

**§ 167A-52 Luther Forest Technology Campus Planned Development District No. 46.**

[Adopted 5-18-2004 by L.L. No. 6-2004]

A.

Short title and general provisions.

(1)

This local law shall be known as "Local Law Number 6 of 2004 of the Town of Malta" or "Luther Forest Technology Campus Planned Development District" (hereinafter the "District" or the "PDD").

(2)

The Zoning Ordinance of the Town of Malta, as adopted January 3, 1989, codified by Local Law No. 2 of 1995, and the Zoning Map of the Town of Malta set forth therein and made a part thereof, are amended by changing from the existing zoning districts and establishing the aforesaid District, which District is designed to contain one or more world-class quality employers in an environmentally friendly business campus operating nanotechnology manufacturing facilities, nanotechnology research and development facilities, businesses supportive of nanotechnology manufacturing and research and development, offices, commercial, a conference center, single-family residences and educational, public and recreational trails and facilities. See Appendix B, Definitions.

Editor's Note: Appendix B is on file in the Town offices.

(3)

The area of the District consists of 1,099.57 +/- acres in the Town of Malta (henceforth "Town") identified by the metes and bounds description set forth in the margin.

Editor's Note: A complete metes and bounds description is on file in the Town offices.

The proposed campus includes not only the Districts as formed by this legislation, but also 315 +/- acres of adjacent land in the Town of Stillwater identified by the metes and bounds description set forth in the margin (henceforth "Stillwater Parcel").

Editor's Note: A complete metes and bound description is on file in the Town offices.

The District and the Stillwater Parcel are collectively referred to as the "campus."

[Amended 2-5-2007 by L.L. No. 2-2007]

(4)

The District shall be laid out in conformance with the maps set forth in Appendix A

Editor's Note: Appendix A is on file in the Town offices.

hereto (No. 1 Zoning, No. 2 Vegetative Buffers, No. 3 Roadways, No. 4 Round Lake Bypass, No. 5 Exit 11A; No. 6 Drawings: Entrances to Village of Round Lake; Views of Campus).

(5)

All land uses, development, construction and operation of facilities within the District shall be conducted in accordance with:

(a)

This legislation;

(b)

The environmental thresholds and conditions contained in this legislation and the findings statement;

(c)

The uses and site plans as approved by the Town Board and the Planning Board; and

(d)

Any other relevant requirements and conditions of state and federal environmental laws and permits issued thereunder.

(6)

The development and use restrictions contained within this PDD and any specific conditions to approvals issued hereunder shall be interpreted so as to bring about the intent of SEQR and the Town Zoning Ordinance to protect the public from adverse environmental impacts to the maximum extent reasonably practicable.

(7)

In any instances where specific permitted uses, area or height standards, development guidelines and/or review procedures specifically set forth in this PDD, as the same are specifically applicable to the District, conflict with other general provisions or requirements of the Town of Malta Zoning Ordinance, the particular provisions set forth herein shall take precedence. In all instances not specifically addressed in this PDD, the Code of the Town of Malta shall apply.

(8)

Development within the District, exclusive of Development Areas 1 and 10, shall not exceed 2,000,000 square feet.

B.

Authorized development by area. The District has been divided into distinct areas as set forth on the Maps, henceforth "areas." Areas 1 through 11, in which business development is permitted, are also referred to as "development areas." The following uses, defined in Appendix B,

Editor's Note: Appendix B is on file in the Town offices.  
are permitted in the following areas:

(1)

Area 1.

(a)

Allowable uses.

