

Project Registration Number (office use only)_____

Niagara River Greenway Commission

Consultation and Review Form

Type of Review Required: _____ **Mandatory Consultation**
_____ **Voluntary Review and/or Endorsement**

PROJECT SPONSOR INFORMATION

Name: _____ Joan E. Johnson_____

Mailing Address _____ 4725 Miller Road_____

State: _____ New York _____ Zip Code _____ 14304 _____

Federal ID# _____ Ein 82-5038307 _____ Charities Registration# _____ 31954 _____

Email Address: _____ pinetreestudio@earthlink.net

PROJECT TYPE

Check all that apply: ☒ Environmental ☒ Cultural/Heritage ☒ Land or Water Public Access

☒ Cultural ☒ Trail ☒ Educational/Interpretative

☒ Waterfront of Land Based Development ☒ Signage

☒ Recreational _____ Other

Funding Committee _____ Host Community Standing Committee

Request: _____ Buffalo and Erie County Standing Committee

☒ Ecological Standing Committee

_____ State Parks Standing Committee

_____ Unsure at this time

PROJECT INFORMATION

Project Name: The Joseph Sutherland Farm and Nature Preserve_____

Location: Colonial Village, Town of Niagara_____

Site Address: 1 Thomas Court__(Parcel: Miller Road East)_____

State: New York_____ Zip Code__ 14304_____

Minor Civil Division: _____

County: Niagara

Project Proponent Property Interest (own, lease, easement, other):_____

AUTHORIZED OFFICIAL

Name:_____Joan E. Johnson_____ Title_____ Vice President_____

Business Address:_____ (home) 4725 Miller Road_____

State:_____ New York_____ Zip Code_____ 14304_____

Telephone Number:__(716)297-6953_____ Cell Number__(716)297-6953

Fax Number:___None_____

Email Address:_____pinetreestudio@earthlink.net

PROJECT POINT OF CONTACT

Name:_____Joan E. Johnson_____ Title_____ Vice President_____

Organization/Firm:_____Town of Niagara Farmland Conservancy_____

Business Address:_____ 4725 Miller Road_____

State:_____ New York_____ Zip Code_____ 14304_____

Telephone Number:_____ (716)297-6953_____ Cell Number:__(716)297-6953

Email Address:_____pinetreestudio@earthlink.net

Project Narrative

1. Project Description

The Town of Niagara Farmland Conservancy, a not-for-profit organization, was started by lifelong residents of Miller Road in the Town of Niagara, Terry Lasher Winslow, president and Joan E. Johnson, vice president, in a “grass-roots” effort to preserve and enhance the remaining farm fields, meadows and tree stands that we remember and treasure from childhood. The conservancy, seeking to protect increasingly scarce open space, proposes to establish the Joseph Sutherland Farmland and Nature Preserve, consisting of farmland, meadow, hedgerow and woods.

The Town of Niagara Farmland Conservancy is seeking funds to purchase and restore 26.3 acres of farmland, meadow regeneration area and hedgerows located at 1 Thomas Court in the Town of Niagara, east of Miller Road, west of Garlow Road and north of Colonial Drive (please see map on page 19). The Conservancy will open the property to public access, develop a walking trail system, community gardens and orchard, and create a pond with complete aquatic ecosystem. The Conservancy plan is to restore 9 acres of meadow grassland, 13 acres of expanded hedgerow woodland trees and shrubs, and 4.3 acres for an orchard and community gardens.

The 26.3 acre site is “L” shaped, comprising seven acres of regeneration area bordering the backs of properties along Miller Road and bordered by other privately owned green regeneration areas on both the northern and southern sides. The larger 19.3 acre site is presently farmed, with mature trees in the surrounding hedgerows.

This project is urgent because prospective developers have been buying and attempting to buy other undeveloped land near the site of the Joseph Sutherland Farmland and Nature Preserve, and the owner, has listed this property for sale. Born of a desire to save the property from urban sprawl, members of the Farmland Conservancy held two public meetings for concerned homeowners residing in proximity to the site. They all expressed a strong preference to save the land from development. We told them of our plan to create a nature preserve with a trail system combined with community gardens and orchard. They were unanimous in their enthusiasm for the concept and our proposal and we now have seven members on our Board of Directors and a growing membership, with an expanded membership campaign in progress.

