

**TOWN BOARD
SPECIAL MEETING**

MONDAY

April 25, 2014

Supervisor Zupan opened the meeting at 5:00 P.M. with four Councilors present. Councilor Race was delayed in arriving.

Supervisor Zupan stated proper notification of the meeting took place and further that a quorum was present for the purposes of this meeting.

Resolution No. 60 presented by Councilor Driscoll, seconded by Supervisor Zupan

**SEQR RESOLUTION
(ADOPTING NOTICE OF COMPLETION
OF FINAL SUPPLEMENTAL EIS)**

**Treatment and Application of Triclopyr
("Renovate OTF[®]") on Cazenovia Lake
Phase IV (2014 TREATMENT)**

WHEREAS, the Town of Cazenovia has considered the possibility of treatment of Cazenovia Lake to address the identified presence of invasive aquatic macrophyte *Myriophyllum spicatum*, commonly known as Eurasian watermilfoil; and

WHEREAS, after impartial evaluation of all viable alternatives, a chemical treatment program using the chemical Triclopyr, with a brand name of "Renovate OTF[®]" (the "action"), offered the greatest potential for effective control of Eurasian watermilfoil in Cazenovia Lake; and

WHEREAS, the present action represents a fourth phase of treatment to 269± acres of the littoral (nearshore) zone of Cazenovia Lake infested by Eurasian watermilfoil (see map attached); and

WHEREAS, it has been previously determined by the Town Board on January 13, 2014 that the Town of Cazenovia would assume Lead Agency status for SEQR review purposes for this action and said Lead Agency status has been confirmed; and

WHEREAS, on February 10, 2014, the Town Board, as Lead Agency, adopted a Positive Declaration requiring the preparation of a Draft Supplemental Environmental Impact Statement to evaluate the potential negative environmental impacts of the action; and

WHEREAS, the Town Board, as Lead Agency, caused the preparation of a Draft and Final Scoping Document to guide and identify the relevant areas of discussion for an Environmental Impact Statement and said Final Scoping Document was adopted on March 5, 2014; and

WHEREAS, the Town Board, as Lead Agency, directed the preparation of a Draft Supplemental Environmental Impact Statement (“Draft SEIS”) for the purpose of the application (treatment) of the herbicide Triclopyr (“Renovate OTF[®]”) to portions of Cazenovia Lake for control of the invasive aquatic plant species, Eurasian watermilfoil (*Myriophyllum spicatum*); and

WHEREAS, the Town Board, as Lead Agency, received and accepted the Draft SEIS for the proposed treatment and application of Triclopyr (“Renovate OTF[®]”) on Cazenovia Lake and issued its Notice of Completion of the Drafts SEIS for purposes of public review and comment; and

WHEREAS, the Town Board, as Lead Agency, caused the preparation of a Final Supplemental Environmental Impact Statement (“Final SEIS”) for the purpose of the application (treatment) of the herbicide Triclopyr (“Renovate OTF[®]”) to portions of Cazenovia Lake for control of the invasive aquatic plant species, Eurasian watermilfoil (*Myriophyllum spicatum*); and

WHEREAS, the Town Board, as Lead Agency, has now received the Final SEIS for the proposed treatment and application of Triclopyr (“Renovate OTF[®]”) to Cazenovia Lake; and

WHEREAS, the Town Board, as Lead Agency, caused the filing of the Final SEIS in response to the public comment and review of the Draft SEIS issued by the Town of Cazenovia Town Board; and

WHEREAS, members of the Town of Cazenovia Town Board, as Lead Agency, have reviewed the Final SEIS for completeness in response to the final scoping document and in response to all comments received on the Draft SEIS.

NOW, THEREFORE BE IT RESOLVED , upon motion of Councilor Driscoll, seconded by Supervisor Zupan that the Town of Cazenovia Town Board determines that the information submitted in the Final SEIS for the proposed treatment and application of Triclopyr (“Renovate OTF[®]”) to Cazenovia Lake as a Phase IV treatment is complete with respect to the scope, content and adequacy for the purpose of commencing public consideration pursuant to Article 8, State Environmental Quality Review Act (“SEQRA”) of the Environmental Conservation Law;

AND BE IT FURTHER RESOLVED that the attached Notice of Completion of the Final SEIS under the provisions of the State Environmental Quality Review (“SEQR”) shall be filed, circulated and published in accordance with the requirements of 6 N.Y.C.R.R. Part 617.12 of the State Environmental Quality Review Act.

617.21
Appendix G
State Environmental Quality Review

NOTICE OF COMPLETION OF
FINAL SUPPLEMENTAL
ENVIRONMENTAL IMPACT STATEMENT

Lead Agency: Town of Cazenovia Town Board

Project Number:

Address: 7 Albany Street, Cazenovia, New York 13035

Date: April 25, 2014

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law.

A Final Supplemental Environmental Impact Statement ("Final SEIS") has been completed and accepted for the proposed action described below. The action was deemed a Type I action pursuant to a Positive Declaration issued on February 10, 2014. Public consideration of the Final SEIS shall end on May 5, 2014.

Name of Action: Application (treatment) of the herbicide, Renovate OTF[®] to 269± acres of the littoral (nearshore) zone of Cazenovia Lake infested by Eurasian watermilfoil and spot treatment areas (see map attached), for control of the invasive aquatic plant species, Eurasian watermilfoil (*Myriophyllum spicatum*).

Description of Action:

The action involves treatment of Cazenovia Lake through the application of the herbicide "Renovate OTF[®]" to 269± acres of the littoral (nearshore) zone of Cazenovia Lake infested by Eurasian watermilfoil and spot treatment areas. The treatment is designed to address the continued presence of the invasive aquatic plant species Eurasian watermilfoil (*Myriophyllum spicatum*) which has dominated the Lake surface area in recent years. This is the fourth phase of treatment (2014 treatment) and will complement previous treatments of the entire Lake.

There will be multiple treatment areas proposed for this fourth phase application as described in the Draft SEIS.

Location: Town of Cazenovia, New York (Cazenovia Lake -- 269± acres of the littoral (nearshore) zone of Cazenovia Lake
(See map on file with the Town Clerk at 7 Albany Street, Cazenovia, New York)

Potential Environmental Impacts:

1. Water Resources - It has been determined that the lead agency evaluate the potential impacts of the proposed use of Renovate OTF[®] on the general water quality of Cazenovia Lake. The FEIS addresses these impacts and concludes no such adverse impacts will result.
2. Impact on Potable Water Supply and Human Health - Property owners abutting Cazenovia Lake are reported to use - lake water as a source of drinking water, as well as for cooking and bathing. The supplemental environmental impact statement addresses the potential negative impacts and mitigation measures associated with the introduction of Renovate OTF[®] to the drinking water supply and any potential impacts on human health. In addition, residences along the northern portion of the lake shoreline are served by a community groundwater supply (known as Oweria Point). The SEIS has considered the potential impacts of the application of Renovate OTF[®] to the groundwater and any necessary mitigation and mitigation. The SEIS "Use of the Aquatic Herbicide Triclopyr

Renovate[®] in the State of New York” dated August 2007 served as an important reference document regarding the potential impacts on potable water supply and human health.