[1]

Nanotechnology manufacturing facilities (up to a maximum of four manufacturing facilities, three to be located in the "Town of Malta, one in the Town of Stillwater) (NOTE: The Town of Malta cannot authorize or prohibit construction within the Town of Stillwater. The Town of Malta, however, as lead agency for the SEQRA process underlying the within zoning change, has evaluated environmental impacts for the Campus in general, and Development Area 1 in particular, with a maximum of four nanotechnology manufacturing facilities in the configuration set forth above. Should a material act be taken in violation of this number or configuration of nanotechnology manufacturing facilities anywhere within Development Area 1, the Code Enforcement Officer of the Town of Malta or a court of competent jurisdiction may require that no further construction be made, and/or no further industrial activity take place, until such time as the violation has been cured.). Each such facility shall not exceed 350,000 square feet (maximum clean room area, 200,000 square feet), and may include as accessory buildings to support each manufacturing facility a central utility building of up to 50,000 square feet; other small facilities and support buildings, each up to 10,000 square feet; and one or more office buildings together totaling up to 100,000 square feet. Each facility, together with these accessory buildings, shall not exceed a total of 800,000 square feet.

[2]

Public and private utilities.

(b)

Uses by special use permit: none.

(2)

Areas 2 and 3:

(a)

Allowable uses: nanotechnology manufacturing support businesses; community uses; offices; public and private utilities.

(b)

Uses by special use permit: nanotechnology manufacturing facilities (up to 100,000 square feet of clean room area or less for each facility).

(3)

Areas 4, 5 and 9:

(a)

Allowable uses: nanotechnology manufacturing support businesses; offices; public and private utilities.

(b)

Uses by special use permit: nanotechnology manufacturing facilities (up to 100,000 square feet of clean room area or less for each facility).

(4)

Areas 6, 7 and 8:

(a)

Allowable uses: community uses; offices; public and private utilities.

(b)

Uses by special use permit: campus commercial.

(5)

Area 10:

(a)

Allowable uses: single-family residential; public pathways and trails; public and private utilities.

(b)

Uses by special use permit: none.

(6)

Area 11:

(a)

Allowable uses: conference center with a maximum of 40 rooms for overnight accommodations and conference center capacity of 200 people; community uses; public and private utilities.

(b)

Uses by special use permit: none.

(7)

Areas 12, 13, 14, 15, 17 and 19:

(a)

Allowable uses: buffer zone; managed forest; managed wetland; public pathways and trails; public and private utilities.

(b)

Uses by special use permit: none.

(8)

Area 16:

(a)

Allowable uses: public pathways and trails; managed wetland; public and private utilities.

(b)

Uses by special use permit: none.

(9)

Area 18:

(a)

Allowable uses: community uses, public park; public pathways and trails; public and private utilities.

(b)

Uses by special use permit: none.

C.

Special use permits; siting criteria and guiding principles. All uses identified in this subsection, whether allowable or permitted only by special use permit, shall meet the siting criteria and guiding principles set forth herein.

(1)

Uses by special permit. An application for a proposed special use permit shall be accompanied by a demonstration that the proposed use is consistent with the authorized uses set forth in Subsection B above, as well as the criteria and guiding principles set forth below, as applicable. The Town Board shall approve or deny an application for a special use permit within 31 days of receipt of a complete application. If such application is approved, the Planning Board shall complete the site plan review process under the procedures and timetable of Town Law § 274-a relative to site plan approval. In evaluating, interpreting and applying the siting requirements set forth below, as well as the other provisions of this PDD, the Town Board and Planning Board of the Town of Malta shall refer to and be guided by the PDD Master Development Plan, Luther Forest Technology Campus (henceforth "Master Plan") adopted herewith and set forth as Appendix D.

Editor's Note: Appendix D is on file in the Town offices.

The Master Plan may be amended by the Town Board from time to time following notice and public hearing as required by §§ 264 and 265 of the Town Law regarding zoning amendments. Where the Master Plan and this local law are inconsistent, this local law shall control.

(2)

Proposed nanotechnology manufacturing, nanotechnology manufacturing support businesses, and research and development facilities shall meet the following siting criteria and guiding principles.

(a)

Business orientation. Entities shall be oriented towards nanotechnology and related clean room development, manufacturing and support.

(b)

Relationships with campus businesses. Entities shall provide synergies with on-going businesses within the campus.

(c)

Environmental impacts. Entities shall not produce air emissions, vibration, excessive traffic, or other adverse impacts which would be incompatible with the thresholds and limitations set forth in the findings statement, and all requirements of state and federal law and regulation.

