

The Town of Rotterdam Town Board Meeting will be held in person; however, the public may access the meeting electronically via conference call. Members of the public may listen to the board meeting by dialing 1 (929) 205-6099, then enter the conference ID NO. 867 0373 0307, followed by the pound symbol. Video of the town board meeting will be posted on the Town of Rotterdam website (www.rotterdamny.org) the following Friday after the meeting.

MEETING OF THE
ROTTERDAM TOWN BOARD
August 3, 2022
7:00 pm
AGENDA REVIEW 6:30 PM

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

SUPERVISOR'S REMARKS: Supervisor Mollie A. Collins

EXECUTIVE SESSION

PROCLAMATIONS/PRESENTATIONS

PUBLIC HEARING

PUBLIC COMMENT – PRIVILEGE OF THE FLOOR:

Those members of the public wishing to address the Town Board will be asked to sign in before the meeting is called to order on the sign-in sheets being provided. Speakers will be called to the podium in the order of their signing in. Persons recognized by the Chair to speak during privilege of the floor shall direct his/her comments to the Town Supervisor as Chair of the meeting. Persons granted the privilege of the floor shall first clearly state his/her name and address for the record. Persons so addressing the Chair through the use of a prepared written statement shall submit a copy of the same to the Town Clerk for the purpose of maintaining clear and accurate official minutes of the Town Board meeting.

GENERAL RULES OF PROCEDURE FOR PUBLIC HEARINGS & PRIVILEGE OF THE FLOOR:

Any person recognized by the town supervisor to speak during privilege of the floor shall direct his/her comments to the town supervisor as chair of the meeting. Any person granted the privilege of the floor shall first clearly state his/her name and address for the record. The purpose of privilege of the floor shall be for speakers to express their views, thoughts and speak freely. Each speaker, who wishes to address the town board, shall have an equal and reasonable opportunity to be heard by the town board. Each speaker shall be afforded a maximum of four (4) minutes to address the town board.

INTRODUCTION OF MOTIONS, ORDERS AND RESOLUTIONS

MOTIONS

RESOLUTIONS

236.22 To authorize the preparation and filing of a petition to the county legislature seeking to legalize and validate the adoption of resolution 214.21 pursuant to county law § 227.

237.22 To recognize that the lease agreement for office space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam is void.

238.22 To re-authorize the lease agreement for office space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam, subject to permissive referendum.

239.22 To authorize the Supervisor to enter into negotiations with Via Port New York, LLC for the purchase of premises.

LIAISON REPORTS

MISCELLANEOUS

EXECUTIVE SESSION

ADJOURNMENT

Mollie A. Collins, Supervisor

RESOLUTION NO. 236.22

**TO AUTHORIZE THE PREPARATION AND FILING OF A PETITION TO THE
COUNTY LEGISLATURE SEEKING TO LEGALIZE AND VALIDATE THE
ADOPTION OF RESOLUTION 214.21 PURSUANT TO COUNTY LAW § 227**

WHEREAS, pursuant to Town Law § 81 (1) (b) and Town Law § 220 (2), a town board is authorized to lease a town hall, town lockup or other necessary building for town purposes, provided that a resolution authorizing such lease is adopted subject to permissive referendum; and

WHEREAS, Town Law § 90 requires that within 10 days of adoption of a resolution subject to permissive referendum, the town clerk shall, in the same manner as provided for notice of a special election, post and publish a notice which shall set forth the date of the adoption of the resolution and contain an abstract of such resolution concisely stating the purpose and effect thereof and specify that the resolution was adopted subject to a permissive referendum; and

WHEREAS, the failure to post and publish a notice of adoption of a resolution subject to permissive referendum as required in Town Law § 90 has been determined to be a jurisdictional defect that prevents such a resolution from becoming effective and rendering void *ab initio* any action taken in furtherance thereof; and

WHEREAS, Town Law §§ 81(1)(b), 220(2), and 90 are applicable to actions taken by the Town Board to the extent such actions fall within the scope of their provisions; and

WHEREAS, by Resolution 214.21 adopted on August 11, 2021, the Town Board voted in favor of authorizing the then-Town Supervisor to enter into a lease agreement with ViaPort Rotterdam, located at 93 West Campbell Road, 12306, for the lease of office space; and