By way of providing matching funds, and as a great start for the accomplishment of our vision and that of the Niagara River Greenway, The Town of Niagara Farmland Conservancy was gifted 38.2 acres in 2018, professionally appraised to be valued at \$237,000. This donated parcel consists of a large meadow/regeneration area, and is located west of Miller Road and south of Colonial Drive, surrounding the mature woods at the east end of the Town of Niagara Veterans' Memorial Park.

2. Advancement of the Niagara River Greenway Plan

The proposed Joseph Sutherland Farm/nature preserve project, located near Reservoir Park, Tuscarora Indian Reservation and The Town of Niagara Veteran's Memorial Park, aligns with the Niagara River Greenway's vision to celebrate and create connections to local natural resources. The property is bordered on two sides by other regenerating woodland areas, and is within easy walking distance of the Town of Niagara Farmland Conservancy's 38 acre meadow and woods regeneration area nature preserve located bordering the Town of Niagara Veterans' Memorial Park woods on two sides at the eastern end of the park. The Conservancy's vision is to protect enlarge and preserve shrinking critical habitats and provide a green extension and connections in outlying areas.

Principles

The Joseph Sutherland project is in accordance with the Niagara River Greenway principles of ***Excellence, Sustainability, Ecological Integrity, and Restoration***, enabling us to restore the local biodiversity, preserve the unique natural and cultural heritage of the Town of Niagara, and enhance the quality of life and ***Public Well-Being*** in the surrounding neighborhoods with ***Accessibility*** to scenic nature trails, and the ability to learn, participate and benefit from sustainable farming practices in the community gardens and orchard, benefiting both humans and wildlife.

In terms of ***Restoration***, the reforestation of the parcel will not only improve the aesthetic beauty of the area but will contribute to a healthier environment. In an effort to form ***Partnerships*** with the community, the Conservancy has held two public meetings with residents in the surrounding neighborhood and found them to be unanimously enthusiastic about having the acreage remain as green space and were very supportive of our plan, for ***Community Based*** projects (ie. community gardens and hiking trails), and willing to work with us.

The Sutherland site will enhance ecological **Connectivity** because of its location nearby other Greenway projects such as Reservoir State Park, Tuscarora Reservation and the Town of Niagara Veterans' Memorial Park.

Central to the project is the desire to restore and preserve and **Celebrate the Authentic** rural nature experience. This can be accomplished by a landscaping plan for the site that echos the **Frederick Law Olmsted vision** with winding scenic unobtrusive dirt paths through woodland areas as well as a meadowlands. A variety of native trees, shrubs and grasses, and wildflowers will be planted to benefit wildlife, butterflies and honey bees and other pollinators. Restoration of the meadow habitat will also help to restore dwindling populations of ground nesting birds and song birds. Located in the regenerated area will be an aquatic habitat pond, that will be both aesthetically pleasing and beneficial to wildlife as well as a source for educational opportunities. The neighboring regeneration area is already home to a variety of wildlife such as Marsh Hawk, Red Tail Hawk, Screech Owl, Great Horned Owl, Killdeer, and a variety of song birds, deer, foxes, raccoons, possums, chipmunks to name a few species, and is an important flight path for migrating birds (according to the DEC). The additional green space in the Joseph Sutherland site will greatly enhance the regeneration of habitat that has been started in the area.

Goals

Improved Access to the preserve will be enabled by creating winding trails designed to draw the walker forward to see around the next curve, in keeping with the landscaping genius of Olmsted. The proposed site is within easy walking distance of the Town of Niagara Veterans' Memorial Park and the Tuscarora Indian Reservation and is **Connected** by a contiguous wooded green space corridor through which wildlife can safely travel. (Please see Google view on page 19.)

To **Protect and Restore Environmental Systems**, native plants will be restored in the landscape design to create a functional eco-system that benefits both humans and wildlife.

The proposed preserve will not only help provide cleaner air, water and soil, it will increase property values and **Spark Revitalization and Renewal** as an asset to the neighborhood and town with beautiful and beneficial trees, meadow and gardens for the public to enjoy, and will raise awareness of our local farming history and heritage, by helping us to retain our beloved country landscape.