3. Impact on Terrestrial Flora - The SEIS addresses potential adverse impacts if lake water treated with Renovate OTF[®] is applied to lawns and gardens. Mitigation measures are discussed in the SEIS.
4. Impact on Aquatic Flora - The SEIS addresses potential negative impacts on non-targeted plant species, which may be incidentally affected by treatment of the Lake water with Renovate OTF[®] and provides for mitigation actions for same.
5. Impact on Aquatic Fauna - The SEIS addresses potential negative impacts on aquatic fauna, in and around Cazenovia Lake. Cazenovia Lake maintains a diverse community of fish and reptile species, as well as water fowl. The SEIS analyzes the potential impact of the treatment of the Lake with Renovate OTF[®] on all aquatic fauna, especially the fish community. The SEIS concludes that following labeling instructions will prevent any adverse impacts and serve as appropriate mitigation.
6. Impact on Wetlands - The site contains both federally protected and state protected wetlands. The current proposal places portions of the treatment on or within 100 feet of certain wetland areas. The SEIS provides details in the form of a written discussion on the potential impact on the wetlands and proposed mitigative measures for same, including avoiding treatments in these areas.
7. Impact on Recreational Pursuits and Economic Stability - It is recognized that Cazenovia Lake is a source of recreational opportunities for residents of the Town, as well as visitors. The SEIS reviews the potential impacts of treatment of the Lake with Renovate OTF[®] on recreational pursuits, as well as economic aspects of the treatment, including impacts on rentals, property values, etc. and provides for mitigation measures, including providing public information and written notifications.
8. Impact on Aesthetics and Human Perceptions - The introduction of an herbicide into Cazenovia Lake has the potential to change the aesthetic condition of lake water by eliminating submerged and emergent plant material and thus will have some effect on its visual quality. Additionally, residents may hold opinions relating to the treatment of lake water with any chemical substance. The SEIS addresses these potential impacts.
9. Consideration of Phases I, II and III - The Final SEIS discusses the impacts and results of the Phase I, II and III treatments, all of which were successful applications with no negative environmental impacts associated with same.

A Copy of the Final SEIS may be obtained from:

Contact Person: William Zupan, Supervisor
Address: Town of Cazenovia, 7 Albany Street, Cazenovia, New York 13035
Telephone Number: (315) 655-9213

The Final SEIS may be viewed at: www.townofcazenovia.org and at the Town Hall, Town of Cazenovia, 7 Albany Street, Cazenovia, New York 13035, Telephone Number: (315) 655-9213.

A Copy of this Notice Sent to:

Involved:

- ☐ New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001
- ☐ New York State Department of Environmental Conservation, Region 7, 615 Erie Blvd. West, Syracuse, New York 13204-2400
- ☐ U.S. Army Corps of Engineers, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 2109, New York, New York 10278-0090
- ☐ Village of Cazenovia Board of Trustees, c/o Katherine A. Burns, Clerk, 90 Albany Street, Cazenovia, New York 13035
- ☐ Applicant/Sponsor - Town of Cazenovia c/o William Zupan, Supervisor, 7 Albany Street, Cazenovia, New York 13035

Interested:

- ☐ Commissioner of Health, Madison County Health Department, P.O. Box 605/ 138 North Court St., Wampsville, New York 13163
- ☐ NYS Office of Parks, Recreation and Historic Preservation, Empire State Plaza, Agency Building 1, Albany, New York 12238
- ☐ NYS Thruway Authority & Canal Corp., 200 Southern Blvd., P.O. Box 189, Albany, New York 12201-0189
- ☐ NYS Thruway Authority & Canal Corp., Suite 250, 2nd Floor, 290 Elwood Davis Road, Liverpool, New York 13088-0308
- ☐ Persons requesting Final SEIS
- ☐ Environmental Notice Bulletin, Room 538, Albany, New York 12333-1750.

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- ☐ Copies of the Final SEIS must be distributed according to 6 N.Y.C.R.R. 617.12(b).

Roll call:

Councilor Andersen	Yes
Councilor Race	Absent
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 60 adopted.

At 5:05 p.m., Councilor Race joined the meeting.

Resolution No. 61 presented by Councilor Driscoll, seconded by Councilor Andersen

AUTHORIZING THE EXECUTION OF THE OWNER-CONTRACTOR AGREEMENT WITH ALLIED BIOLOGICAL, INC.

Treatment and Application of Triclopyr (“Renovate OTF[®]”) on Cazenovia Lake (2014 Treatment)

WHEREAS, the Town of Cazenovia has considered the possibility of treatment of Cazenovia Lake to address the identified presence of invasive aquatic macrophyte *Myriophyllum spicatum*, commonly known as Eurasian watermilfoil; and

WHEREAS, after impartial evaluation of all viable alternatives, a chemical treatment program using the chemical Triclopyr, with a brand name of “Renovate OTF[®]” (the “action”), offered the greatest potential for effective control of Eurasian watermilfoil in Cazenovia Lake; and

WHEREAS, previously in 2009 the Town Board authorized the distribution and posting of a Request for Proposal to qualified contractors who have been certified to undertake such treatments; and

WHEREAS, by public bid, only one bid was received by the Town within the required time as posted therein, such bid being submitted by Allied Biological, Inc.; and

WHEREAS, the original bid request set forth a two (2) year treatment period for 2009 and 2010; and

WHEREAS, Allied Biological, the only bidder, has explicit knowledge of the conditions and needs of the treatment of Cazenovia Lake with the herbicide Triclopyr; and

WHEREAS, previously in 2012 (Phase III), Allied Biological was declared to be a sole source provider for purposes of public bidding; and

WHEREAS, continuity in the method of application and treatment by the contractor has been determined to be of significant importance for this action; and

WHEREAS, for all of the above reasons, the Town Board hereby again declares the Phase IV portion of the treatment of Cazenovia Lake with the herbicide Triclopyr (“Renovate OTF[®]”) to be through a “sole source” provider and no additional public bidding is therefore required; and

WHEREAS, the Town has applied and approval is pending for a Pesticide Application Permit from the New York State Department of Environmental Conservation relating to the treatment of Cazenovia Lake with the herbicide “Renovate OTF[®]” for 2014; and

WHEREAS, the Board has been presented with an Owner-Contractor Agreement (the “Agreement”) which Agreement incorporated “The Allied Biological 2014 Aquatic Vegetation Management Proposal, Cazenovia Lake, Madison County, New York,” dated April 16, 2014.

NOW, THEREFORE, upon motion of Councilor Driscoll, seconded by Councilor Andersen, it is

RESOLVED, that the Town Board of the Town of Cazenovia hereby determines to enter into an Owner-Contractor Agreement for the treatment and application of Triclopyr (“Renovate OTF[®]”) on Cazenovia Lake with Allied Biological, Inc. of Hackettstown, New Jersey pursuant to their proposal dated April 16, 2014, in an amount not to exceed \$187,751.00 (with additional costs for sampling, posters and the rental of limno-barrier, as estimated in the proposal); and it is

further

RESOLVED, that the Supervisor is authorized to enter into a written Contract for such services after preparation of same and review by the Town's Attorney; and it is further

RESOLVED, that this Resolution and the Contract for services is specifically conditioned upon the timely receipt of a Pesticide Application Permit from the New York State Department of Environmental Conservation allowing the Town of Cazenovia to undertake the action at a time most beneficial for the eradication of Eurasian watermilfoil from the Lake in 2014; and it is further

RESOLVED, that this Resolution is further conditioned upon the availability of funds equal to or in excess of the amount of Contract price.

**TOWN OF CAZENOVIA, NEW YORK
OWNER - CONTRACTOR AGREEMENT
General Conditions**

**“Renovate OTF[®] Application and Monitoring at Cazenovia Lake”
(2014 Treatment)**

1. DEFINITIONS

- 1.1 The Owner, mentioned in the General Conditions and all Specifications, is the TOWN OF CAZENOVIA and is described as the party of the first part in this Agreement. The Contractor is ALLIED BIOLOGICAL, INC., named as the party of the second part, in the Contract.
- 1.2 The TOWN OF CAZENOVIA TOWN SUPERVISOR is the Owner's Representative, or such other person(s) as may be designated by the Owner from time-to-time to oversee and supervise the Contractor's performance under this Contract.
- 1.3 The term “work” of the Contractor includes all labor, materials, equipment, transportation, and all other facilities necessary to complete the Contract. In general, this Contract is comprised of the provision of all materials and services necessary to remediate the nuisance invasive aquatic plant, Eurasian watermilfoil (*Myriophyllum spicatum*) as specified in the permit issued by the New York State Department of Environmental Conservation (“NYSDEC”) for Cazenovia Lake for 2014. While the elimination of the Eurasian watermilfoil is the primary objective, the Owner wishes to ensure the rapid reestablishment of the native plant species. It is the expectation that the permitted treatment would be to apply Renovate OTF[®] as early as possible in Spring, 2014. This Contract represents “Phase IV” of a series of treatments, prior treatments having occurred in 2009, 2010 and 2012.
- 1.4 The words “plans” and “drawings” are used synonymously in this Contract.