WHEREAS, the Town's lease of such office space was subject to the requirements of Town Law § 81 (1) (b) and Town Law § 220 (2); and

WHEREAS, Resolution 214.21 did not identify that it was adopted subject to permissive referendum, nor did it direct or instruct the Town Clerk to post and publish a notice of adoption of the resolution in accordance with Town Law § 90; and

WHEREAS, the Town Clerk did not post and publish a notice of adoption of Resolution 214.21 in accordance with Town Law § 90; and

WHEREAS, the Town otherwise did not comply with the requirements of Town Law § 90 with respect to Resolution 214.21; and

WHEREAS, on or about November 2, 2021, the then-Town Supervisor executed a certain Lease Agreement for Office Space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam (hereinafter, the "Lease Agreement");

WHEREAS, County Law § 227 authorizes the Schenectady County Legislature to legalize and validate any act had and taken in connection with a lawful municipal purpose by the Town Board if the Schenectady County Legislature shall find that that defect sought to be cured was, among others, the failure to perform an act within the time prescribed by law or that the service, posting or publication of any notice was not performed within the time and in the manner required by law; and

WHEREAS, County Law § 227 requires any municipality seeking such relief to present to the County Legislature a petition duly verified setting forth the facts and praying for the relief authorized by County Law § 227; and

WHEREAS, the Town Board seeks to request that the Schenectady County Legislature legalize and validate Resolution 214.21;

THEREFORE, UPON MOTION OF Councilmember _____, seconded by Councilmember _____, **NOW**

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. The Town Board hereby authorizes and directs the Town Supervisor, in consultation with the Attorney for the Town, to prepare and file with the Schenectady County Legislature a petition duly verified setting forth the facts relating to the adoption of Resolution 214.21 and the failure to post and publish notice of adoption of Resolution 214.21, attaching thereto certified copies of all acts done and proceedings had in relation to the subject matter of such Resolution 214.21, and requesting that the County Legislature, after compliance with the procedures set forth therein, legalize and validate Resolution 214.21 and deeming the time prescribed by law for the publication and posting of the notice of adoption of Resolution 214.21 extended to allow compliance therewith.

SECTION 2. This resolution shall become effective August 3, 2022.

DATED: August 3, 2022

NAME	AYES	NOES	ABSTAIN
Christou			
Miller-Herrera			
Dodson			
Mastroianni			
Collins			

At the regularly scheduled public meeting of the Town Board of the Town of Rotterdam, held at the John F. Kirvin Government Center 1100 Sunrise Blvd. Rotterdam, New York on Wednesday, August 11, 2021 at 7:00 p.m., the following resolution was duly adopted:

RESOLUTION NO. 214.21
AUTHORIZE THE SUPERVISOR TO ENTER INTO A LEASE AGREEMENT

THEREFORE, UPON MOTION OF Councilmember **SIGNORE**, seconded by Councilmember **GUIDARELLI**,

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. The Town Board of the Town of Rotterdam hereby Authorizes the supervisor to enter into a lease agreement with ViaPort Rotterdam, located at 93 West Campbell Road, 12306 for the lease of office space.

SECTION 2. This resolution shall become effective August 11, 2021

DATED: August 11, 2021

NAME	AYES	NOES	ABSTAIN
Christou	X		
Guidarelli	X		
Miller-Herrera	X		
Signore	X		
Tommasone(absent)			

I, Diane M. Marco, Town Clerk of the Town of Rotterdam, Schenectady County, New York, **DO HEREBY CERTIFY** that the foregoing resolution was approved by the Town Board of the Town of Rotterdam on **August 11, 2021** and that the foregoing is a true and correct transcript of the original resolution and of the whole thereof and that said original resolution is on file in the Town Clerk's office.

I DO FURTHER CERTIFY that each of the members of the Town Board had due notice of the said Town Board meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Rotterdam this **August 18, 2021**.