Promotion of Long Term Sustainability will be ensured by the founders of the Conservancy who live around the edges of the preserve, enabling them to watch-over and to be actively involved.

Access to the preserve will be enabled by signage and creating winding scenic trails designed to draw the walker forward to see around the next curve, and also the creation of an aquatic habitat pond in keeping with ***Extending the Legacy of Frederick Law Olmsted***.

Important to the Conservancy's vision for the Sutherland Site is to ***Celebrate History and Heritage*** through events such as Harvest Festival, community spring plantings, nature experiences such as owl walks, guided bird watching tours, and aquatic studies.

Upon receiving a determination of consistency from the Commission, acquisition of the property, completion of the design plan, planting will be done over a two-year period.

Criteria

Consistency with Greenway Principles

Priority Status

Because of local pressure from developers who are buying up farmland and woodlots for developments, A few local residents established a "grass-roots" non-profit organization called the "Town of Niagara Farmland Conservancy" in order to establish areas of protected green spaces to preserve our remaining farm fields and wood lots and to protect the heritage and original "country" character of our town.

Focus Area

The project site is close to the Town of Niagara Veterans' Memorial Park, Tuscarora Indian Reservation and Reservoir State Park. These sites are connected with contiguous corridors of green cover for wildlife with the exception of having to cross Saunders Settlement and Miller Roads.

Environmental Soundness

With improvement of the site through invasive plant removal and introduction of additional native trees, shrubs and grasses, the land will evolve into the woodland, savana and meadows found in Niagara before it was settled by Europeans. Healthy biodiversity will foster a far more robust environment and help bring back dwindling populations of song birds, ground nesting birds, butterflies, and honey bees, and other native animal populations that are under duress due to dwindling habitat areas.

Implementable

Because the larger portion of the parcel has been farmed, the spread of invasive buckthorn and honeysuckle are only beginning to be found in some areas of the hedgerow, but not in the understory of the mature hardwoods. Likewise, the garlic mustard has not yet become too prolific to stop. Our plan to address these invasive species with mechanical removal and other methods recommended by experts, should be highly effective. We are seeking an ongoing educational partnership with the NCCC Horticulture School. There is an urgency to this project. The longer non-native plants can proliferate, the greater their impact and the more time and money will be required to remove them. Being slow to act will result in a loss of diversity that may be irreversible.

Economic Viability

Leveraging resources from volunteer support from the community, club/organization community service makes this project economically efficient. Some initial costs are associated with the purchase of materials such as saws, clippers, gloves, pitchfork, rototiller, composter, small tool shed, and herbicides.

Ability to Match or Leverage Funds

In 2018 the Conservancy was gifted 38.2 acres of regenerating meadow, professionally assessed to be valued at \$237,000. The parcel is particularly important because it surrounds on two sides, the mature woods that is located on the eastern end of the Town of Niagara Veterans' Memorial Park. The conservancy has already raised \$2,820. from the community and more fundraisers are planned.

We anticipate recruiting volunteers. These partnerships will provide a significant cost-avoidance to the project, reducing the number of paid individuals needed.

Consideration of Other Planning Efforts

The Town of Niagara Conservancy is encouraged by other on-going efforts at restoration, such as: The Stella Niagara Preserve, Gill Creek Reforestation, and DeVeaux Invasives Removal. We look to these remarkable nature restoration projects for inspiration, learning opportunities and ideas for future plans.

Clear Benefits

This project focuses on the long-term sustainability of native plants, wildlife, and insects. Stopping the spread of invasive species located at this project site is an important first step to creating a larger scale vision of a linkage of existing greenways. The greenway envisioned would link Devil's Hole Park with Reservoir Park. Traveling eastward from that point there is a connection to large tracts of lands including the Tuscarora Indian Reservation and the escarpment and further to Bond Lake Park. Southward in the Town of Lewiston, between Miller and Garlow Roads is a large track of thickly wooded green space leading directly into the Sutherland Farm site in the Town of Niagara, and then on to the town of Niagara Veterans' Memorial Park. This green corridor would be the only substantial stretch of contiguous green space linking to the Niagara River. The land in this corridor contains multiple types of habitats and it would be the long-term goal to enhance these by removal of invasive species, establishment of native indigenous species, removing disease and pest-causing agents, and monitoring for long term stability and sustainability.