2. INTENT AND CORRELATION OF DOCUMENTS

The Contract Documents AND 2014 Specifications (“The Allied Biological 2014 Aquatic Vegetation Management Proposal, Cazenovia Lake, Madison County, New York”) as presented by the Contractor, dated April 16, 2014, are complementary and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor and materials (except that which is specially designated to be supplied by others), all tools, equipment, and everything else necessary for the proper execution of the work. Should any work or material be not denoted in the Contract, either directly or indirectly, but which is nevertheless necessary for the proper carrying out of the intent thereof, the Contractor is to understand the same as to be implied and required, and shall perform all work and furnish any such materials as fully as if they were particularly delineated or described.

3. DETAIL DRAWINGS AND INSTRUCTIONS

The Owner has furnished detailed specifications and instructions as part of the specifications. All such specifications and instructions shall be consistent with the contract documents, drawings, NYSDEC Permit, true developments thereof and reasonably inferable therefrom.

4. CONTRACTOR’S UNDERSTANDING

It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work (including the location of the herbicide application), the conformation of the ground, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the character, quality and quantity of the materials to be encountered, and all other matters which can in any way affect the work under this contract.

5. AUTHORITY OF THE OWNER

- 5.1 The Contractor shall inspect and monitor all work included in this Contract. The Owner’s Representative shall have power to determine, in all cases, the amount, quality, fitness and acceptability of the several kinds of work and materials, which are to be paid for hereunder.
- 5.2 The Owner’s Representative shall decide all questions, which may arise as the fulfillment of the Contract on the part of the Contractor, and his decisions thereon shall be final and conclusive. Such determination and decision, in case any question shall arise, shall be a condition precedent to the right of the Contractor to receive any payments hereunder.

6. WAIVER OF OBLIGATIONS

No one other than the Owner and Owner’s Representative shall have any power to waive any of the conditions or obligations of this Contract.

7. ALTERATIONS

The Owner shall have the right to alter and modify the Plans and Specifications and any particulars, thus making specific changes in connection with the construction, details or execution of the work. The Contractor shall make such alterations as may be ordered by the Owner and in case they diminish the quantity of work to be done, they shall not constitute a

claim for damages or anticipated profit on the work omitted; if they increase the amount of work, such increase shall be paid for according to the quantity actually done at an agreed upon unit price for each class of work.

8. EXTRA WORK

- 8.1 When directed in writing by the Owner, the Contractor shall furnish material and do extra work not otherwise provided for by the terms of this Contract, but which may be connected with or necessary to the proper completion of the work, such material and work shall be furnished and one as part of this Contract and subject to its provisions. The payment for any such extra work shall be determined by the Owner and the Contractor as a lump sum price or on the basis of the actual cost of materials and labor furnished by the Contractor, including the cost of superintendence, use of tools and plant and compensation and public liability insurance, plus some percentage for profit.
- 8.2 No claim for any extra work will be allowed unless accompanied by a written order by the Owner's Representative authorizing such extra work and defining agreed basis of payment.
- 8.3 The Contractor shall file with the Owner's Representative in writing, all claims for extra work performed during the previous calendar month.

9. MATERIALS AND WORKMANSHIP

All materials shall be the best of the kind specified and must be satisfactory to the Owner's Representative. All workmanship shall be first class in every respect.

10. DEFECTIVE WORK OR MATERIAL

Work or materials not in accordance with the Plans and Specifications, or in any way defective, shall be removed on order of the Owner's Representative and redone with satisfactory materials and the work done in a satisfactory manner. No work shall be accepted prior to the final completion of the whole; and inspection during construction or part payment for work or materials shall not imply any acceptance of the same.

11. SUPERINTENDENCE

The Contractor shall keep on the work during its progress at least one competent English speaking superintendent who shall be satisfactory to the Owner's Representative. He shall supervise and direct the work for the Contractor, employing his best skill and attention. He shall be fully authorized to represent the Contractor and to receive and carry out such orders as may be given by the Owner's Representative for the proper continuance of the work. Orders so transmitted shall be considered as received by the Contractor.

12. SAFETY

Reasonable precautions shall at all times be exercised for the safety of all employees on the work. All Federal, State and Municipal safety laws shall be observed.

13. PROTECTION OF PERSONS AND PROPERTY

In the event that any damage or injury to any property occurs as a result of the work under this Contract, the Contractor shall promptly repair the same at his own expense. He shall take all reasonable and proper precautions to protect persons, animals and vehicles of the public from injury.

14. COMPLIANCE WITH LAWS

The Contractor shall conduct his work in compliance with all laws of the State of New York and all ordinances or regulations of the Municipalities within whose boundaries the work is carried out.

15. INSURANCE

The Contractor shall protect all parts of the work from loss by theft, fire or otherwise and shall assume all risks of damages to the same, either by lightning, fire, wind, theft or from any other causes, until completion and final acceptance of the work.

16. ASSUMPTION OF LIABILITY

The Contractor shall save and hold harmless the Owner from all claims and demands of every nature growing out of the performance of this Contract, including personal injuries received either by workmen employed by the Contractor, or any other person, injured therein or thereby, and all property damage.

17. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Contractor shall procure and keep in place all insurance and sureties as set forth in the bid specifications. The Contractor shall also take out and maintain during the life of the Contract, Public Liability and Property Damage Insurance to protect him and/or any Subcontractor performing work covered by this Contract from claims for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract whether such operations be by himself or by a Subcontractor or by anyone directly or indirectly employed by either of them. Such insurance shall be in an amount not less than \$1,000,000.00 (One Million Dollars) for injuries, including accidental death to any one person, for each occurrence. The Contractor shall also carry \$2,000,000.00 (Two Million Dollar) in Excess Liability coverage. The Contractor expressly warrants that its insurance coverage includes environmental liability coverage specifically related to the activities performed under this contract (in all instances where there is a conflict of provisions, the most protective to Owner shall apply).

18. WORKER'S COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this Contract Workmen's Compensation Insurance for all of his employees at the site of the project; and, in case any work is sublet, to provide Workmen's Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Contract at the site of the project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and shall

cause each subcontractor to provide employer's liability insurance for the protection of his employees not otherwise protected.

19. ASSIGNMENT OF CONTRACT

The Contractor will not assign this Contract nor sublet more than 25% of its total value without the written consent of the Owner.

20. SUBCONTRACTORS

20.1 The Contractor shall, as soon as practicable after the execution of the Contract, notify the Owner's Representative in writing of the names of any subcontractors proposed for the work. He shall not employ any subcontractors that the Owner's Representative may object to as incompetent, unfit, or involved in litigation with the Owner. Where work may only be performed by licensed personnel, subcontractors must also possess such licenses.

20.2 The Contractor shall obtain the written approval of the Owner's Representative for each and every subcontractor prior to the commencement of any work by said subcontractor(s). The Contractor shall be fully responsible to the Owner for the acts or omissions of his subcontractors and of persons either directly or indirectly employed by them. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the Owner's Representative.

21. COMMENCEMENT OF WORK

The Contractor shall commence work at such points as the Owner's Representative may direct and shall conform to the directions as to the order of time in which the different parts of the work shall be done. Upon reasonable notice, the Owner's Representative shall have the power to declare time is of the essence.

The Contractor shall not commence work under this Contract until he has obtained all the insurance required by these general conditions or any other portion of the Contract Documents, and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the insurance required of the subcontractor has been so obtained and approved. The Contractor shall furnish the Owner with satisfactory proof of coverage of the insurance required before commencing any work.

22. PROSECUTION OF THE WORK

The work embraced in this contract shall commence at once or within ten (10) business days after written notice to do so has been given to the Contractor by the Owner's Representative. The work shall be carried on regularly and uninterruptedly thereafter unless the Owner's Representative especially directs otherwise in writing, or where adverse weather does not permit.

23. GUARANTEES

The Contractor guarantees all work constructed or performed against defects in material or workmanship. The parties understand and agree that there can be no assurance of the longevity of the treatment.