(d)

Image. Entities shall provide economic stability and high visibility to the campus.

(e)

Campus orientation. Entities shall strongly contribute to a business campus environment by providing compatible architectural elements and complementary business focus.

(f)

Employment impact. Entities shall provide an expanded employment base to the region, particularly for technically competent individuals. New employment opportunities created within the District shall be posted at the Town Hall, Round Lake Village Hall, Saratoga County Personnel Department and on the internet at a site linked to the Town's web site.

(g)

Intellectual impact. Entities shall add to the intellectual base of the region.

(h)

Leadership. Entities shall have a demonstrated, long-term commitment to building public trust and establishing a positive and responsive relationship within their respective communities through implementation of successful community participation programs and/or other evidence of responsiveness to community interest and concerns. Companies will demonstrate environmental leadership and implement policies that ensure public accountability. Entities must be committed to promoting the highest standards of organizational integrity and public responsibility.

(i)

Safety standards. Entities shall have high standards for worker health and safety as evidenced by their existing compliance record with OSHA and other state and federal reporting agencies.

(j)

Public trust. Entities shall consistently exercise and promote the highest standards of organizational integrity and

public responsibility. Owners and operators shall meet all governmental and industry standards for air, land and water quality. Hazards that may exist at a facility shall be identified using state of the art hazard assessment techniques. All efforts shall be made to design, operate and maintain a safe facility and to prevent accidents. This shall include compliance with the state of the art practice in the industry (as well as any government regulations) and impose a continuing obligation to review and comply with consensus codes, industry practices or guidelines. This obligation is on-going, which means that facilities and practices must be upgraded as changes occur in industry practices. Owners and operators must be aware of unique circumstances associated with their operation, keep abreast of accidents and near misses in the general industry, assess the impacts of possible releases and have an up-to-date contingency plan.

(k)  
Energy conservation. Entities shall conserve energy to the maximum extent practicable, considering each entity's purpose and mission. Buildings shall be designed, constructed and operated in substantial accordance with green building standards. Tools and equipment will be selected with appropriate consideration given to energy consumption. Employees shall be encouraged to ride share or undertake other forms of travel efficiency with the goal of reducing transportation impacts to the ecosystem. Reference is made to New York State Energy Research and Development Authority, LEED: Leadership in Energy and Environmental Design, [www.nysed.org](http://www.nysed.org).

(l)  
Sustainable use of natural resources. Entities shall plan for and commit to the sustainable use of natural resources, with due consideration given to preservation of critical habitats.

(m)  
Worker protection. Entities shall achieve and maintain high standards for worker health and safety and implement progressive measures for risk management and reduction.

(n)  
Environmental protection. Entities shall go beyond compliance with minimal or permit standards and continuously eliminate or reduce potentially harmful discharges into the environment. Entities must continuously seek and use better substitutes with improved economic performance for chemicals that have documented adverse environmental impacts. Best available technology (BAT) and best available control technology (BACT) for pollution control must be used at the time of facility construction. Every three years the owner or operator shall evaluate the impacts of BAT or BACT on public health and the environment. This evaluation shall be submitted to the Town upon request. If in-place technology creates conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life and property throughout the area, the owner or operator shall be required to upgrade its pollution control equipment and install the latest BAT or BACT within two years. See Exhibit E at V.D.1.g.-j.

Editor's Note: Exhibit E is on file in the Town offices.

(o)  
Waste management. Entities shall abide by New York State's hierarchy of solid waste management goals regarding reuse and recycle objectives. Reference is made to 6 New York Code of Rules and Regulations Part 360; RCRA Title D; Code of Federal Regulations Title 40, Chapter 1, Subchapter I; and [www.epa.gov/docs/epacfr40/chapt-1.info/](http://www.epa.gov/docs/epacfr40/chapt-1.info/). Companies will proactively seek innovative ways to reuse and recycle waste, thereby minimizing solid and hazardous waste materials that require landfilling.