Sustainability beyond the terms of the grant

Once invasive plants are removed and native species have been established, sustainability expense will be greatly reduced. Neighborhood involvement and volunteerism will be cultivated through community events such as fall harvest festival, Halloween corn mazes, seasonal owl walks, guided bird watching tours, butterfly counts, aquatic studies at the wildlife pond, and other related activities. Removal of new invasives, trail clearance, plowing for spring planting in the community gardens, and planting, will be maintained mostly by volunteers from the community.

3. Budget:

Two Year Project Period	Full Funding Request		Total Project Costs
Planning	\$6,000	estimate	\$6,000
Construction & Planting	\$275,000	estimate	\$275,000
Acquisition	\$101,000		\$101,000
Long-term Stewardship	\$45,000	estimate	\$45,000
Total		estimate	\$427,000

Planning: Total planning cost is estimated to be \$6,000 for development of the project, including sight design. Grant writing is donated.

Construction: Total construction costs are estimated to be \$275,000. These costs include enhancing the property. Specific costs include: pathway development, (pond construction estimate: \$60,000), (9 acres grassland restoration estimated at \$70,000), 13 acres of tree and shrub planting \$95,000 with a combination of younger and older plants (older trees with root-balls would cost approximately \$200 each, planted). \$50,000 to establish 4.3 acre gardens and small orchard, construct a small garden shed for storage and to purchase tools and equipment (rototiller, shovels, etc.).

Acquisition: Total acquisition, costs are estimated to be \$101,000. Costs include: The purchase of the property for \$90,000, appraisal, attorney's fees /filing fees, deed recording, title search, survey, environmental review, insurance, approximately \$11,000. Similar vacant land located in close proximity to the proposed Joseph Sutherland site (recently donated to the Conservancy), was assed in 2018 to be valued at \$6,194 per acre. By comparison, the Sutherland site would be valued similarly at \$162,914, making the \$90,000 price well below estimated assessed value.

Administration: Total administration costs for project management are expected to be on volunteer basis.

Long-term Stewardship \$45,000 Total annual operation costs are estimated to be \$2,250 /year, and include: staff, invasive species control, maintain trails, gardens/orchard, insurance, materials for maintenance, replacements and improvements. The total project cost does not include the annual operation and maintenance costs. Instead, it includes \$45,000, the amount needed to establish a stewardship fund to cover the annual costs in perpetuity, assuming a 5% annual return.

Funding Source: Funding expected is from Niagara Greenway fund. Contributions include donated time from Conservancy members valued at \$3,500. Dollar contributions; \$2,230., and a matching fund in the form of a donated acreage (a meadow/regeneration area) near the Sutherland site and adjacent to the Town of Niagara Veterans' Memorial Park, valued at \$237,000. Photo of site on page #19.

Project Schedule

Phase 1: planning - August 2019 - December 2019, Appraisal (included in Acquisition costs) – Summer 2019

Title search (included in Acquisition costs) – Fall 2019

A property survey, and an environmental review, included in Acquisition costs) – Fall 2019

Phase 2: Acquisition October through December 2019

The acquisition phase includes: Purchase of property–End of December 2019

Phase 3: Design - January 2020 through March 2020

The design phase includes: Site design (grassland restoration, walking trails, organic gardens, orchard, and pond)

Phase 4: Construction - April 2020 through August 2020

The construction phase includes:

Grassland restoration - April 2020

Walking trails, invasive removal - June 2020

Construction of aquatic habitat July 2020

Phase 5: Continued operations - September 2020 onward

The Joseph Sutherland Farm and Nature Preserve

26.3 Acres of Farmland and Regeneration Areas

Located West of Garlow Road, East of Miller Road and North of
Colonial Drive in the Town of Niagara



View from the north-east corner of the site

Prepared by
Town of Niagara Farmland Conservancy
For
Niagara River Greenway Consistency

The Features of the Land

The larger, 19.3 acre portion of the parcel is composed of open farmland bordered on three sides by thick hedgerow containing mature deciduous trees. The southern side is bordered by backyards of houses along Colonial Drive.



