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RESOLUTION #42-2026 OF THE TOWN BOARD, TOWN OF NEWFANE, NY

RESOLUTION AUTHORIZING AND DIRECTING A REQUEST FOR LESSOR CONSENT FOR IMPROVEMENTS AND A VENDOR CONCESSION PROGRAM AT THE OLCOTT BEACH TOWN SQUARE / CAROUSEL PARK

WHEREAS, the Town of Newfane (the “Town”) leases certain real property located in the Hamlet of Olcott, bounded generally by Main Street, Lockport Street, and Ontario Street, identified by Niagara County tax parcel numbers 5.83-1-24, 5.83-1-29, 5.83-1-29.2, 5.83-1-21.1, and 5.83-1-21.2, and also known as 5965 Main Street, Olcott, New York, which property the Town uses as a public parking lot and gathering place (the “Leased Premises”), pursuant to a Lease dated December 28, 2006, as evidenced by a Correction Memorandum of Lease dated June 21, 2017 and recorded in the Niagara County Clerk’s Office, and as amended by an Amendment of Lease dated December 30, 2022 (collectively, the “Lease”), between Eugene C. Mazzola, Jr., Roxanne Mazzola, and the Mazzola Family L.P. (collectively, the “Lessor”) and the Town; and

WHEREAS, the Town desires to improve the Leased Premises in the vicinity of the Carousel Park by installing concrete pads and associated utility service, including water, sewer, and electric service, in order to establish one or more vendor concession space(s) to be made available to concession businesses serving the visiting public (the “Project”); and

WHEREAS, the Lease permits the Town to make improvements to the Leased Premises consistent with its permitted use “upon and with the consent of the Lessor, which consent shall not be unreasonably withheld,” and further provides that additions and improvements made to the Leased Premises become the property of the Lessor upon the expiration of the Lease except for removable structures; and

WHEREAS, the Lease further provides that the Town shall not permit the Leased Premises or any part thereof to be used by anyone other than the Town or the Town's employees and invitees, except upon the express written consent of the Lessor; and

WHEREAS, the installation of the improvements comprising the Project, and the granting of concession rights permitting concession businesses to occupy and use vendor space(s) on the Leased Premises, therefore require the consent of the Lessor under the Lease, and obtaining such consent is a threshold condition to the Project and to any award of concession rights; and

WHEREAS, any Town expenditure for the construction of the improvements comprising the Project shall be undertaken in compliance with General Municipal Law § 103 and the Town's Procurement Policy, as applicable; and

WHEREAS, the Town Board has reviewed the requirements of the Lease and wishes to authorize the Project and a vendor concession program, subject to and conditioned upon the Town first obtaining the written consent of the Lessor;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes, in concept, the Project and the establishment of a vendor concession program to make one or more vendor concession space(s) available at the Leased Premises, subject in all respects to, and conditioned upon, the Town first obtaining the express written consent of the Lessor as required by the Lease; and

BE IT FURTHER RESOLVED, that the Town Board authorizes and directs the Town Supervisor, together with the Attorney for the Town, to request and obtain the Lessor's written consent under the Lease to (i) the installation of the concrete pads and utilities comprising the Project and (ii) the granting of concession rights permitting concession businesses to occupy and use vendor space(s) on the Leased Premises, and authorizes the Supervisor to execute such consent and related documentation upon review and approval by the Town Attorney; and

BE IT FURTHER RESOLVED, that, contingent upon receipt of the Lessor's written consent, the Town Board authorizes the issuance of a Request for Proposals and/or a Vendor Concessioner Application for the award of concession rights, in a form approved by the Attorney for the Town, and directs that any resulting concession permit or license require the concessionaire to maintain liability insurance naming both the Town and the Lessors as additional insureds; and

BE IT FURTHER RESOLVED, that any construction contract for the improvements comprising the Project shall be awarded and administered in compliance with General Municipal

Law § 103 and the Town's Procurement Policy, as applicable, and shall be subject to separate authorization of the necessary appropriation and award by this Board.

By Order of the Town Board
Town of Newfane, Niagara County, New York
Adopted this ____ day of _____, 2026

Town Board Member

Vote

Supervisor John Syracuse

☐ Aye ☐ Nay

Councilman Paul Conrad

☐ Aye ☐ Nay

Councilman Robert Horanburg

☐ Aye ☐ Nay

Councilwoman Jessica Reinhardt

☐ Aye ☐ Nay

Councilman Peter Robinson

☐ Aye ☐ Nay