(p)  
Tax abatement limitations. Entities locating within the District are only permitted to use the NYS Empire Zone Program or equivalent state program for tax incentives. Additionally, the only permitted IDA-approved program for which an entity may seek tax relief shall be for exemption from the mortgage recording tax and/or the local share of sales tax for construction materials costs. No owner, lessee, user, possessor or operator of any lands or facilities within the District shall apply for or receive any abatements of local real property taxes for or with respect to land and/or facilities within the District, either through a payment-in-lieu-of-taxes agreement with an industrial development agency as might otherwise be authorized and available on account of the provisions of Article 18-A of the General Municipal Law, §§ 858(15) and 874, or otherwise. Any contrary provisions of this subsection notwithstanding, nothing in this subsection shall preclude the owner of Development Area 1 or any manufacturing facility therein from entering into a payment-in-lieu of tax agreement with an industrial development agency with the consent of all taxing jurisdictions whose purpose is not to abate real property taxes but rather to allocate payments among the taxing jurisdictions in an agreed-upon manner. (See Subsection C(2)(q) below.)

(g)

Alternate PILOT or tax sharing agreements, Development Area 1. The other provisions of this local law notwithstanding, nothing herein shall prohibit entities owning and/or operating businesses in Development Area 1 from entering into a payment-in-lieu-of-taxes (PILOT) agreement, providing that PILOT payments (in the amounts required by C.3.g.) be allocated in a specific ratio between the Towns of Malta and Stillwater, and the Ballston Spa Central School District and Stillwater Central School District. It is the intention of the Town of Malta to enter into such a revenue sharing arrangement on a basis of 75% (Malta) to 25% (Stillwater), which arrangement would remain in effect until certificates of occupancy have been issued for nanotechnology manufacturing facilities in Development Area 1 in both the Town of Malta and the Town of Stillwater, that is, until each Town has one such facility. Likewise, in the event Development Area 1 is owned by a private entity, it is the intention of the Town of Malta to enter into a tax-sharing arrangement with the Town of Stillwater on a basis of 75% (Malta) to 25% (Stillwater), should law permit, until certificates of occupancy have been issued for nanotechnology manufacturing facilities in Development Area 1 in both the Town of Malta and the Town of Stillwater.

(r)

Traffic mitigation. Nanotechnology manufacturing facilities shall use the off-peak shift changes throughout the operating life of the facility substantially as described in the traffic studies contained in the Statement of Findings, Exhibit B.

Editor's Note: Exhibit B is on file in the Town offices.

No amendment of this law shall be made to allow for a different sequence or timing of shift change times for such nanotechnology manufacturing facilities without the preparation of a supplemental GEIS regarding proposed variant shift change impacts on adjacent street traffic.

(s)

Manufacturing activities. All manufacturing uses authorized within the District shall take place entirely within enclosed buildings, except for those facilities or portions of facilities, such as chemical bulk, petroleum, or materials storage facilities or electrical substations, which are required by code, regulation or good engineering practice to be outside of the manufacturing buildings.

(t)

Environmental management plans. Plans to meet the criteria set forth above with respect to energy conservation, sustainable use of natural resources, environmental protection and waste management shall be in writing, and copies of such plans shall be made available to the Town of Malta by the owner of the property upon which the monitored activity is located upon request or by the owners. The Town of Malta shall make suitable accommodation to protect trade secrets. Upon request of the Town of Malta, such plans shall be made available to the public by posting of the same on the internet by said owner or by the owners.

(u)

Environmental audits. All entities owning or operating businesses within the District which conduct activities which may have an adverse environmental impact (e.g., produce wastes or emissions possibly dangerous to human health or the natural environment, noise, transportation of volatile or dangerous chemicals or substances), shall make and provide the Town of Malta with annual environmental audits. In addition, all such entities shall be liable to the Town for the expense of air quality or other environmental testing to be performed by an independent expert at the request of the Town and at the expense of the entity. The necessity, scope and frequency of audits and testing, and the mechanism for funding, shall be determined during site plan review.

(3)

Campus commercial.