Diane M. Marco
Diane M. Marco, Town Clerk



RESOLUTION NO. 296.21

At the regularly scheduled public meeting of the Town Board of the Town of Rotterdam, held at the John F. Kirvin Government Center 1100 Sunrise Blvd. Rotterdam, New York on Wednesday, December 1, 2021 at 5:30 p.m., the following resolution was duly adopted:

ACCEPT AND TRANSFER OF ARPA FUNDS

THEREFORE, UPON MOTION OF Councilmember CHRISTOU, seconded by

Councilmember **SIGNORE**,

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. The Town Board of the Town of Rotterdam, upon recommendation from the Director of Finance, does hereby accept the American Rescue Plan Act (ARPA) funds (into line A 4989 4989 00 (Fed Aid)) for use in support of 2021 expenses outside of the initial budget with expenditures designated toward the purchase of 210 Phillips Road (\$260,000.00) and 212 Phillips Road (\$215,000.00) for the future use as Town parkland (total of \$475,000.00 paid from line A 7110 4153 (Parks Improvements)), and to begin rehabilitation of the former Kmart space to enable consolidating the Town offices, court facilities, and Police Department (\$1,000,000.00 paid from line A 1620 4900 (Bldg Repairs)).

SECTION 2. This resolution shall become effective December 1, 2021.

DATED: December 1, 2021

NAME	AYES	NOES	ABSTAIN
Christou	X		
Guidarelli	X		
Miller-Herrera			X
Signore	X		
Tommasone	X		

I, Diane M. Marco, Town Clerk of the Town of Rotterdam, Schenectady County, New York, **DO HEREBY CERTIFY** that the foregoing resolution was approved by the Town Board of the Town of Rotterdam on **December 1, 2021** and that the foregoing is a true and correct transcript of the original resolution and of the whole thereof and that said original resolution is on file in the Town Clerk's office.

I DO FURTHER CERTIFY that each of the members of the Town Board had due notice of the said Town Board meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Rotterdam this **December 2, 2021**.

Diane M. Marco
Diane M. Marco, Town Clerk



TOWN OF ROTTERDAM

John F. Kirvin Government Center • 1100 Sunrise Boulevard • Rotterdam, NY 12306
Telephone: 518-355-7575 • Fax: 518-355-7976 • Website: www.rotterdamny.org



LEGISLATIVE REQUEST FORM

DATE: 29 November 2021

TO: Clerk's Office

FROM: Director of Finance

TITLE OF REQUEST: Acceptance of American Rescue Plan Act (ARPA) funds

TOWN BOARD MEETING: 8 December 2021

Background Information: The federal government allotted the Coronavirus Local Fiscal Relief Funds in the American Rescue Plan Act (ARPA) to local governments in order to assist their recovery from the impacts caused by the global pandemic caused by the coronavirus COVID 19.

Evaluation/Analysis: The first disbursement of ARPA funds in the amount of \$1,530,822.32 was wired to the town July 22, 2021.

Recommendation(s): Accept the ARPA funds (into line A 4989 4989 00 (Fed Aid)) for use in support of 2021 expenses outside of the initial budget with expenditures designated toward the purchase of 210 Phillips Road (\$260,000.00) and 212 Phillips Road (\$215,000.00) for the future use as Town parkland (total of \$475,000.00 paid from line A 7110 4153 (Parks Improvements)), and to begin rehabilitation of the former Kmart space to enable consolidating the Town offices, court facilities, and Police Department (\$1,000,000.00 paid from line A 1620 4900 (Bldg Repairs)).

Attachment/Document(s): See attached file.

Compliance with Purchasing Policy: N/A

Effect(s) on Existing Law(s): None.

LEGISLATION WILL BE PREPARED BY: Clerk's Office

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Review Payments

Payment Details

ROTTERDAM TOWN OF

6469684

Business Unit:

OSC01

Invoice Number [REDACTED]

Payment Date 07/22/2021

Method ACH

Pay Status Paid

Amount \$1,530,822.32

Currency USD

Paid To ROTTERDAM TOWN OF

Country USA United States

Address 1 1100 SUNRISE BLVD

Address 2

Address 3

City SCHENECTADY

County

Postal 12306

State NY New York

From Key Bank

Payment Advice



Business Unit	Invoice	Invoice Date	Gross Amount	Discount	Discount Taken
OSC01	[REDACTED]	07/16/2021	1,530,822.32 USD	0.00 USD	0.00 USD

[Return to Payments Made](#)