Larger parcel, looking west



Same field, northeast view

There is an adjoining 7 acre regenerating meadow, separated from the 19.3 acre parcel of farmed land by a hedgerow running north/south at the western end of the larger field.



Milkweed patch on seven acre regeneration parcel

Areas of the hedgerow running lengthwise on the northern, western, and eastern edges of the farmed land are thickets containing a variety of shrubs and grasses. Other areas, beneath mature hardwood trees, are more open.



Thick hedgerow running east/west on the north side of the sixteen acre parcel



Wildflowers and grasses

This hedgerow is vital to wildlife habitat, providing cover for a variety of fauna, including raptors, song birds, ground nesting birds, deer, foxes, raccoons and possums, to name a few. An official butterfly count in the adjoining meadow identified numerous species living in the tall grasses.



There is a
variety of
mature
deciduous
trees

including: Sugar
and Silver Maple,
Red Oak, Shagbark
Hickory, Butternut ,
Ash and native
Cherry Trees.



The seven acre regeneration meadow

mainly composed of wildflowers, grasses, young Pines, Butternuts, and Ash trees is located along the western end of the larger farmed parcel. It is bordered on the southern side by a privately owned regeneration area where Norway Spruces, Scott Pines, Red Oaks, Pin Oak and Swamp Oaks have been planted and are becoming established.



Adjacent regeneration area with planted trees bordering the south side of meadow



Northeast view of the 7 acre regeneration area



The hedgerow parallel to Miller Road, looking north

Our Vision for the Land

Restore, preserve and enhance farmland, woodland and meadow regeneration areas

The characteristic rural beauty of our town is lost without our beautiful trees, meadows, farm fields and orchards. This natural and pastoral landscape has been a part of our history since the early 1800s'.

We want to create a legacy of protection to keep open space as a gift for the next generations.

As well as being beautiful, meadows provide much needed nesting areas for a variety of ground nesting birds, as well as many species of native butterflies.



This proposed Greenway initiative would help restore both bird and butterfly populations, which have been negatively impacted by habitat loss.

Because our woodland areas are decreasing day by day both locally and worldwide, our goal is to protect the remaining trees and create ample regeneration areas.

Partnering with the Public to Provide Access and Educational Opportunities

The property will be open to public access through establishment of scenic hiking trails; further partnership will result in the creation of community gardens and orchards and a pond/seasonal wetland. The preserve will be an important



educational resource for teaching about conservation through hands-on community projects such as: organic gardening instruction, bird watching tours, butterfly counts, nighttime owl calling/walks (“owl prowls”) and aquatic study of pond life for school children. Fun activities could include fall festivals, corn or Sunflower mazes.

Benefits to the public would include prevention of unwanted development with all of its negative aspects, close proximity to a protected, beautiful green space that would increase property values, scenic trails for hiking and cross country skiing, community gardens, and an orchard to grow fresh fruit and vegetables.

Most importantly, the preserve would be a lasting legacy to be handed down through the generations.





The Joseph Sutherland Farmland Proposed Site with Easements

The Joseph Sutherland proposed site is bordered on the south by Colonial Drive, on the west by Miller Road, on the east by Garlow Road. There are easements to each of the three roads.

The north side is bordered by a regeneration area and mature woods that is unbroken all the way to Saunders Settlement Road and is bordered by the backs of properties between Miller and Garlow Roads.