(a)

General intent. Commercial uses shall provide such goods or services primarily for the use and benefit of employees and visitors to the campus, so as to reduce environmental impacts by providing services within the campus. The intent of this provision is to prohibit commercial uses that will create a commercial center within the campus. Commercial uses will not be permitted which will attract customers from outside the campus who otherwise will have no relationship with the campus, and which uses will therefore not be compatible with the campus commercial use designation.

(b)

An entity may provide, itself or through a concessionaire, goods and/or services for its employees, such as a cafeteria or medical facility. Such provision of goods and/or services are deemed accessory to the entity's primary use, provided such goods and/or services are offered in the entity's own building.

(c)

All uses for the provision of goods and/or services other than as described in Subsection C(3)(b) above shall require a special use permit from the Town Board.

(d)

No freestanding structures used exclusively or primarily for campus commercial uses are permitted in the District.

(e)

Site plan review. All campus commercial uses shall have site plan review pursuant to Article VI of Chapter 167 the Code of the Town of Malta.

D.

Site plan and building permit requirements.

(1)

All development shall be subject to site plan review pursuant to the Town Code of the Town of Malta and New York State Town Law. All building plans shall be approved by a duly licensed (NYS) architect or duly licensed (NYS) engineer. All construction shall comply with current International Building and Fire Codes as enacted in New York State Code of Rules and Regulations. All construction shall be subject to inspection by the Town of Malta Code Enforcement Officer, the Town's engineers, the Town of Malta Highway Superintendent, and/or the Town's agent, as directed by Town of Malta Building and Planning Department.

(2)

All roadways denominated herein as primary arterial boulevards and local streets shall be built to the technical specifications of Town highways in the Town of Malta and County highways in the County of Saratoga for the class of use of the highway in question. The primary arterial boulevards shall be divided by a median as evidenced in Appendix A, Map No. 3.

Editor's Note: Appendix A is on file in the Town offices.

If the standards for Town and County highways differ, the more stringent standards shall control. Prior to construction, plans for such roadways shall be submitted and approved by the Town of Malta Highway Superintendent, Town engineers and the Saratoga County Department of Public Works.

(3)

All roads, drainage facilities and easements and related rights-of-way shall be constructed by the developer in conformance with site plan(s) as submitted and approved by the Malta Town Planning Board, and as approved by the Town's engineers. All deeds issued for propert(ies) of or within the District shall be accompanied by a map prepared by a licensed surveyor showing the proposed transfer and setting forth the location of all proposed structures and improvements (including all roads, drainage facilities and easements and related rights-of-way) whether said proposed improvements are to be made by the transferor, transferee or a third party, which map shall be reviewed and approved by the Town Planning Department prior to filing with the Saratoga County Clerk. Proof of filing of the deed(s) and map(s) shall be provided to the Town within 10 days of filing.

(4)

It is anticipated that the roads within the District may be offered to the Town or County for dedication without cost to the Town or County. The Town or County have no obligation to accept the roads if offered for dedication. Either the Town or the County may require the dedication of one or more roads.

(5)

Except as otherwise set forth below, no site preparation, clearing, grubbing, erection of signs or construction shall be made without the property owner or its designee having applied for and received site plan approval from the Town Planning Board, and without a duly issued building permit. During site plan review, the Town Planning Board shall review and approve site layout, grading and drainage, access, landscaping, circulation, stormwater management, off-street parking, lighting, and any other items deemed necessary to complete its review. Nothing in this section shall prohibit selective tree harvesting in nondevelopment areas pursuant to a forestry management plan submitted to the New York State Department of Environmental Conservation and following all instructions of the Department, and subject to approval of the Town of Malta.

(6)

The hours of allowable outdoor construction shall be from 7:00 a.m. to 6:00 p.m., Monday through Saturday. Construction at other hours shall be allowed pursuant to the issuance of a building use permit to be issued by the Town of Malta Building and Planning Department. Said permits shall be issued in instances where the applicant

can demonstrate that it has, to the greatest extent practicable, established and implemented mitigation measures for any construction that will take place outside the proposed hours, and demonstrate a need for construction outside the allowable construction times. Said permit shall detail the dates, times and type of construction that shall be allowed.

