



TOWN OF AMHERST

ERIE COUNTY, NEW YORK

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SUSPENSION ITEM TOWN BOARD AGENDA : NOVEMBER 20, 2017

TO: Town Board

FROM: Stanley J. Sliwa, Esq., Town Attorney *SJS/msl*

DATE: November 20, 2017

RE: Authorization to File Counter-Claim Against
Mensch Capital Partners, LLC

Kindly adopt the following resolution authorizing the commencement of a counter-claim against Mensch Capital Partners, LLC:

WHEREAS, the Town of Amherst ("Town") and the Town of Amherst Town Board ("Town Board") have been sued by Mensch Capital Partners, LLC ("Mensch") for allegedly violating provisions of the Amherst Town Code and of the Laws of the State of New York; and

WHEREAS, Mensch has failed to pay escrow funds to the Town pursuant to Chapter 108, Section 5 of the Amherst Town Code and Town of Amherst Resolution #2017-908;

WHEREAS, to properly protect the Town's interests and per Town of Amherst Resolution #2017-773, the Town Board hired Hancock Estabrook as special counsel for matters related to Westwood; and

WHEREAS, pursuant to Town of Amherst Resolution #2017-907, Hancock Estabrook was authorized to retain Stantec Consulting Services, Inc. to render assistance in review and drafting of the Draft and Final Environmental Impact Statement for the Westwood project; and

WHEREAS, to assure that Mensch pays the escrow amount required by the Town Code of the Town of Amherst Chapter 108, Section 5 and Town Board Resolution #2017-908,

THEREFORE BE IT RESOLVED that Hancock Estabrook is authorized to take whatever action it deems necessary to collect the escrow amount from Mensch, including but not limited to, assertion of a counter-claim in the suit brought by Mensch and/or instituting appropriate legal proceedings against Mensch.

Thank you.

SJS:msl