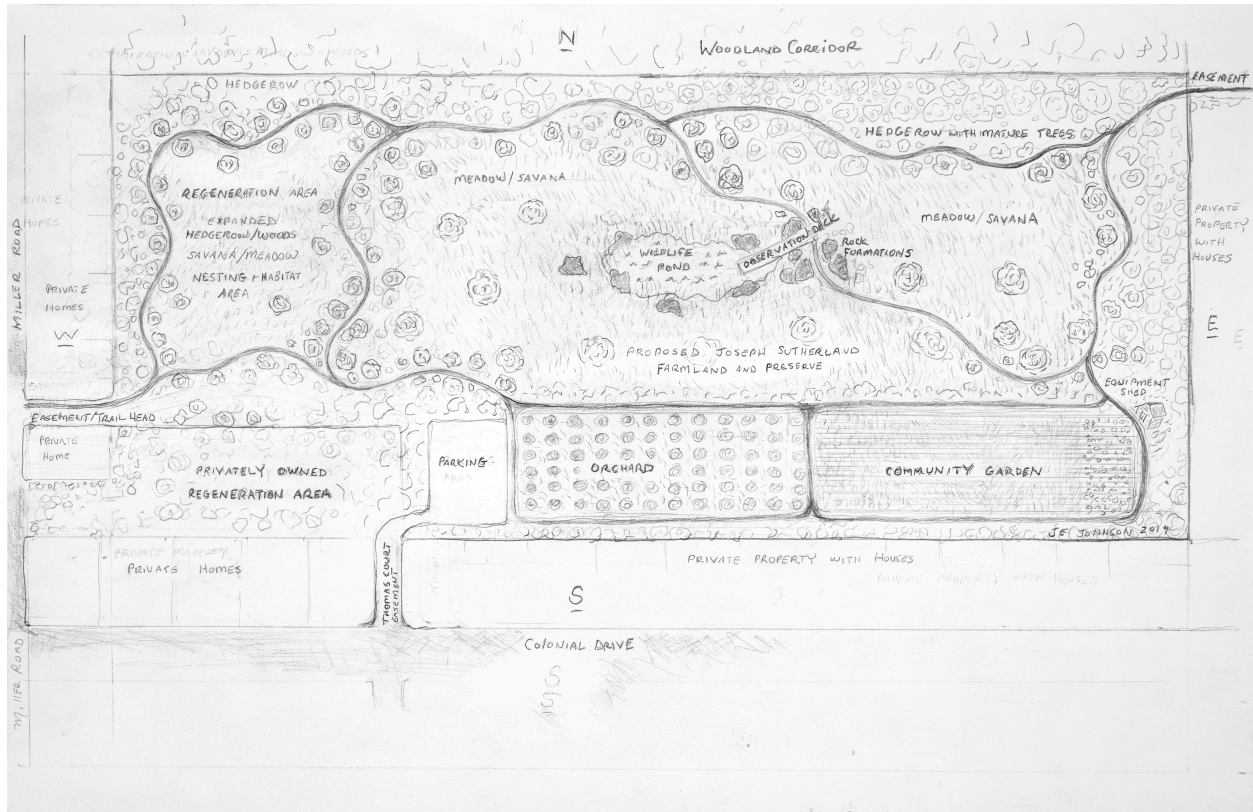
Google map view shows the proposed site and connections to other sites.

The entire northern edge of the Sutherland Farmland and Preserve (outlined in yellow) is bordered by an expansive green regeneration corridor that continues all the way to Saunders Settlement Road. Across Saunders Settlement Road is the Tuscarora Indian Reservation with a contiguous green tract of land leading west, connecting to Reservoir State Park.

Outlined in red is a thirty-eight acre nature preserve, gifted to the Conservancy in 2018. The thirty-eight acre site wraps around the eastern end of the Town of Niagara Veteran's Memorial Park where the mature woods is located. The two Conservancy sites are within easy walking distance of each other as seen from above.



Preliminary Plan for the Joseph Sutherland Farmland and Nature Preserve



Donated Land

Pictured below and at right are views of the donated 38.2 acre regenerating area, directly adjacent to the Town of Niagara Veterans Memorial Park. (earth view, page 19, outlined in red)

The photo at right shows one of many of the mature Red Oaks in a hedgerow looking west.

Pictured below: Looking south/west is the edge of the Town of Niagara Park's mature woods, and the donated parcel in the foreground with regeneration area where woods has been allowed to expand with new trees.



Internal Revenue Service Letter with EIN #82-5038307 and ID #31954

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: APR 18 2018

TOWN OF NIAGARA FARMLAND
CONSERVANCY
4789 MILLER ROAD
NIAGARA FALLS, NY 14304-0000

Employer Identification Number:
82-5038307
DLN:
26053506017248
Contact Person:
CUSTOMER SERVICE ID# 31954
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
509(a)(2)
Form 990/990-EZ/990-N Required:
Yes
Effective Date of Exemption:
January 23, 2018
Contribution Deductibility:
Yes
Addendum Applies:
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Letter 947

Seller's (Agent) Letter of Agreement Pending Greenway Grant Funding

Authenticsign ID: 8E1D74B6-989E-487E-924F-DD497EC4D72B



Division of Licensing Services

New York State
Department of State
Division of Licensing Services
P.O. Box 22001
Albany, NY 12201-2001
Customer Service: (518) 474-4429
www.dos.ny.gov

New York State Disclosure Form for Buyer and Seller

THIS IS NOT A CONTRACT

New York State law requires real estate licensees who are acting as agents of buyers or sellers of property to advise the potential buyers or sellers with whom they work of the nature of their agency relationship and the rights and obligations it creates. This disclosure will help you to make informed choices about your relationship with the real estate broker and its sales agents.

