

David Benham

[REDACTED]
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February 20, 2026

Via Email (and U.S. Mail, if sent by mail)

Village of Penn Yan — Board of Trustees (FOIL Appeals Body)

c/o Records Access Officer (FOIL) / Village Clerk

111 Elm Street / P.O. Box 426

Penn Yan, NY 14527

Re: FOIL APPEAL (Public Officers Law §89(4)(a); Village Code §148-10)

FOIL-03 — Complete SEQRA Administrative Record / Annexation — 2442 Old Route 14A (Former McFetridge Farm)

Dear Trustees:

I submit this as a formal administrative appeal pursuant to the New York Freedom of Information Law (“FOIL”), Public Officers Law §89(4)(a), and the Village of Penn Yan FOIL appeals procedure (Village Code §148-10), regarding the Village’s response to my FOIL request identified as:

FOIL-03_PennYan_SEQRA_AdminRecord_2442OldRoute14A_2026-02-04

(Complete SEQRA administrative record for the proposed annexation at/near 2442 Old Route 14A / Former McFetridge Farm)

This appeal is based on: (1) the Village’s apparent failure to produce or clearly account for multiple categories of records expressly requested in FOIL-03; and (2) the Village’s failure to provide a sufficiently specific FOIL determination identifying what, if anything, was withheld or denied (including the statutory basis), and/or providing meaningful certification of non-existence after a diligent search—particularly as to emails and other electronically stored information.

This appeal is not mooted by the Village’s acknowledgment letter dated February 20, 2026 (Exhibit F: 2.20.26 Benham, David 20 Day Letter Clarification of FOIL Request.pdf) stating it will grant or deny my February 12 clarification by approximately March 13, 2026. That acknowledgment confirms that the Village has not yet issued a complete and specific determination addressing the missing categories and search scope, and it does not cure deficiencies in the Village’s February 11, 2026 response to FOIL-03.

I. Background and procedural posture

1. FOIL request submitted (February 4, 2026).

On February 4, 2026, I submitted FOIL-03 requesting the complete SEQRA administrative record and all supporting materials relied upon by the Village as Lead Agency under SEQRA for the proposed annexation at/near 2442 Old Route 14A. FOIL-03 expressly sought not only the FEAF and final determinations/resolutions, but also drafts, staff memoranda, consultant materials/scopes/deliverables, technical studies/analyses, and all correspondence and email (including attachments), among other categories (Exhibit A: Request-FOIL-03_PennYan_SEQRA_AdminRecord_2442OldRoute14A_2026-02-04.pdf).

2. Village response letter (February 11, 2026) and production via Box (on/around February 12, 2026).

By letter dated February 11, 2026, the Village (Clerk-Treasurer) stated it was providing “a document satisfying your request,” but also stated that “some items may not be provided because they do not exist or the request is too vague” (Exhibit B: 2.4.26 FOIL Response_PennYan_SEQRA_AdminRecord_2442OldRoute14A.pdf). The letter did not identify which requested categories were deemed “too vague,” which categories allegedly “do not exist,” whether any records were being withheld, or any statutory exemptions relied upon. On or about February 12, 2026, the Village provided access to the produced records via my Box.com account (Exhibit E: RE_Box Access for FOIL Data (1).msg) and the compiled document set / index (Exhibit C: 2.4.26 FOIL Documents_PennYan_SEQRA_AdminRecord_2442OldRoute14A..pdf).

3. Clarification / completeness letter (February 12, 2026).

On February 12, 2026, after review of the production, I sent a clarification letter requesting confirmation of completeness and identifying specific missing categories of records (including internal Village emails/attachments, staff analytical memoranda supporting the Negative Declaration beyond the FEAF, consultant scopes/deliverables and technical correspondence, standalone EIS evaluation materials, and technical studies such as traffic, sewer, stormwater, electric load, etc.). I also requested confirmation of whether Village email systems and electronic repositories were searched and requested the search terms used (Exhibit D: FOIL-03_Clarification_MissingCategories_EmailSearch_2026-02-12.pdf).

4. Village acknowledgment letter (February 20, 2026).

By letter dated February 20, 2026, the Village acknowledged receipt of my February 12 clarification and stated that the clarified request would be granted or denied, in whole

or in part, by approximately March 13, 2026 (Exhibit F: 2.20.26 Benham, David 20 Day Letter Clarification of FOIL Request.pdf).