24. CONTRACTOR'S AUTO LIABILITY AND PROPERTY DAMAGE INSURANCE

The Contractor shall maintain General Liability and Auto Liability Insurance coverage for Bodily Injury and Property Damage to be in effect during the life of this Contract. The Contractor shall furnish a current proof of Insurance to the Owner prior to commencement of any work on the project premises.

25. PERMITS AND FEES

An NYSDEC Aquatic Pesticide Permit shall be secured and paid for by the Owner. Procurement and cost of an applicator's license shall be the responsibility of the Contractor.

26. COMPLIANCE WITH SPECIFICATIONS

The Contractor shall comply with all sections of the specifications (including the 2012 Allied Biological proposal) as far as they pertain, directly or indirectly, to their Contract. Any flagrant disregard of the specifications will therefore constitute just cause for termination of the Contract and payment of any just claims incurring therefrom.

27. ERRORS AND OMISSIONS

If the Contractor discovers any error or omission in the contract specifications or in the work undertaken and performed by him, he shall immediately notify the Owner and the latter shall promptly verify and correct the same. If, knowing of such error or omission and prior to correction thereof, the Contractor proceeds with any work affected thereby, he shall do so at his own risk and the work so done shall not be considered as work done under the Contract and in performance thereof unless and until approved and accepted by the Owner.

28. DRAWINGS, PERMITS, LABELS AND SPECIFICATIONS AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of all Permits, Product Labels, Specifications, Addenda, Change Orders and other Modifications in good order and marked to record all changes made during the Project which shall be delivered to the Owner upon completion of the Work.

29. PUBLIC MEETING

If required by NYSDEC, the Contractor shall not commence any work under the contract prior to a public meeting between the Contractor, the Owner's Representatives, government representatives and the general public. At this meeting, all special requirements of the work and the scheduling of the work will be fully explained and discussed.

30. CONFLICT OF PROVISIONS

Provisions of the Specifications shall supersede provisions of the General and Special Conditions where they are found to be in conflict.

31. SALES TAX

The Owner is exempt from the payment of New York Sales Tax.

32. DELIVERY OF MATERIALS

The Contractor shall make his own arrangement for the receipt of materials delivered to the application staging area site. No representative of the Owner will accept any materials ordered by the Contractor.

33. CLEAN UP AND REMOVAL OF MATERIALS & DEBRIS

At the end of each work day, the Contractor shall clean up and collect all debris and rubbish and dispose of this waste material off-site in full compliance with all relevant laws, ordinances and regulations.

34. The Contractor understands that the Contract is contingent upon the Owner raising sufficient funds to carry out the Contract.

OWNER (Town of Cazenovia)

Accepted this _____ day of April, 2014

BY: _____

PRINTED NAME: William Zupan

TITLE: Supervisor

ALLIED BIOLOGICAL INC

Accepted this _____ day of _____, 2014

BY: _____

PRINTED NAME: Glenn P. Sullivan

TITLE: President

EXHIBIT A



April 16, 2014

Bill Zupan, Town Supervisor
TOWN OF CAZENOVIA
7 Albany Street
Cazenovia, New York 13035

2014 AQUATIC VEGETATION MANAGEMENT PROPOSAL CAZENOVIA LAKE MADISON COUNTY, NEW YORK

SCOPE OF SERVICES

ALLIED BIOLOGICAL is submitting this Proposal to conduct management of invasive aquatic vegetation within Cazenovia Lake in 2014. Management will focus on herbicide treatment to achieve selective control of Eurasian watermilfoil (*Myriophyllum spicatum*, "milfoil"). The 2014 application will target treatment of 176-193 acres as indicated on the attached map.

Treatment Area B - northeast shoreline	~ 4 acres
Treatment Area C - west shoreline	~ 55 acres
Treatment Area D - north-East shoreline	~ 15 acres
Treatment Area E - mid-east shoreline	~ 24 acres
Treatment Area G - mid-west shoreline	~ 34 acres
Treatment Area H - southeast shoreline	~ 44 acres
Treatment Area I - southwest end	~ 17 acres (optional)

The primary goal of the herbicide treatment program is to mitigate the moderate to dense growth of Eurasian watermilfoil. It is possible that areas immediately outside of the application area may exhibit some level of milfoil control as well. RENOVATE OTF (triclopyr) granular formulation is the herbicide of choice for 2014's Eurasian watermilfoil control. RENOVATE OTF acts on the growth stage of the plant, and should be applied between late Spring and early Summer. Cazenovia Lake will be surveyed in mid May, and treatment planned for May-June depending on plant conditions and permit approval.

Treatment will be conducted in accordance with NYSDEC regulations, which restrict the material, concentrations and frequency of such treatment. Water use restrictions must be posted along the shoreline according to the pesticide permit conditions prior to treatment. The Client is responsible for placing and removal of any treatment postings. Allied Biological can supply corrugated plastic signs printed with water use restrictions for use in posting.

Chemical concentration monitoring will be conducted per DEC Permit instructions. Water samples will be collected by Lake Volunteers from designated lake and downstream stations following treatment. Samples will be submitted via Federal Express Priority Service to SePro's Aquatic Laboratory for Renovate analysis following treatment until permit restriction levels for human consumption and irrigation are met or time restrictions have elapsed. Results will be reported to the Town by Allied Biological within 24 hours of receipt from the lab, usually within 48-72 hours of sampling. As part of the



2014 Management Program, a post-treatment assessment will be conducted approximately 30-45 days after the application and a report will be submitted summarizing results.

Anticipated water use restrictions include:

Herbicide	Swimming	Fishing	Human Consumption	Irrigation	Livestock Watering
Renovate	24 hours	3 hours	<50 ppb	< 1ppb or 120	none

PERMIT

ALLIED BIOLOGICAL has prepared and submitted the appropriate permit application forms, including the necessary attachments, to the NYSDEC, Region 7 Division of Environmental Permits as part of a separate agreement.

CERTIFICATION

ALLIED BIOLOGICAL is listed with NYSDEC as a registered applicator of aquatic herbicides and algicides (15514). Supervisory personnel and applicators hold current certification from the Department (J Horn C0810437, S Wilson C4862242, R Schindler C0839043, J. Burns C0840969).

INSURANCE

ALLIED BIOLOGICAL carries \$1,000,000 limits in Workers Compensation, General Liability (2M Aggregate), Professional Liability, Property Damage, Transit Pollution and Environmental Liability Insurance, which will remain in full effect throughout the term of this contract. A certificate of insurance is available upon request.

COMPENSATION FOR SERVICES

The cost to conduct the Renovate OTF application for **176 acres** of Cazenovia Lake in 2014 is as follows:

All areas treated at 2.5 ppb – 47,520# Renovate OTF - \$ 208,613.00

All areas treated at 2.25 ppb – 42,768# Renovate OTF - \$ 187,751.00

Additional acreage, up to a total of 193 will be billed a prorated rates of \$1,185.00/acre (2.5ppm) or \$1,066.75/acre (2.25 ppm).

Either application price includes:

Pre and Post Treatment Surveys of the Lake
Herbicide Application Plan with Health and Safety Plan
Renovate OTF as noted above
Product Application
Application reporting to NYSDEC



Additional costs:

1. Renovate Immunoassay sampling - \$85.00/assay plus \$35.00/report.
2. Corrugated plastic notification posters – Cost to be determined
3. Rental of limno-barrier, if required. – Cost to be determined

Optional Discount:

The Town may choose to have 7,000 lbs. of the total product applied in a non-standard fine granular, which would be applied via venturi system. SePRO, the manufacturer, guarantees that this product meets the technical specifications of Renovate OTF, but is in a non-preferred fine granular form. A discount of \$9,350.00 will apply to this substitution.

The permit fees are covered under a separate proposal. A partial payment of \$45,000.00 is expected upon approval of the permit by NYSDEC. The balance due for the Renovate treatment will be invoiced following treatment. Payment terms are Net 30.

ACCEPTANCE

Acceptance of this Proposal can be made by returning of one signed copy.

ALLIED BIOLOGICAL INC.