Throughout the transaction you may receive more than one disclosure form. The law may require each agent assisting in the transaction to present you with this disclosure form. A real estate agent is a person qualified to advise about real estate.

If you need legal, tax or other advice, consult with a professional in that field.

Disclosure Regarding Real Estate Agency Relationships

Seller's Agent

A seller's agent is an agent who is engaged by a seller to represent the seller's interests. The seller's agent does this by securing a buyer for the seller's home at a price and on terms acceptable to the seller. A seller's agent has, without limitation, the following fiduciary duties to the seller: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and duty to account. A seller's agent does not represent the interests of the buyer. The obligations of a seller's agent are also subject to any specific provisions set forth in an agreement between the agent and the seller. In dealings with the buyer, a seller's agent should (a) exercise reasonable skill and care in performance of the agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the value or desirability of property, except as otherwise provided by law.

Buyer's Agent

A buyer's agent is an agent who is engaged by a buyer to represent the buyer's interest. The buyer's agent does this by negotiating the purchase of a home at a price and on terms acceptable to the buyer. A buyer's agent has, without limitation, the following fiduciary duties to the buyer: reasonable care, undivided loyalty, confidentiality, full disclosure, obedience and duty to account. A buyer's agent does not represent the interest of the seller. The obligations of a buyer's agent are also subject to any specific provisions set forth in an agreement between the agent and the buyer. In dealings with the seller, a buyer's agent should (a) exercise reasonable skill and care in performance of the

agent's duties; (b) deal honestly, fairly and in good faith; and (c) disclose all facts known to the agent materially affecting the buyer's ability and/or willingness to perform a contract to acquire seller's property that are not consistent with the agent's fiduciary duties to the buyer.

Broker's Agents

A broker's agent is an agent that cooperates or is engaged by a listing agent or a buyer's agent (but does not work for the same firm as the listing agent or buyer's agent) to assist the listing agent or buyer's agent in locating a property to sell or buy, respectively, for the listing agent's seller or the buyer agent's buyer. The broker's agent does not have a direct relationship with the buyer or seller and the buyer or seller cannot provide instructions or direction directly to the broker's agent. The buyer and the seller therefore do not have vicarious liability for the acts of the broker's agent. The listing agent or buyer's agent do provide direction and instruction to the broker's agent and therefore the listing agent or buyer's agent will have liability for the acts of the broker's agent.

Dual Agent

A real estate broker may represent both the buyer and the seller if both the buyer and seller give their informed consent in writing. In such a dual agency situation, the agent will not be able to provide the full range of fiduciary duties to the buyer and seller. The obligations of an agent are also subject to any specific provisions set forth in an agreement between the agent, and the buyer and seller. An agent acting as a dual agent must explain carefully to both the buyer and seller that the agent is acting for the other party as well. The agent should also explain the possible effects of dual representation, including that by consenting to the dual agency relationship the buyer and seller are giving up their right to undivided loyalty. A buyer or seller should carefully consider the possible consequences of a dual agency relationship before agreeing to such representation. A seller or buyer may provide advance informed consent to dual agency by indicating the same on this form.

Dual Agent with Designated Sales Agents

If the buyer and seller provide their informed consent in writing, the principals and the real estate broker who represents both parties as a dual agent may designate a sales agent to represent the buyer and another sales agent to represent the seller. A sales agent works under the supervision of the real estate broker. With the informed consent of the buyer and the seller in writing, the designated sales agent for the buyer will function as the buyer's agent representing the interests of and advocating on behalf of the buyer and the designated sales agent for the seller will

DOS-1736-f (Rev. 11/15)

Page 1 of 2
Intrnat.co.uk