Given the Village's February 11 determination language (i.e., "some items may not be provided...do not exist or...too vague") and the absence of a clear grant/denial accounting for categories expressly requested in FOIL-03—particularly emails and other electronically stored records—I appeal what is properly treated as a partial and/or constructive denial of access to records responsive to FOIL-03.

II. Why the Village response is incomplete / procedurally deficient under FOIL

The Village's response and production do not provide the specificity required for a proper FOIL determination on a request of this nature—particularly one seeking a "complete administrative record" for a Type I SEQRA action in which the Village served as Lead Agency and issued a Negative Declaration.

A. The production appears limited to core "annexation file" materials, not the complete SEQRA administrative record and supporting materials expressly requested

Based on the materials produced and the index, the production appears to include core items (e.g., FEAF, resolutions, hearing materials, and related annexation documentation). However, FOIL-03 expressly sought broader categories commonly associated with a SEQRA administrative record and supporting basis for a Negative Declaration—particularly where multiple infrastructure topics are implicated—including emails/attachments, staff analytical memoranda, consultant materials/deliverables, and technical studies/analyses (Exhibits A–C, E).

B. The response does not clearly grant or deny specific categories of records, does not identify exemptions, and does not confirm segregability review

The Village's February 11, 2026 response (Exhibit B: 2.4.26 FOIL Response_PennYan_SEQRA_AdminRecord_2442OldRoute14A.pdf) does not state that it is denying any category under a specific FOIL exemption; does not identify withheld record types; does not provide a withholding log or equivalent description; and does not confirm segregability review, notwithstanding the statement that "some items may not be provided..."

C. The "too vague" assertion is not tied to any portion of FOIL-03, and no narrowing parameters were proposed

The Village's statement that "some items may not be provided because... the request is too vague" is not tied to any portion of FOIL-03. FOIL-03 contains numerous specific identifiers and explicit record categories. If the Village asserts any portion is not reasonably described, it should identify the specific portion and propose reasonable narrowing parameters rather than leaving the request in an ambiguous "some items" posture.

D. The response does not confirm whether the Village searched email systems and other electronic repositories, or describe the search methodology

FOIL applies to electronically stored information, including emails and attachments, shared drives, document management systems, and other repositories. The Village's response does not confirm email searches, identify custodians' accounts, define date ranges, list search terms, or describe repositories searched. Without that information, the Village's "document satisfying your request" representation is not verifiable and is inconsistent with a request for a complete administrative record and communications.

III. Specific missing categories (expressly requested; not clearly produced or accounted for)

To eliminate any ambiguity and ensure the appeal record is clear, I restate the categories requested in FOIL-03 (Exhibit A: Request-FOIL-03_PennYan_SEQRA_AdminRecord_2442OldRoute14A_2026-02-04.pdf) that do not appear to have been produced or accounted for in the Village's response and production (Exhibits B, C, and E):

While the production appears to contain the FEAF, resolutions, hearing materials, and related annexation documentation, I did not identify records responsive to several requested categories, including:

1. Internal Village communications relating to SEQRA review (including emails, attachments, and forwarded messages), including communications among Village staff, department heads, elected officials acting in an administrative capacity, and the Records Access function concerning SEQRA review, completeness, deliberations, requests for input, and coordination.
2. Staff memoranda or analytical documents supporting the Negative Declaration beyond the FEAF itself, including any internal analysis, summary memos, decision memos, checklists, staff findings, or "basis for determination" documents supporting the Lead Agency's conclusion that no significant adverse environmental impacts would occur.
3. Consultant engagement materials / scopes of work / consultant deliverables / technical review correspondence, including procurement/retention/engagement letters, scopes of work, invoices (to the extent not exempt), draft/final deliverables, and technical review correspondence (comments, markups, requests for revisions, responses).
4. Standalone evaluation materials addressing whether an Environmental Impact Statement (EIS) was required beyond the FEAF Part 3 narrative, including any documents evaluating significance criteria, potential impacts, or EIS triggers for a Type I action.