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Review Invoices

Invoice Details

ROTTERDAM TOWN OF

Business Unit OSC01

Phone 5184744001

Invoice Number

Invoice Total

Invoice Date 07/16/2021

Due Date 08/16/2021

Discount End Date

Approval Status Approved

Payment Status Paid in Full

Terms

Gross Amount	\$1,530,822.32 USD
Discount	\$0.00 USD
Net Amount	\$1,530,822.32 USD

▼ Invoice Line Details

						1-1 of 1 ☒	View
Item ID	Description	Statistic Amount	UOM	Unit Price	Merchandise Amt		
				0.00000	\$1,530,822.32	USD	

▼ Payment Schedule

									1-1 of 1 ☒	View
Scheduled to Pay	Payment Number	Gross Amt		Discount		Method	Status	On Hold	Withd Hold	
07/19/2021		\$1,530,822.32	USD	\$0.00	USD	ACH	Paid	No	No	

▼ Payments Made

					1-1 of 1 ☒	View
Reference	Date			Amount		
6469684	07/22/2021			\$1,530,822.32	USD	

▼ Purchase Orders

				1-1 of 1 ☒	View
Purchase Order	PO Date			Status	

No Purchase Orders Found

▼ Receipts

					1-1 of 1 ☒	View
Received Date	Receipt Number	Bill of Lading		Packing Slip		

No Receipts Found

Return to Invoice List

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Review Payments

Payment Details

ROTTERDAM TOWN OF

6469884

Business Unit:

OSC01

Invoice Number LGFARPA02006

Payment Date 07/22/2021

Method ACH

Pay Status Paid

Amount \$1,530,822.32

Currency USD

Paid To ROTTERDAM TOWN OF

Country USA United States

Address 1 1100 SUNRISE BLVD

Address 2

Address 3

City SCHENECTADY

County

Postal 12306

State NY New York

From Key Bank

Payment Advice

Business Unit		Invoice	Invoice Date	Gross Amount		Discount		Discount Taken	
OSC01		LGFARPA02006	07/16/2021	1,530,822.32	USD	0.00	USD	0.00	USD

[Return to Payments Made](#)

Intraday Detail

 Collapse All

Report Date: Jul 22, 2021 generated Jul 22, 2021 3:41 PM EDT

Account: Main Operating Account 8840008885 Keybank National
 Association 021300077

Balances (Real Time)		Credit Summaries		Debit Summaries	
Opening Ledger	\$18,724,015.74	Early ACH Credits (1)	\$1,530,822.32	Early ACH Debits (1)	-\$1,719.00
Holds	\$0.00	Late ACH Credits (0)	\$0.00	Late ACH Debits (0)	\$0.00
Uncollected Funds	\$0.00	Lockbox Credits 	\$0.00	Wire Transfer Debits (0)	\$0.00
Current Ledger	\$20,149,338.09	Wire Transfer Credits (0)	\$0.00	Other Misc. Debits (1)	-\$65,869.84
Current Available	\$20,149,338.09	Deposits	\$0.00	Total Debits (2)	-\$67,588.84
		Other Misc Credits (0)	\$0.00		
		Total Credits (1)	\$1,530,822.32		

Transactions

Date	Type	Description	Credit	Debit
Jul 22, 2021	Miscellaneous Debit	TRANSFER FROM CHECKING TO CHECKING- ODS	-	-\$65,869.84
Jul 22, 2021	Preauthorized ACH Credit	DIRECT DEPOSIT, NYS OSC ACH	\$1,530,822.32	-
Jul 22, 2021	Preauthorized ACH Debit	DIRECT WITHDRAWAL, TOWNOFROTT885 CORP PAY	-	-\$1,719.00
Totals:			\$1,530,822.32	-\$67,588.84

Vendors CFDA payment Inquiry

Thursday, July 29, 2021 10:58 AM

Press Control+M to start dragging object

[Skip to Main Content](#)

[CFDA Payment](#)

[CFDA Payment](#)

[Actions](#)

Supplier Name

ROTTERDAM TOWN OF

Enter Search criteria

Enter Search criteria and click on Search.