Glenn P. Sullivan, CLM
President

Accepted this ____ day of _____, 2014

TOWN OF CAZENOVIA

By _____

Title _____

Cazenovia Lake 2014 Renovate OTF Application Plan






Areas proposed for Renovate OTF treatment: 

Area	Treatment Acres	Mean Depth (feet)	Volume (acft.)
B	4	3.35	13.4
C	55	6.92	380.6
D	15	6.15	92.25
E	24	6.75	162
G	34	8.18	279.12
H	44	6.87	302.28

(Treatment areas were selected based on 2013 aquatic vegetation survey conducted by Racine-Johnson Aquatic Ecologists.)

Racine-Johnson Aquatic Ecologists

Eurasian Water Milfoil Distribution
Cazenovia Lake Aquatic Vegetation Survey
September 20 - October 4, 2013

Legend	
	= No Plants
	= Trace Plants
	= Sparse Plants
	= Medium Plants
	= Dense Plants



0 1,450 2,900
Feet

File: C:_2014\OTF_Plan\Map_Facilities.mxd
Date: 10/21/14 (based on 10/15/13 map)

Map prepared by:



Corporate Office: 680 Portland Road, Ipswich, MA 01938
Regional Office: 250 Summer St., Suite 1, Quincy, MA 01906

1-800-345-7357

www.alliedbiological.com

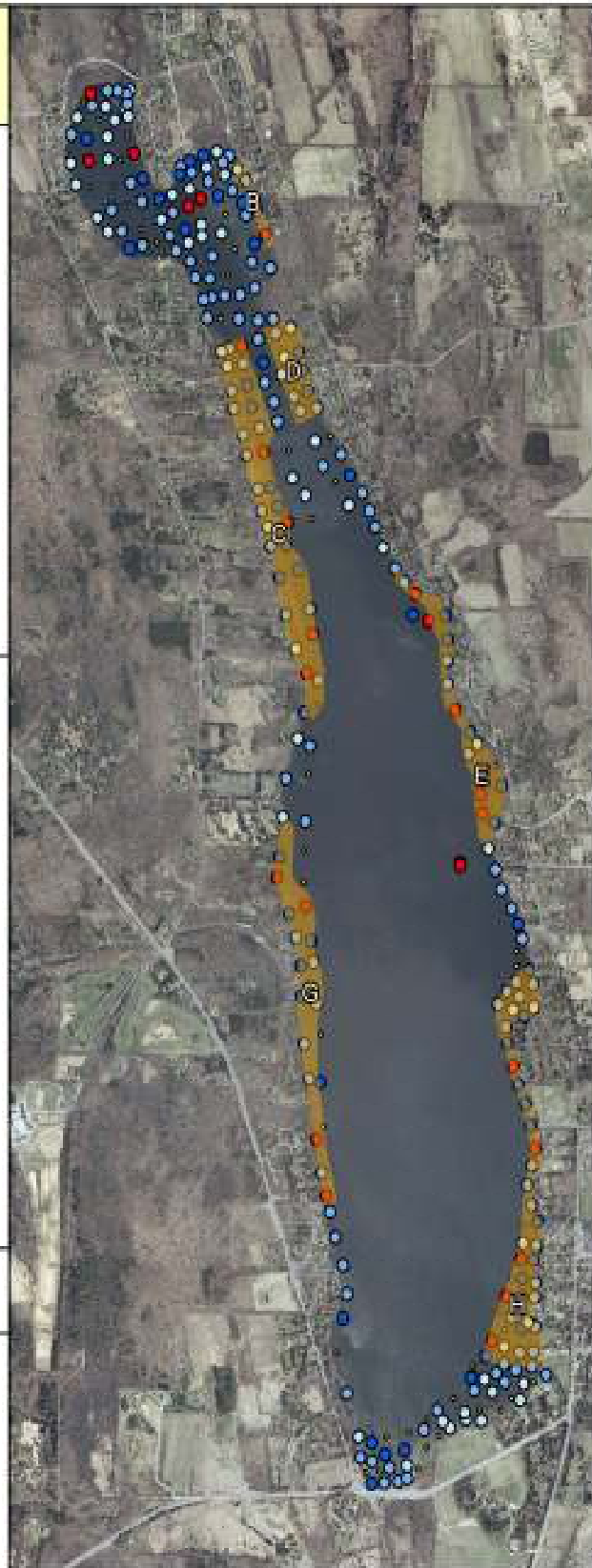


EXHIBIT B

2014 SPECIFICATIONS

FOR IMPLEMENTATION OF THE CAZENOVIA LAKE 2014 AQUATIC HERBICIDE TREATMENT PROGRAM (PHASE IV)

This 2014 Specification document by the Town of Cazenovia, Madison County, New York and Allied Biological, Inc. is part of the Owner-Contractor Agreement for a treatment program and associated monitoring and reporting using the aquatic herbicide Triclopyr (trade name Renovate OTF[®]) to control the growth of Eurasian watermilfoil in Cazenovia Lake. The Triclopyr treatment program is a Phase IV treatment and planned for May 2014 or as soon thereafter as possible.

The work is associated with the application of the herbicide Triclopyr to Cazenovia Lake in accordance with all conditions of a permit submitted by the Town of Cazenovia, and granted by the New York State Department of Environmental Conservation ("NYSDEC") for 2014.

The Town of Cazenovia reserves the right to cancel this Agreement if there are insufficient funds in the amount of the Contract price and/or to undertake the work in calendar year 2014. Nothing in these specifications obligates the Town of Cazenovia to proceed with a Triclopyr treatment program.

1. DESCRIPTION OF WORK

The work involved consists of the application of the aquatic herbicide Triclopyr, trade name Renovate OTF[®], to Cazenovia Lake for the management of nuisance aquatic vegetation and support of desirable plants and animals. The work will be for the year 2014 as Phase IV of the overall program, and is dependant on acquisition of all necessary permits and availability of funds. The primary goal of the herbicide treatment program is to mitigate the dense growth of Eurasian watermilfoil, which significantly impairs conditions for recreation and other cultural uses of the lake. In 2009 (prior to the Phase I treatment), approximately 420 acres of the 1164 acre lake exhibited dense growth of Eurasian watermilfoil. As outlined in the permit application submitted to NYSDEC, the 2014 herbicide program will treat 176± acres (up to a total of 269± acres) of the littoral (nearshore) zone of Cazenovia Lake infested by Eurasian watermilfoil and spot treatment areas.

There are protected macrophyte species present, and areas of the lake are classified as wetlands. Autumnal water starwort (*Callitriche hermaphroditica*) was found during a 2008 plant survey. This plant is included on the Active Inventory List of the New York State Rare Plant List and is ranked as an SI, indicating it is found in five or fewer sites statewide. It occurred in only one of the 302 sample sites in Cazenovia Lake; and was present adjacent to the inlet. Because of the presence of this plant and the listed wetland area in the northern segment of Cazenovia Lake, a 100 ft buffer will be maintained around the littoral zone located in the lake's northern segment.

2. CONTRACTOR QUALIFICATIONS

The Contractor (Allied Biological) must provide the Town of Cazenovia the following information:

A. An itemized list and brief descriptions of the Contractor's equipment available to meet the requirements and specifications of the proposed Contract including:

- i. Types and condition of application equipment to be used for the project including, but not limited to, boats, secure storage containers, granular spreader, eductors, etc.
- ii. Vehicles used to transport and store herbicides at the job site.
- iii. Proof that all equipment used to complete this Contract shall be in such condition as to allow successful fulfillment of the proposed Contract.
- iv. Equipment and supplies used to contain inadvertent spills of herbicides, fuel, or other potentially hazardous substances that may be used by the bidder to perform the work described in these documents.

B. A listing and description of the professional qualifications (education, training, certification, experience, etc.) of the Contractor and any and all persons who will assist the Contractor in the performance of the work described and specified in this document.

C. **(WAIVED)** Documentation of completing at least three (3) aquatic herbicide treatment projects of similar size and scope, including the names, addresses and telephone numbers of persons who represented the lake at the time of the project. Successful experience with partial lake treatments must be exhibited within the documentation.