5. Technical analyses/studies prepared, reviewed, considered, relied upon, or referenced in the SEQRA review, including but not limited to:
 - Traffic impact study/analysis (including mitigation concepts/cost responsibility discussions)
 - Sewer collection/treatment capacity engineering analysis
 - Stormwater modeling/drainage analysis (downstream constraints; maintenance/enforcement)
 - Electric load / infrastructure impact analysis
 - Independent environmental consultant technical memorandum(s)

Because the Village acted as Lead Agency under SEQRA for a Type I action, I seek confirmation that the complete record relied upon in reaching the determination has been produced. If additional responsive records exist, they must be produced. If any categories do not exist or cannot be found after diligent search, FOIL requires a clear written certification to that effect. If any responsive records are withheld, the Village must identify the statutory exemption(s) relied upon and provide all reasonably segregable portions.

IV. Relief requested on appeal (what I am asking the Board to direct)

I respectfully request that the Board of Trustees grant this appeal and direct the following:

A) Order a diligent supplemental search reasonably calculated to locate all records responsive to FOIL-03, including electronically stored information, at minimum in:

- Village email systems (including archives/retention systems/journaling accessible for FOIL)
- shared drives / network folders / project folders
- Village Clerk and administrative files
- planning/engineering/DPW/water/sewer/stormwater coordination files
- any third-party portals used for document exchange (including Box)
- any consultant transfer locations used by or on behalf of the Village

B) Produce all additional responsive records located through the supplemental search, including drafts where requested and where no applicable exemption is asserted.

C) Provide written certification of non-existence / cannot be found after diligent search for any categories the Village contends do not exist or cannot be located. The certification should identify (at minimum) repositories searched, custodians/accounts (by role/office is sufficient), date ranges, and search methods.

D) If any records are withheld in whole or in part, identify the FOIL exemption(s) relied upon (Public Officers Law §87(2)) and provide all reasonably segregable non-exempt portions.

E) Confirm and disclose the electronic search scope, including: repositories searched; custodians/accounts (by role); date ranges; and search terms used (at minimum: “2442 Old Route 14A,” “Old Route 14A,” “McFetridge,” “61.02-1-6.11,” “annexation,” “SEQRA,” “FEAF,” “Negative Declaration,” and “EIS”).

F) If the Village asserts any portion of FOIL-03 is “too vague,” identify the specific portion(s) and propose reasonable narrowing parameters (date ranges, custodians, repositories, and/or defined record types) so the request can be refined without waiver.

G) Preservation request: Please ensure that relevant electronic and paper records (including emails and attachments) related to the annexation/SEQRA review are preserved pending completion of the FOIL process and any further review.

V. Attachments / Exhibits (clean administrative record)

Exhibit A: FOIL-03 Request dated February 4, 2026 — Request-FOIL-

03_PennYan_SEQRA_AdminRecord_2442OldRoute14A_2026-02-04.pdf

Exhibit B - Village response letter dated February 11, 2026 — 2.4.26 FOIL

Response_PennYan_SEQRA_AdminRecord_2442OldRoute14A.pdf

Exhibit C - Produced document set / index (Box production) — 2.4.26 FOIL

Documents_PennYan_SEQRA_AdminRecord_2442OldRoute14A..pdf

Exhibit D - FOIL-03_Clarification_MissingCategories_EmailSearch_2026-02-12.pdf

Exhibit E - 2026-02-12_Box Access_Document Delivery Email_FOIL-03_SEQRA_AdminRecord.pdf

Exhibit F - Village acknowledgment letter dated February 20, 2026 grant-denial by approximately March 13, 2026.pdf

VI. Requested determination, Committee on Open Government transmittal, and notice of further review

Please issue a written determination on this appeal within the time required by FOIL (Public Officers Law §89(4)(a)) and Village Code §148-10. If the appeal is denied in whole or in part, please provide the specific reasons and statutory grounds for denial, and identify withheld record categories with sufficient description to permit meaningful review.

Please also transmit copies of this appeal and the Board’s determination to the New York State Committee on Open Government as required by §148-10(F)–(G).

Nothing in this appeal should be construed as limiting my request; the missing categories are restated to eliminate ambiguity and ensure the Village’s determination addresses the specific components of FOIL-03.

Thank you for your attention.