[\[X\]](#)

[\[X\]](#)

[Search](#)

1 row

Invoice ID
From Payment Date

To Payment Date

Payment Reference ID
CFDA Number

- [Payment Ref ID](#)
- [Payment Date](#)
- [Payment Amount](#)
- [Invoice ID](#)
- [Voucher ID](#)
- [Voucher Line Number](#)
- [CFDA Amount](#)
- [Distribution Line Number](#)
- [GL BU](#)
- [PC BU](#)
- [Project](#)
- [Activity](#)
- [CFDA Number](#)
- [Ref Award Number](#)

	Payment Ref ID	Payment Date	Payment Amount	Invoice ID	Voucher ID	Voucher Line Number	CFDA Amount	Distribution Line Number	GL BU	PC BU	Project	Activity	CFDA Number	Ref Award Number
1		07/22/2021	1,530,822.32			1	1,530,822.32	1	OSC01	NYS01	COVIDSLF RF	COVID_FISC_RECO	21.027	COVIDSLFRF

[Supplementary Panel](#)

[Related Information](#)

[\[X\]](#)

Inserted from <https://esupplier.sfs.ny.gov/psc/iscm/SUPPLIER/ERP/c/NY_VEN_CFDA_MNU_FL_NY_VEN_CFDA_CMP_FLGBL>

2362
Voucher No.

TOWN OF ROTTERDAM

Voucher
1100 Sunrise Boulevard
Rotterdam, New York 12306

PO No.	Fund Appropriation	Amount
	A 1620 4900	1,000,000.00
TOTAL:		\$1,000,000.00

DEPARTMENT: _____

CLAIMANT'S NAME AND ADDRESS:

ViaPort New York, LLC
93 W Campbell Road
Schenectady, NY 12306

Terms: _____ VENDOR NO. 9324

Date(s) of Purchase/ Service	Invoice #/ Reference #	Description of Materials or Services	Amount
12/1/2021	2021DEP	Deposit for lease of the old K-Mart store at ViaPort	1,000,000.00
		Ris # 296.21	
(See Attached Instructions)			TOTAL: \$1,000,000.00
			CHECK #: [REDACTED]

Voucher No. 2362

CLAIMANT'S CERTIFICATION

I, _____, certify that the above account in the amount of \$ _____ is true and correct; that the items, services and disbursements charged were rendered to or for the municipality on the dates stated; that no part has been paid or satisfied; that taxes; from which the municipality is exempt, are not included; and that the amount claimed is actually due.

DATE	SIGNATURE	TITLE
DEPARTMENT APPROVAL		
(Municipal Use Below Line)		
APPROVAL FOR PAYMENT		
The above services or materials were rendered or furnished to the municipality on the dates stated and the charges are correct.		
This claim is approved and ordered paid from the Appropriation indicated above.		
12/6/2021		
DATE	AUTHORIZED OFFICIAL	AUDITING BOARD

RESOLUTION NO. 237.22

**TO RECOGNIZE THAT THE LEASE AGREEMENT FOR
OFFICE SPACE AT 93 WEST CAMPBELL ROAD BY AND BETWEEN
VIA PORT NEW YORK, LLC AND THE TOWN OF ROTTERDAM IS VOID**

WHEREAS, pursuant to Town Law § 81 (1) (b) and Town Law § 220 (2), a town board is authorized to lease a town hall, town lockup or other necessary building for town purposes, provided that a resolution authorizing such lease is adopted subject to permissive referendum; and

WHEREAS, Town Law § 90 requires that within 10 days of adoption of a resolution subject to permissive referendum, the town clerk shall, in the same manner as provided for notice of a special election, post and publish a notice which shall set forth the date of the adoption of the resolution and contain an abstract of such resolution concisely stating the purpose and effect thereof and specify that the resolution was adopted subject to a permissive referendum; and

WHEREAS, the failure to post and publish a notice of adoption of a resolution subject to permissive referendum as required in Town Law § 90 has been determined to be a jurisdictional defect that prevents such a resolution from becoming effective and rendering void *ab initio* any action taken in furtherance thereof; and

WHEREAS, Town Law §§ 81(1)(b), 220(2), and 90 are applicable to actions taken by the Town Board to the extent such actions fall within the scope of their provisions; and

WHEREAS, by Resolution 214.21 adopted on August 11, 2021, the Town Board voted in favor of authorizing the then-Town Supervisor to enter into a lease agreement with ViaPort Rotterdam, located at 93 West Campbell Road, 12306, for the lease of office space; and