D. A listing of any tasks which are proposed to be sublet.

3. EXAMINATION OF SPECIFICATIONS, SITE AND TRANSPORTATION FACILITIES

Prior to executing this document, the Contractor has examined all of the specifications and related documents attached hereto. The Contractor has visited the site in order to understand the conditions under which the Contractor will be obliged to work. The Contractor has made all investigations and queries necessary regarding access to the lake, parking of vehicles, any costs or permits required to launch the work boat(s), and any equipment that may be necessary to complete the work described herein.

No plea for ignorance of existing conditions (including health related issues) shall be accepted. If failures or omissions in fulfilling all requirements of said contract result, the contractor shall be responsible for corrections. On this basis, no claims will be accepted for extra compensation or extensions of time.

4. PROFESSIONAL EXPECTATIONS

The Contractor is expected to be fully aware and apprised of all state and federal rules and laws applicable to the storage, transportation, handling, and application of aquatic herbicides. The Contractor is expected to perform all work in compliance with all rules, laws, and directives provided by the state and federal registered labels attached to the herbicide used to complete this work. Furthermore, Contractors and Subcontractors shall be required to meet or exceed the requirements of all applicable laws, rules, permits, and labels. Failure to meet any of these minimum requirements shall be considered as non-performance of the stated work.

The following will be expected of Contractors and Subcontractors who apply aquatic herbicides for the Town of Cazenovia.

A. Transportation: All herbicides shall be transported in a safe and responsible manner. The vehicles used to transport these materials shall be in good and safe operating condition and operated in a safe manner, both to and from the work site. Herbicides shall be transported in a compartment that is separate from the passenger compartment. A file containing current Materials Safety Data Sheets (MSDS) shall be maintained in each vehicle used to transport herbicides. Drivers must be familiar with the content of the MSDS and all procedures and emergency responses described therein, as they relate to the herbicides being transported. Drivers shall be provided the means, training, information, and equipment to respond responsibly and effectively to any herbicide spills that may occur as a result of handling or vehicular mishap.

B. Storage and Container Disposal: All herbicides must be secured by lock or other appropriate means in covered storage and never left unattended on the job site. All empty containers shall be removed from the job site at the completion of any work and disposed of according to the pesticide label instructions.

C. Use and Handling: All persons involved in the handling and application of the herbicides used to complete this work shall have been trained and certified in the proper use and handling of these compounds. Furthermore, they shall comply with the requirements of the pesticide label relative to the wearing of protective clothing and devices.

D. Professional Conduct: The Contractor and his/her employees shall conduct themselves in a professional and courteous manner. The Contractor must be aware that sound travels a considerable distance over water. Inappropriate conduct or the use of offensive language shall be considered grounds to terminate the Contract.

5. INSURANCE REQUIREMENTS

(See Attached Exhibit C).

6. STARTING TIME AND COMPLETION OF WORK

Work shall proceed promptly following written notification from the Town of Cazenovia unless otherwise directed. The Contractor shall fully complete all work within the time limit stated in the proposal unless a written extension of time is granted. Work under this Contract shall consist of herbicide applications completed according to the specifications attached hereto. The prompt

completion of the work to be performed under this Contract is considered by the Town to be essential to the health of the lake and the welfare of the community. In the event of failure or neglect of the Contractor to accomplish substantial completion within the time specified above or as extended by the Town of Cazenovia, the Town may, upon written notice to the Contractor, void this Contract for non-performance. Under such circumstances, no payment shall be due.

7. METHOD OF PAYMENT

Payment of invoices shall be made by the Town of Cazenovia upon completion and acceptance of the herbicide treatment program subject to applicable State Law. The Contractor may invoice for 90% of the contract amount for treatment after two weeks have elapsed since completion of the herbicide application. The final 10% of the fee shall be paid following evaluation of the success of the treatment program, as described below.

8. PERFORMANCE GUARANTEE

Successful performance of the chemical treatment program is defined as an 80% reduction in the biomass of Eurasian watermilfoil in treated areas as compared to the baseline conditions in those areas measured in September 2013. An independent third party shall assess the milfoil abundance in treated areas using the rake toss method as developed by Cornell University and adopted for use in the NYSDEC Citizens Statewide Lake Assessment Program. If the application of Renovate OTF[®] not successful using this metric, the area will be re-treated in 2015 at no cost to the Town of Cazenovia for the chemical, and at the same fee for application as agreed to in 2014.

9. PREAPPLICATION MEETING

After the award of contract, a pre-application meeting will be requested by the Cazenovia Lake Watershed Council, which includes representatives of the Town and Village of Cazenovia and the Cazenovia Lake Association, to review the objective of the herbicide treatment program and to discuss any matters that are relevant to the successful completion of the work described and specified herein.

10. PERFORMANCE BOND

The Contractor will be required to furnish a performance bond in the full amount of the contract price.

11. MISCELLANEOUS

A. The Contractor will comply with all provisions of the Federal Government Equal Employment Opportunity clauses issued by the Secretary of Labor on May 21, 1968 and published in the Federal Register (41 CFR Part 60-1, 33 F.2 7804), if applicable.

B. It is understood that the relationship between the Town and the Contractor shall be that of an Owner and Independent Contractor. No employer-employee relationship shall be established by any work performed.

12. SALES AND USE TAXES

The Town is exempt from New York State Sales and Use Taxes on materials and equipment to be incorporated in the Work. Said taxes should not be included in the Contract Price.

SPECIFICATIONS

1. COMPLIANCE WITH PERMIT CONDITIONS

The herbicide Triclopyr (trade name Renovate OTF[®]) shall be applied to Cazenovia Lake in accordance with the NYSDEC pesticide permit and any additional requirements and conditions arising from the Joint Application to the NYSDEC and the U.S. Army Corps of Engineers. Copies of the permits will be supplied to the successful Contractor upon their receipt. The Contractor shall be responsible to fulfill all conditions of the permits, as issued by the NYSDEC unless there is a dispute regarding any or all of the conditions listed in the permit. In the event of a disputed condition, the Contractor shall assist the Town of Cazenovia in the resolution of any issues with the NYSDEC. The Contractor shall be responsible for the preparation of any permit amendments required to complete the work describe herein. The Contractor shall coordinate with volunteers from the Cazenovia Lake Association with providing notice to the public of impending herbicide applications in accordance with the conditions of the final permit. The Contractor shall be required to provide proof to the Town of Cazenovia that he/she has satisfied all conditions of the permits.

2. TREATMENT AREA AND DOSAGE

The herbicide application is expected to occur in May of 2014 or as soon thereafter as possible. The actual application start date will depend on the growth of Eurasian watermilfoil in the spring, which is influenced by climatic conditions. The pesticide applicator will begin and conclude the treatment within one Monday - Friday period, if at all possible, which will require the use of multiple application boats and certified applicators. Key logistics will be the delivery and storage of the herbicide at or near the mobilization point on the lake. This will likely be solved by storing the pesticide at a local, secure facility and shuttling the material as needed between the facility and the shoreline access point. These logistics are to be determined by the successful bidder. 2014 treatment areas have been identified on the attached map.

3. RECORD KEEPING

The Contractor shall keep records of all events and conditions related to the performance of the work describe herein. These must be submitted to the Town of Cazenovia. The following information must be submitted with each Contractor invoice.

- A. A map of all treatment areas,
- B. A tally of the type, name, and amount of all herbicides used,
- C. Weather conditions at the time of application,
- D. Problems encountered and how they were resolved,
- E. Any other relevant conditions or events.

4. PERFORMANCE EVALUATION

Failure to comply with any applicable rules, laws, regulations, or label requirements will be construed to be non-performance. The Contractor shall be required to apply all materials as specified in the NYSDEC permit.

EXHIBIT C

CONTRACT INSURANCE SPECIFICATIONS	
Project Description or Contract Number	
Date Issued	
Vendor Name ("Contractor")	
Department	

Please read these specifications very carefully. These specifications are part of your contract with the Town of Cazenovia (the "Town"). It is advisable that you forward a copy of these specifications to your insurance agent. The Town's waiver of any requirement(s) set forth herein shall not constitute a waiver of any other contract provision.

Part I. GENERAL PROVISIONS

1. The Contractor shall procure and maintain during the term of this contract, at the Contractor's expense, the insurance policies listed in Part II with limits equal to or greater than the enumerated limits. The Contractors shall cause any Subcontractors to procure and maintain the same type and amounts of insurance as required under this Schedule "C".