Sincerely,

David Benham

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

David Benham

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[REDACTED]
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February 4th, 2026

Via Email and/or U.S. Mail

Records Access Officer (FOIL) / Village Clerk
Village of Penn Yan
111 Elm Street
Penn Yan, NY 14527

Re: FOIL Request – SEQRA Administrative Record / Annexation – 2442 Old Route 14A (ENB 01/22/2025 – Negative Declaration)

Dear Records Access Officer:

Pursuant to the New York Freedom of Information Law (“FOIL”), Public Officers Law Article 6, I request access to and copies of **all records in the possession, custody, or control of the Village of Penn Yan** relating to the proposed action commonly described as the **annexation of 70+ acres into the Village of Penn Yan**, associated with the property at/near **2442 Old Route 14A**, including the Environmental Notice Bulletin (“ENB”) notice **published 01/22/2025** reflecting a **Negative Declaration** by the Village of Penn Yan Board of Trustees as lead agency.

This request seeks the **complete SEQRA administrative record** and all supporting materials relied upon for the Negative Declaration and related annexation determinations.

1) Records Requested (Complete SEQRA / Annexation File)

This request includes, but is not limited to, the following categories of records, whether final or draft, paper or electronic, including email and attachments:

A. Complete SEQRA Administrative Record / Project File

1. The **complete Environmental Assessment Form (EAF)** for this action, including **Part 1, Part 2, and Part 3**, and **all attachments, exhibits, figures, maps, and supporting submissions**.
2. The **Negative Declaration** (final) and any **draft versions**, proposed resolutions, determinations, findings materials, staff memoranda, or consultant write-ups used to support adoption.
3. Any **SEQRA notices**, filings, correspondence, and proof of publication, including any submissions to or from the ENB.

4. Any documents identifying the **lead agency**, involved agencies, interested agencies, and any coordination materials.

B. Supporting Studies, Analyses, Technical Materials, and Basis for the Determination

All reports, studies, analyses, modeling, memoranda, comments, or supporting technical materials that were prepared, reviewed, considered, relied upon, or referenced in connection with the SEQRA review and/or the Negative Declaration, including but not limited to materials addressing:

- **Stormwater / drainage / runoff / erosion / sediment control**
- **Wetlands, surface waters, groundwater, soils, steep slopes**
- **Traffic / transportation impacts**
- **Water supply and distribution capacity**
- **Sewer collection, treatment, and capacity impacts**
- **Electric utility impacts / infrastructure needs** (to the extent used in SEQRA review)
- **Air, noise, lighting**
- **Solid waste**
- **Cultural, historic, and archaeological resources**
- **Natural resources / habitat / threatened & endangered species**
- **Community character, land use consistency, zoning/planning considerations**
- **Construction impacts and proposed mitigation measures**
- Any screening or discussion of whether an **Environmental Impact Statement (EIS)** was required, and any documents reflecting that evaluation.

C. Consultant / Professional Review Materials

All documents prepared by or for the Village by any consultant, engineer, planner, attorney, or other professional relating to this project and/or SEQRA review, including engagement letters/scopes of work (to the extent not privileged), technical review letters, comment-response materials, internal review memoranda, and deliverables submitted to the Village.

D. Correspondence and Communications (Including Email)

All correspondence and communications (including emails, attachments, and forwarded messages) between the Village (Trustees, Mayor, Clerk, staff, consultants) and any of the following, that refer or relate to the annexation and/or SEQRA review, impacts, mitigation, or the Negative Declaration:

- the **applicant/developer** and their agents/representatives;
- **Yates County IDA** and associated representatives;
- **Town of Milo** (and/or other municipal entities);
- **DEC, DOT**, Yates County agencies, and any other involved or interested agencies.

E. Meeting Packets / Board Materials

All Board packets, agenda materials, resolutions, exhibits, presentation materials, and supporting documents provided to decision-makers or the public in connection with discussions or action taken on the annexation and SEQRA determination.

2) Format of Production

Please provide the records in **electronic form** wherever available (PDF or native electronic format) by email or via a downloadable link. If the records exist electronically, I request production electronically to avoid unnecessary copying costs.

3) Supplemental Request / No Conflict With Prior FOIL Requests

This FOIL request is **supplemental** to, and **does not amend, narrow, replace, or withdraw**, any prior FOIL requests I have submitted to the Village of Penn Yan, including without limitation:

- **“FOIL Request – Electrical Load, Utility Capacity, and Ratepayer Impact Records (2442 Old Route 14A)”** (sent **January 9, 2026**)
- **“FOIL Request – 2024 Electric Rate Case Study and Supporting Materials”** (sent **February 2, 2026**)

If any records are responsive to more than one request, a **single production may be cross-referenced** to satisfy multiple FOIL requests.