WHEREAS, the Town's lease of such office space was subject to the requirements of Town Law § 81 (1) (b) and Town Law § 220 (2); and

WHEREAS, Resolution 214.21 did not identify that it was adopted subject to permissive referendum, nor did it direct or instruct the Town Clerk to post and publish a notice of adoption of the resolution in accordance with Town Law § 90; and

WHEREAS, the Town Clerk did not post and publish a notice of adoption of Resolution 214.21 in accordance with Town Law § 90; and

WHEREAS, the Town otherwise did not comply with the requirements of Town Law § 90 with respect to Resolution 214.21; and

WHEREAS, on or about November 2, 2021, the then-Town Supervisor executed a certain Lease Agreement for Office Space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam (hereinafter, the “Lease Agreement”); and

WHEREAS, the Lease Agreement provided that “Tenant [the Town of Rotterdam] has deposited with Landlord, as security for Tenant’s compliance with this lease, the Security in an amount of \$1,000,000, which shall be used to secure Tenant’s obligations under the lease, but may also be applied by Landlord toward the payment of any amounts for any work detailed in Exhibit B, ‘Landlord’s Work’ [relating to renovating the premises for use as town office and related space]”; and

WHEREAS, on or about December 1, 2021, the Town Board purported to authorize designation of \$1,000,000 of funds received pursuant to the American Rescue Plan Act (ARPA) to begin the rehabilitation of the premises that are the subject of the Lease Agreement; and

WHEREAS, the Town of Rotterdam deposited \$1,000,000 with the Landlord purportedly as security on or about December 6, 2021, paid from A1620 4900 (Building Repairs); and

WHEREAS, by virtue of the Town Board’s failure to adopt a resolution to authorize the Lease Agreement subject to permissive referendum and the failure to post and publish notice of adoption of Resolution 214.21 in accordance with Town Law § 90, the execution of the Lease Agreement, and actions taken in furtherance thereof, were not properly authorized, are jurisdictionally defective, and are void *ab initio*;

THEREFORE, UPON MOTION OF Councilmember _____, seconded by Councilmember _____, **NOW**

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. The Town Board hereby finds and determines that the Lease Agreement was not authorized in accordance with New York State law and is jurisdictionally defective, and therefore is void *ab initio* and unenforceable.

SECTION 2. The designation of \$1,000,000 of funds received pursuant to the American Rescue Plan Act (ARPA) to begin the rehabilitation of the premises that are the subject of the Lease Agreement was and is not authorized and is void *ab initio*.

SECTION 3. The deposit of \$1,000,000 with Via Port New York, LLC, as security under the Lease Agreement was and is not authorized, and the Town Supervisor, the Town Comptroller, the Attorney for the Town, and their respective designees are hereby authorized to pursue such action as may be necessary to secure the return of such deposit from Via Port New York, LLC, provided, however, that further Town Board resolution shall be required prior to commencement of any litigation.

SECTION 4. The Town Supervisor, Town Comptroller, and Attorney for the Town, and their respective designees, are hereby authorized to take any such action as may be necessary or appropriate to effectuate this Resolution, provided, however, that further Town Board resolution shall be required prior to commencement of any litigation.

SECTION 5. This resolution shall become effective August 3, 2022.

DATED: August 3, 2022

NAME	AYES	NOES	ABSTAIN
Christou			
Miller-Herrera			
Dodson			
Mastroianni			
Collins			

RESOLUTION NO. 238.22

**TO RE-AUTHORIZE THE LEASE AGREEMENT FOR
OFFICE SPACE AT 93 WEST CAMPBELL ROAD BY AND BETWEEN
VIA PORT NEW YORK, LLC AND THE TOWN OF ROTTERDAM, SUBJECT TO
PERMISSIVE REFERENDUM**

WHEREAS, by Resolution 237.22, the Town Board determined that Resolution 214.21 was required to be adopted subject to permissive referendum, was not adopted subject to permissive referendum, was not posted and published as having been adopted subject to permissive referendum, and failed to properly authorize the Lease Agreement for Office Space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam, dated November 2, 2021 (the "Original Lease Agreement"); and