2. Every required policy, including any required endorsements and any umbrella/excess policy, shall be primary insurance. Insurance carried by the Town, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.

3. Every required coverage type shall be "occurrence basis." The CGL insurance required shall cover liability arising from the premises, operations, independent contractors, products, completed operation, personal injury, advertising injury and liability assumed under an insured content, including this Agent and shall not exclude environmental or pollution events.

4. The Contractor may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.

5. Proof of insurance coverage shall be provided on an ACORD form. All insurance certificates must be approved by the Town of Cazenovia, in its sole discretion. Duplicate original insurance policies are preferred and may be required at the request of the Town.

6. The amount of self-insured retention or deductibles must be disclosed on the certificates of insurance. The Contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.

7. The Town of Cazenovia reserves the right to request a certified copy of any policy and any endorsement thereto.

8. All insurance shall be provided by insurance carriers licensed and admitted to do business in the State of New York and must be rated "A-VII" or better by A.M. Best (Current Rate Guide).

9. If the contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon the Town may exercise any rights it has in law or equity, including but not limited to the following:

- (a) immediate termination of contract;
- (b) withholding any/all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR
- (c) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by the Town shall be repaid upon demand, or at the Town's option, may be offset against any monies due to the Contractor.

10. Contractor waives all rights against the Town of Cazenovia and its agents, public officers, employees and volunteers to the extent these damages are caused by the insurance maintained pursuant to this Agreement.

Part II. REQUIRED INSURANCE – MINIMUM COVERAGE TYPES AND AMOUNTS

1.	Coverage Type	Minimum Limits
	3,000,000 Per occurrence / minimum annual aggregate limit.	
	<u>Commercial General Liability (CGL) and (Optional) Umbrella Liability Insurance¹</u> <u>including:</u> <ul style="list-style-type: none">• All policy exclusions shall be disclosed on the face of the certificate or policy. Such insurance <u>shall</u> cover liability arising from a pollution incident as well as marine operations and such insurance shall not have an exclusion for loss caused by a pollution incident, either sudden or non-sudden.• Products and completed operations to be shown on the certificate face or policy. The Town of Cazenovia shall be named additional insured. The additional insured endorsement for the insurance shall not contain any exclusion for bodily injury or property	

¹ The policy limits may be met by a combination of a general liability and an umbrella policy. However, the umbrella policy shall follow form to the underlying general liability policy in all cases.

damage arising from completed operations. Proof of additional insured coverage <u>shall</u> be evidenced through a <u>carrier issued endorsement</u> .	
Automobile Liability (Comprehensive Form) Must cover owned, non-owned, and hired vehicles. Such insurance shall cover liability arising out of any auto, including owned, non-owned, and hired. Such insurance shall cover liability arising from a pollution incident, and such insurance shall not have an exclusion for loss caused by a pollution incident, either sudden or non-sudden.	1,000,000 Combined Single Limit
Coverage Type	Minimum Limits
<u>Workers' Compensation and Employer's Liability</u> If you have no employees (sole proprietor) a NYS Workers' Compensation Board issued waiver of the Workers' Compensation requirement is acceptable.	100,000 (Statutory amount)
(Proof of either Workers' Compensation Insurance or a NYS Workers' Compensation Board issued waiver of the Workers' Compensation Insurance requirement is mandated by state law. There are no exceptions to this law.)	
<u>Transit Pollution</u>	1,000,000 (per claim) 2,000,000 (aggregate)
<u>Professional Liability</u>	1,000,000 (per claim) 2,000,000 (aggregate)

2. The certificate or policy face shall:
 - indicate coverages and minimum amounts required in part II.1
 - provide that the coverage(s) shall not be cancelled, non-renewed, terminated or materially changed (including an insurance limits reduction) unless **thirty (30) days** prior written notice has been given to the Town.
3. The Additional Insured & Certificate Holder should read
 Town of Cazenovia
 7 Albany Street
 Cazenovia, New York 13035

The following provisions concerning indemnification shall not be construed to indemnify the Town for damages arising from bodily injury to persons or property contributed to, caused by or resulting from the sole negligence of the Town or its employees.

Part III

DEFENSE AND INDEMNIFICATION

The Contractor agrees to indemnify and hold the Town and any officer, employee and/or agent thereof free and harmless from any and all loss(es), penalty(ies), damages, settlement(s), cost(s), charge(s), professional fee(s), or other expense(s) or liability(ies) of every kind arising from or relating to any and all claim(s), lien(s), demand(s), obligation(s), action(s), proceedings or causes of action of any kind in connection with, or arising directly or indirectly from the negligent error(s) and/or omission(s) and/or act(s) of the contractor (including the Contractor's employees, agents or and/or subcontractors) in the performance of this agreement.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute (including specifically but not limited to New York State Labor Law §§ 200; 202; 240 and 241 and the ECL), ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, as aforesaid.

Part IV

SAFETY

The Town specifically reserves the right to suspend or terminate all work under this contract whenever the Contractor and/or the Contractor's employees or subcontractors are proceeding in a manner that threatens the life, health or safety of any of contractor's employees, subcontractor's employees, Town employees or member(s) of the general public on Town property. This reservation of rights by the Town in no way obligates the Town to inspect the safety practices of the Contractor.

If the Town exercises its rights pursuant to this part, the Contractor shall be given three days to cure the defect, unless the Town, in its sole and absolute discretion, determines that the service cannot be suspended for three days due to the Town's legal obligation to continuously provide the Contractor's service to the public or the Town's immediate need for completion of the Contractor's work. In such case, Contractor shall immediately cure the defect.

If the Contractor fails to cure the identified defect(s), the Town shall have the right to immediately terminate this contract. In the event that the Town terminates this contract, any payments for work completed by the Contractor shall be reduced by the costs incurred by the Town in re-bidding the work and/or by the increase in cost that results from using a different vendor.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 61 adopted.

Resolution No. 62 presented by Councilor Race, seconded by Councilor Moran

**AUTHORIZING THE SUPERVISOR OF THE TOWN OF CAZENOVIA
TO ENTER INTO A LEASE/PURCHASE CONTRACT FOR THE
LEASE/PURCHASE OF A USED AQUATIC WEED HARVESTER
AND NEW SHORE CONVEYOR FOR USE ON CAZENOVIA LAKE**

WHEREAS, protection and restoration of the water quality, aesthetic condition, recreational usage and aquatic habitat of Cazenovia Lake is in the best interest of our entire community with respect to environmental stewardship, culture heritage and economic interests; and

WHEREAS, the invasive aquatic macrophyte *Myriophyllum spicatum*, commonly known as Eurasian watermilfoil, has become increasingly abundant in Cazenovia Lake and degrades the lake's water quality, aesthetic value and recreational potential; and

WHEREAS, the Town Board has considered multi-faceted measures to address the proliferation of Eurasian watermilfoil in Cazenovia Lake and has addressed same over the years through a successful program of chemical treatment, stormwater management and local legislation practices; and

WHEREAS, it has been determined that certain other areas of Cazenovia Lake weed growth may be safely addressed through a consideration of limited and controlled program of weed management by way of harvesting; and

WHEREAS, the Town of Cazenovia has determined to explore the use of a weed harvester as part of its multifaceted program to address this important issue; and

WHEREAS, on March 10, 2014, the Town Board authorized the purchase of a used Aquatic Weed Harvester, available for purchase pursuant to Section 104 of the General Municipal Law of the State of New York, at a contract price not to exceed Forty-Two Thousand Five Hundred and 00/100 Dollars (\$42,500.00), without application of any applicable trade-in, cash payment or other allowances; and

WHEREAS, on April 14, 2014, the Town Board authorized the procurement of a new 2014 Shore Conveyor Model SL-6036, to be used in conjunction with the Aquatic Weed Harvester pursuant to Section 103 of the General Municipal Law, at a contract price of Thirty-Four Thousand Fifty-Seven and 00/100 Dollars (\$34,057.00); and