4) Segregability and Withholding Requirements

If you determine that any portion of a record is exempt from disclosure, please:

1. Identify the record(s) being withheld and the specific FOIL exemption(s) relied upon;
2. Provide **all reasonably segregable non-exempt portions** of responsive records; and
3. If records are withheld in whole or in part, provide a **written denial** with appeal rights and instructions, as required by FOIL.

5) Fees

If there will be any fees, please inform me in advance if the total will exceed **\$25**. I request electronic production to minimize costs.

6) Referral / Custodian Information

If the Village does not maintain some requested records but knows the entity that does, please identify the likely custodian agency (department/agency name) so I may direct a corresponding FOIL request.

7) Statutory Response Requirement

As required by FOIL, please respond within five (5) business days by (a) providing the records, (b) denying the request in writing with the basis for denial and appeal rights, or (c) acknowledging receipt and providing a **reasonable date certain** by which the Village will respond.

Thank you for your attention to this request.

Respectfully,

David Benham

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Board of Trustees
Village of Penn Yan
c/o Clerk-Treasurer / Records Access Officer
PO Box 426, 111 Elm Street
Penn Yan, NY 14527

Via Email and U.S. Mail

Re: FOIL Administrative Appeal (Village Code §148-10)
FOIL Request dated January 9, 2026: "FOIL Request – Electrical Load, Utility Capacity, and Ratepayer Impact Records (2442 Old Route 14A)"
Village determination/response dated February 12, 2026 (including denial explanation re: Category #2)

- (1) Date of Appeal: February 20, 2026
- (2) Date/Location of Request: FOIL request submitted to the Village of Penn Yan via email on January 9, 2026 (2442 Old Route 14A – Electrical Load/Utility Capacity/Ratepayer Impacts)
- (3) Records Denied: Category #2 – "Utility Capacity and System Impact Evaluations"
- (4) Denial Type: Denial in writing (February 12, 2026), and incomplete response/failure to provide all requested records promptly
- (5) Name/Return Address of Requester: David Benham, 246 Hamilton Street, Penn Yan, NY 14527

Dear Board of Trustees,

Pursuant to Village Code §148-10 and the New York Freedom of Information Law ("FOIL"), I hereby appeal the Village's February 12, 2026 determination and response to my January 9, 2026 FOIL request titled: "FOIL Request – Electrical Load, Utility Capacity, and Ratepayer Impact Records (2442 Old Route 14A)."

A. Appeal of Denial – Category #2 ("Utility Capacity and System Impact Evaluations")

The Village's denial explanation states: "The portion of your request regarding Utility Capacity and System Impact Evaluations (#2) is hereby denied pursuant to NY Pub Off Law § 86(5) and relevant case law."

This categorical denial is overbroad. FOIL requires disclosure of reasonably segregable non-exempt portions of records. If limited technical details are legitimately sensitive, the appropriate remedy is narrowly tailored redaction—not blanket withholding of entire records/categories.

At minimum, the Village should produce responsive records with redactions of truly sensitive system-identifying details (e.g., circuit identifiers, detailed system configurations, security-sensitive drawings), while disclosing non-sensitive portions such as:

- whether capacity constraints were identified (in general terms);
- whether upgrades were deemed necessary (in general terms);
- high-level conclusions, recommendations, timelines, cost responsibility discussions, and summaries that do not reveal sensitive configuration details; and
- correspondence or memoranda reflecting decisions, assumptions, or conclusions without disclosing CEII-level specifics.

Accordingly, I request that the Board reverse the blanket denial of Category #2 and direct production of responsive records with appropriate redactions, together with the specific FOIL exemption(s) applied to any withheld portions.

B. Incomplete Production / Failure to Account for Requested Categories (#1, #3–#7); Native Files
 In addition to the denial of Category #2, the Village's production does not clearly account for each requested category and sub-item (#1 through #7) in the January 9, 2026 request. FOIL compliance requires more than a general statement that some items may not exist or may be withheld; the Village should identify what was located and produced, what was withheld and why, and what does not exist.