WHEREAS, as a result of the foregoing, and pursuant to Resolution 237.22, the Town Board recognized that the Original Lease Agreement was not properly authorized in accordance with New York State law, was jurisdictionally defective, and therefore was and is void *ab initio* and unenforceable; and

WHEREAS, the Town Board seeks to properly authorize a lease of such space on the same terms and conditions as were set forth in the Original Lease Agreement;

THEREFORE, UPON MOTION OF Councilmember _____, seconded by Councilmember _____, **NOW**

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. Subject to Section 4, below, the Town Board authorizes the Town Supervisor to execute a lease agreement with Via Port New York, LLC for premises located at 93 West Campbell Road, 12306, for the lease of office and related space, on the same terms and conditions as set forth in the Original Lease Agreement.

SECTION 2. Within 10 days after the adoption of this Resolution, the Town Clerk is authorized and directed to, in the same manner as provided for notice of a special election, post and publish a notice setting forth the date of adoption of this Resolution and containing an abstract of this Resolution concisely stating the purpose and effect thereof, and specifying that the resolution was adopted subject to permissive referendum.

SECTION 3. This Resolution is adopted subject to permissive referendum pursuant to Town Law §§ 81 (1) (b) and 220 (2).

SECTION 4. This resolution shall become effective August 3, 2022, provided however, that the authorization to execute a lease agreement as set forth in Section 1 hereof shall not take effect until thirty (30) days after the adoption of this Resolution, nor until approved by the

affirmative vote of a majority of the qualified electors of the Town, voting on such proposition, if within thirty (30) days after adoption of this Resolution there be filed with the town clerk a petition signed, and acknowledged and proved, or authenticated by electors of the Town qualified to vote upon a proposition to raise and expend money, in number equal to at least 5% of the total vote cast for governor in the Town at the last general election held for the election of state officers, but which shall not be less than one hundred, protesting against this Resolution and requesting that it be submitted to the qualified electors of the Town for their approval or disapproval.

DATED: August 3, 2022

NAME	AYES	NOES	ABSTAIN
Christou			
Miller-Herrera			
Dodson			
Mastroianni			
Collins			

RESOLUTION NO. 239.22

**TO AUTHORIZE THE SUPERVISOR TO ENTER INTO NEGOTIATIONS
WITH VIA PORT NEW YORK, LLC FOR THE PURCHASE OF PREMISES**

WHEREAS, by Resolution 237.22, the Town Board determined that Resolution 214.21 was required to be adopted subject to permissive referendum, was not adopted subject to permissive referendum, was not posted and published as having been adopted subject to permissive referendum, and failed to properly authorize the Lease Agreement for Office Space at 93 West Campbell Road by and between Via Port New York, LLC and the Town of Rotterdam, dated November 2, 2021 (the "Original Lease Agreement"); and

WHEREAS, as a result of the foregoing, and pursuant to Resolution 237.22, the Town Board recognized that the Original Lease Agreement was not properly authorized in accordance with New York State law, was jurisdictionally defective, and therefore was and is void *ab initio* and unenforceable; and

WHEREAS, the Town Board seeks to explore the possible purchase of a portion or all of the building, real property, and improvements that were the subject of the provision in the Original Lease Agreement providing the Town with a right of first refusal (known as and referred to therein as the "Kmart box"), along with all necessary and appropriate appurtenances for utilities, access, and parking;

THEREFORE, UPON MOTION OF Councilmember _____,
seconded by Councilmember _____, **NOW**

BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

SECTION 1. The Town Board hereby authorizes and directs the Town Supervisor, or her designee, to enter into negotiations with Via Port New York, LLC in furtherance of a purchase by the Town of all or a portion of the Kmart box, located at 93 West Campbell Road, along with all necessary and appropriate appurtenances thereto, including for utilities, access, and parking.

SECTION 2. The Town Supervisor is not authorized by this resolution to execute any purchase agreement or other memorandum reflecting proposed terms of any such purchase, unless and until the Town Board authorizes such execution by resolution in accordance with all applicable legal procedures and requirements.

SECTION 3. This resolution shall become effective August 3, 2022.

DATED: August 3, 2022

NAME	AYES	NOES	ABSTAIN
Christou			
Miller-Herrera			
Dodson			
Mastroianni			
Collins			