WHEREAS, it is anticipated that the balance necessary for financing of said equipment in total will not exceed Seventy-Six Thousand Five Hundred Fifty-Seven and 00/100 Dollars (\$76,557.00); and

WHEREAS, pursuant to §109-b of the General Municipal Law and the New York State Local Finance Law, any town considering the use of a Lease Purchase Agreement shall critically evaluate the financing alternatives available to it under the above-referenced sections; and

WHEREAS, pursuant to 2 NYCRR Part 39, the Supervisor has caused to be prepared an analysis of financing alternatives available to the Town; and

WHEREAS, the evaluation of financing alternatives has complied with the requirements of 2 NYCRR Part 39 *et seq.*, which evaluation has reviewed the estimated cost of each capital improvement to be financed exclusive of the cost of financing; the estimated total cost of purchase inclusive of the cost of financing, if financed pursuant to local finance laws; the estimated total cost of the proposed purchase inclusive of the cost of financing, if financed

pursuant to Lease Purchase Agreement; and a comparison of said cost has been made; and

WHEREAS, a recommendation has been made based upon said evaluation that it is in the best interest of the Town to finance the capital improvement pursuant to a Lease Purchase Agreement based upon the total cost and expense to be incurred by the Town; and

WHEREAS, a copy of the analysis caused to be undertaken by the Town Supervisor is on file with the Town Clerk; and

WHEREAS, the Town Board on the basis of this evaluation hereby directs that the used Aquatic Weed Harvester and the new 2014 Shore Conveyor Model SL-6036, all as described herein, to be acquired by financing through a Lease/Purchase Agreement as set forth herein.

NOW, THEREFORE, upon motion of Councilor Race, seconded by Councilor Moran, it is

RESOLVED, that the Town of Cazenovia Town Supervisor is hereby authorized to enter into a Lease Purchase Agreement to acquire the used Aquatic Weed Harvester and the new 2014 Shore Conveyor Model SL-6036, as previously authorized, at a total price not to exceed Seventy-Six Thousand Five Hundred Fifty-Seven and 00/100 Dollars (\$76,557.00) through a Lease/Purchase Agreement from First Niagara Leasing, Inc., upon the terms as provided by First Niagara Leasing, Inc., wherein the Town would enter into a seven (7) year lease, with the first payment due at closing, followed by six (6) annual payments of Eleven Thousand Eight Hundred Forty-Three and 25/100 Dollars (\$11,843.25), with a dollar buyout upon completion of the seven (7) year lease term at an anticipated interest rate of 2.74%; and it is further

RESOLVED, that execution of a Lease Purchase Agreement will not cause the Town of Cazenovia to exceed the limits of paragraph C(6) of §109-b of the General Municipal Law; and it is further

RESOLVED, that it is in the best interest of the Town to finance the purchase pursuant to a Lease Purchase Agreement as the overall costs to the Town as compared to traditional financing through indebtedness issued pursuant to New York State Local Finance Law shall be lower and will be in the best interest financially to the Town.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 62 adopted.

Resolution No. 63 presented by Councilor Andersen, seconded by Councilor Driscoll

To authorize the Town of Cazenovia to purchase a used trailer from the Wayne County Soil & Water Conservation District for a cash total not to exceed Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00), which cash purchase will be paid from General Fund A Contingency Line A1990.1.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 63 adopted.

Resolution No. 64 presented by Councilor Andersen, seconded by Councilor Race to approve the following 2014 budget transfers:

General Fund A

To increase Justices CE budget for unanticipated shared space agreement with Village of Cazenovia.

To: A1110.4 Justices CE \$9,400.00

From: A1990.1 Contingency (9,400.00)

To increase Watershed Protection CE budget for unanticipated purchase of trailer to haul used weed harvester.

To: A8740.4 Watershed Protection CE \$3,500.00

From: A1990.1 Contingency (3,500.00)

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 64 adopted.

Resolution No. 65 presented by Councilor Race, seconded by Councilor

Moran to authorize contracting with Terril C. Stearns, Builder to repair the following exterior items on the Gothic Cottage; top and bottom areas of the northeast finial, top and

side areas of the southeast finial, upper east wall over side porch, front porch lattice panel closest to the driveway, the bottom step of the front porch on the western side, and repair the cornice of the bay window on the western side. All bare and new wood will be painted as part of the quote for the repair project. Further, the builder must provide an insurance certificate to the Town Clerk and the insurance must be maintained throughout the duration of the project. The amount, based on the quote, should not exceed \$ 1,825.00; payment of which may be made in full upon the completion of the project to the satisfaction of the Town Supervisor.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 65 adopted.

Councilor Moran stated Supervisor Zupan met with Elizabeth Tracy of the Department of Environmental Conservation. Mrs. Tracy told Supervisor Zupan that the Town has to get a wetland permit to harvest in the north end of the lake.

Resolution No. 66 presented by Councilor Driscoll, seconded by Councilor Race

**SEQR RESOLUTION AUTHORIZING THE SUPERVISOR
TO EXECUTE A JOINT APPLICATION FORM
(FRESHWATER WETLANDS PERMIT)
FOR WEED HARVESTING IN CAZENOVIA LAKE**

WHEREAS, protection and restoration of the water quality, aesthetic condition, recreational usage and aquatic habitat of Cazenovia Lake is in the best interest of our entire community with respect to environmental stewardship, culture heritage and economic interests; and

WHEREAS, the invasive aquatic macrophyte *Myriophyllum spicatum*, commonly known as Eurasian watermilfoil, has become increasingly abundant in Cazenovia Lake and degrades the lake's water quality, aesthetic value and recreational potential; and

WHEREAS, the Town Board has considered multi-faceted measures to address the proliferation of Eurasian watermilfoil in Cazenovia Lake and has addressed same over the years through a successful program of chemical treatment, stormwater management and local legislation practices; and

WHEREAS, it has been determined that certain other areas of Cazenovia Lake weed growth may be safely addressed through a consideration of limited and controlled program of weed management by way of harvesting; and

WHEREAS, the Town of Cazenovia has determined to explore the use of a weed harvester as part of its multifaceted program to address this important issue; and

WHEREAS, in connection with the use of a weed harvester, the New York State Department of Environmental Conservation (“DEC”) requires the filing of a permit application upon the DEC’s approved permit forms to allow for weed harvesting on Cazenovia Lake; and

WHEREAS, the Town Board has caused a permit form (joint application form for freshwater wetlands) to be completed and the same has been reviewed by the Town Board; and

WHEREAS, the Town Board has further determined this action to be an Unlisted Action for purposes of State Environmental Quality Review Act (“SEQRA”) and the Town Board shall act as Lead Agency for purposes of obtaining said permit; and

WHEREAS, the Town Board has carefully reviewed the Short Environmental Assessment Form (“EAF”), analyzed the criteria of 6 N.Y.C.R.R. Part 617 *et. seq.* and determined that there shall be no negative environmental impacts associated with the use of a weed harvester upon the granting of the permit from the DEC for the reasons stated on Part 2 of the Short EAF.

NOW, THEREFORE, upon motion of Councilor Driscoll, seconded by Councilor Race, it is

RESOLVED, that the Town of Cazenovia Town Board hereby adopts a Negative Declaration for purposes of Article 8 of the Environmental Conservation Law, Volume 6 of the N.Y.C.R.R. Part 617 for submission of the joint application form for weed harvesting in selected areas of Cazenovia Lake; and it is further

RESOLVED, that this Negative Declaration shall also be applicable to undertaking the harvesting of weeds in Cazenovia Lake; and it is further

RESOLVED, that the Town of Cazenovia Supervisor is authorized to execute and process the joint application form to the New York State Department of Environmental Conservation for a freshwater wetlands permit to undertake said harvesting.

Roll call:

Councilor Andersen	Yes
Councilor Race	Yes
Councilor Moran	Yes
Councilor Driscoll	Yes
Supervisor Zupan	Yes

Supervisor Zupan declared Resolution No. 66 adopted.

Motion by Councilor Moran, seconded by Councilor Race to adjourn this meeting.

Supervisor Zupan declared this meeting adjourned.

Signed: Connie J. Sunderman
Connie J. Sunderman, Town Clerk