I respectfully request that the Board direct the Village to provide a supplemental, category-by-category accounting identifying:

1. what records were located and produced for each category/sub-item;
2. what records were withheld for each category/sub-item and the specific statutory basis for withholding; and
3. what records do not exist (if any), along with a brief description of the search conducted (including the custodians/accounts searched for responsive emails and attachments).

Further, where responsive records exist in native electronic formats (e.g., spreadsheets/models/workpapers), please direct production in native format (with redactions where warranted) rather than only PDF printouts.

C. Requested Relief

I respectfully request that the Board:

1. Reverse the denial of Category #2 or, at minimum, require production of reasonably segregable non-exempt portions with narrow redactions;
2. Direct supplemental production of any remaining responsive records for Categories #1 and #3–#7 (including emails/attachments and any underlying spreadsheets/models/workpapers in native form where they exist); and

3. Require a supplemental written determination that accounts for each requested category/sub-item and clarifies what was produced, withheld (with the cited exemption), or not found.

Please provide the Board's written determination within ten (10) business days of receipt of this appeal, as required by Village Code §148-10(E). Please also transmit copies of this appeal and the Board's determination to the New York State Committee on Open Government as required by §148-10(F)–(G).

Respectfully,

David Benham

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Attachments:

1. January 9, 2026 FOIL request: "Electrical Load, Utility Capacity, and Ratepayer Impact Records (2442 Old Route 14A)"
2. February 12, 2026 FOIL determination/response letter
3. February 12, 2026 denial explanation letter (Category #2) and any index/log provided
4. Produced documents set (as provided by the Village)
5. Related correspondence

Records Access Officer
Village of Penn Yan
111 Elm Street
Penn Yan, NY 14527

Re: Freedom of Information Law (FOIL) Request – Electrical Load, Utility Capacity, and Ratepayer Impact Records
Proposed Development at 2442 Old Route 14A (Former McFetridge Farm)

Dear Records Access Officer,

Pursuant to the New York Freedom of Information Law (Public Officers Law Article 6), I respectfully request access to and copies of all records in the possession, custody, or control of the Village of Penn Yan relating to **electrical service, electrical capacity, infrastructure impacts, and ratepayer implications** associated with the proposed development at **2442 Old Route 14A**, formerly known as the McFetridge Farm.

These records are directly relevant to the pending annexation proposal and to the public interest because annexation decisions permanently shift jurisdictional responsibility for utility infrastructure, capital planning, and long-term rate impacts to Village residents. Electrical capacity constraints, required infrastructure upgrades, and cost-allocation decisions—once established—can obligate existing ratepayers to subsidize private development through higher rates or diluted low-cost power allocations. Full disclosure of electrical demand assumptions and utility impacts is therefore essential for informed public review, lawful annexation deliberations, and protection of existing residents from unintended financial and infrastructure burdens.

This request includes records created by the Village as well as records received from or shared with applicants, developers, consultants, utilities, the Yates County Industrial Development Agency, or any other third party.

Specifically, I request the following categories of records:

1. Electrical Load and Demand Analyses

- Any electrical load calculations, peak demand estimates (kW or kVA), coincident demand analyses, or diversity factor assumptions prepared for or associated with the proposed development.
- Any internal or external memoranda evaluating electrical demand by building type or phase.

2. Utility Capacity and System Impact Evaluations

- Any studies, reports, correspondence, or analyses addressing available electrical capacity on existing feeders, transformers, substations, or distribution infrastructure serving or proposed to serve the project site.
- Identification of serving substations, feeder circuits, voltage class, and any known constraints.

3. Infrastructure Upgrade Requirements

- Any documentation identifying required or potential upgrades to electrical infrastructure, including but not limited to transformers, feeders, substations, protection equipment, or metering.
- Preliminary or final cost estimates, schedules, or phasing plans for such upgrades.

4. Cost Allocation and Financial Responsibility

- Any agreements, draft agreements, correspondence, or internal discussions addressing who would be financially responsible for electrical infrastructure upgrades or capacity expansion.
- Any documents evaluating whether costs would be borne by the developer, the utility, or existing ratepayers.

5. Flex Building Electrical Assumptions

- Any documents defining or discussing electrical service size, voltage, load assumptions, or intended uses for the six (6) proposed 20,000-square-foot flex buildings.
- Any correspondence addressing how these flex buildings were treated in load planning or utility evaluations.

