineup serving your community.

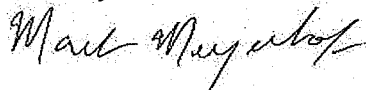
On or around August 1, 2020, American Heroes Channel 140, Discovery Family Channel 266 and Science Channel 136, currently placed on SPP Tier 2 will be moved to SPP Tier 1 on the channel lineup serving your community.

On or around August 1, 2020, the Spectrum news feed currently located on channel 212 in the Avoca, Dansville and Hornell lineup will change from Spectrum News Southern Tier to Spectrum News Rochester. Channels 1, 13 and 200 in the Fredonia and Jamestown lineups will change from Spectrum News WNY to Spectrum News Buffalo. Spectrum News features news, weather, traffic, information and other original news programming.

To view a current Spectrum channel lineup visit www.spectrum.com/channels.

If you have any questions about this change, please feel free to contact me at 716-686-4446 or via email at mark.meyerhofer@charter.com.

Sincerely,



Mark Meyerhofer
Director, Government Affairs
Charter Communications