6. Electrification and Future Load Growth Assumptions

- Any assumptions, analyses, or discussions regarding electric space heating, electric domestic hot water, electric vehicle charging, or future electrification mandates or incentives as they relate to the project's electrical demand.

7. Ratepayer Impact Analyses

- Any records evaluating or discussing potential impacts to existing electric ratepayers, including increased power purchase costs, dilution of hydropower allocations, or rate adjustments resulting from the proposed development.

For each category, this request includes records in any format, including but not limited to reports, emails, letters, memoranda, spreadsheets, presentations, consultant deliverables, meeting notes, and attachments.

If any portion of this request is denied, please provide the specific statutory basis for each denial as required by law. If responsive records exist but are maintained by another agency, please identify that agency.

I request that records be provided electronically where possible. If copying fees apply, please inform me in advance if the cost will exceed \$25.

Thank you for your attention to this request. Please confirm receipt and advise of the expected response date in accordance with FOIL requirements.

Sincerely,

David Benham
Penn Yan, New York

VILLAGE OF PENN YAN

Resolution 8 - 2026

Authorizing Execution of an Undertaking Agreement with the New York State Department of Transportation

Motion by Trustee _____, seconded by

Trustee _____ to adopt the following Resolution:

WHEREAS, the Village of Penn Yan, through its Department of Public Works, owns, operates and maintains municipal water, wastewater sewer, storm sewer and electric Departments with infrastructure which facilitates the providing of those utility services within the Village; and

WHEREAS, the State of New York, through its Department of Transportation, has several State highways including New York State Routes 364, 54, 54A and 14A which are located in several areas of the Village, within the rights-of-way of which is located Village utility infrastructure; and

WHEREAS, the existence of such utility infrastructure within the State highway right-of-way requires periodic maintenance and repair work on that utility infrastructure by Village employees and/or agents; and

WHEREAS, in order to facilitate such utility infrastructure maintenance and repair work within the State highway rights-of-way the Board of Trustees is considering entering into an Undertaking Agreement with the New York State Department of Transportation pertaining to work affecting State highways, which Undertaking Agreement establishes responsibilities, obligations and liabilities on the part of the Village with respect to such Village work within such State highway rights-of-way; and

WHEREAS, the Board of Trustees has had occasion to review the terms and conditions of the proposed Undertaking Agreement, a copy of which was distributed along with this Resolution in advance of action thereon.

NOW THEREFORE BE IT RESOLVED, THAT:

1. The Board of Trustees determines that, pursuant to NYCRR Part 617.5(c)(2), this is a Type II Action since any contemplated maintenance or repair work within New York State highway rights-of-way would be with respect to existing infrastructure, therefore designates itself as Lead Agency and accordingly finds that no environmental review will be required with respect hereto.

2. The Board of Trustees finds that it would be in the interests of the Village to investigate into potential benefits to the Village of entering into the Undertaking Agreement with the New York State Department of Transportation.
3. If, in the mutual opinions of the Mayor, Village Clerk/Treasurer, DPW Director and the Village Attorney, that such Undertaking Agreement will benefit the Village, the Mayor is authorized to execute such Undertaking Agreement on behalf of the Board of Trustees.

VILLAGE CLERK'S CERTIFICATION

STATE OF NEW YORK)
COUNTY OF YATES) SS:

I, the undersigned, Clerk of the Village of Penn Yan, Yates County, New York, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a meeting of the Board of Trustees of the Village of Penn Yan, duly and regularly called and held on the 2nd day of March, 2026, at which a quorum was present and participated in throughout, said Resolution having been passed, and that the same has not been in any way rescinded or annulled but is still in full force and effect and is duly entered in the minutes of said meeting.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the said Village the 3rd day of March, 2026.

(SEAL)

Holly Easling, Village Clerk/Treasurer
Village of Penn Yan



UNDERTAKING

For the benefit of
The New York State Department of Transportation
In connection with work affecting state highways
(For use by New York municipalities and federal agencies)

WHEREAS, the undersigned _____ (Municipality, County, Town, City or Village, or any agency of the federal government, hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. Payment & Release of Liens. Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. Indemnity. In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, _____ (Municipality-County, Town, City, Village or federal agency) agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee (attach Resolution of Approval).

Authorized Agent

Date

Print Name/Title

Address

()

Phone number

Address

e-mail