(7)

Any application for site plan review hereunder shall contain a narrative statement of compliance with these PDD regulations, and the project conditions, mitigation measures and relevant impact thresholds which may be applicable to the development as set forth in the Findings Statement (Exhibit E)

Editor's Note: Exhibit E is on file in the Town offices.

adopted simultaneously herewith. If required, the applicant shall also complete a Luther Forest Technology Campus special use permit/site plan application, together with all required maps, studies, architectural renderings, building elevations and attachments.

(8)

Where a proposed site plan development presents issues regarding impacts that were not addressed in the GEIS or findings statement (such as impacts from changed or unanticipated circumstances), the Town Board or Planning Board may request further information such as a full environmental assessment form or further explanations to determine the significance of such potential impacts and whether a supplemental EIS, limited to those new issues, may be required.

E.

Subdivisions within approved nonresidential development areas.

(1)

Upon receiving site plan approval from the Planning Board for any particular development of lands within an approved development area and, if applicable, maintenance of a current certificate of occupancy for such allowed use, the owner of the parcel may subdivide same for purposes of transfer of ownership or a security interest, upon subdivision review and approval from the Planning Board, provided that the map required by Subsection D(3) above has been provided and approved in form; reciprocal easements or covenants or similar instruments which run with the land(s) to be subdivided in a form approved by the Town of Malta Building and Planning Department are in place which guarantee ingress and egress to the subdivided premises, for maintenance and financial responsibilities for required amenities (such as parking lots) and common facilities and lands of the campus (e.g., roads, sidewalks, trails, security), and the transferee has prepaid any fee and signed any agreements necessary to be a member of the landowners' association as set forth in Subsection V. Subdivision within any development area will not require owners to comply with setbacks, frontage and greenspace areas. The Town shall ensure adequate access and parking to all subdivided parcels.

(2)

Subdivisions of lands within approved development areas may also contain lands outside of the development areas which are designated for open space or common use, provided that no use or development of those lands shall be permitted which is inconsistent with the buffer or green space designations and/or forestry management provisions or other prescriptions of this PDD, and that all requirements of Subsection E(1) are met with respect to all transferred land.

(3)

This section does not apply to the incidental single-family residence uses within Area 10. Proposed subdivisions for residential uses within Area 10 will require such subdivision review and approvals as set forth in the Town of Malta Zoning and/or Subdivision regulations. Residential lots within Development Area 10 shall not have direct access to the industrial uses within other areas, nor shall such lands be included in the covenants and reciprocal access easements which will overlay industrial development lands in the other areas, nor shall the owners of such parcels be required to be members of the landowners' association described in Subsection V.

F.

Development agreements. All entities owning or operating nanotechnology manufacturing facilities (whether an anchor facility in Development Area 1 or smaller facility located in any development area), and all businesses leasing, owning or occupying an area of 100,000 square feet or more, are required to enter into a development agreement with the Town of Malta, which agreement shall be in place prior to submitting a site plan review application. Each such agreement shall provide, at a minimum, for the demonstration and fulfillment of the siting criteria and guiding principals set forth in Subsection C, above, and which shall provide a tangible benefit to the residents of the Town of Malta. "Tangible benefits to the Town" mean benefits over and above those identified

elsewhere in this law needed to accommodate or mitigate impacts resulting directly from the construction of facilities. Such benefits shall be substantial and shall contribute to quality of life in Malta. Examples of such tangible benefits are one or more of the following:

(1)

Contributions toward a community-wide library;

(2)

Contributions toward the construction of a community college or other educational institution;

(3)

Preservation of open space through purchase of development rights or fee acquisitions on a one-for-one basis to that space being developed;

(4)

Creation of museums, streetscapes or community focal points (e.g., statues, fountains, street art);

(5)

Beautification projects;

(6)

Construction of multi-use trails for nonmotorized connectivity such as those needed to connect the LFTC to the Zim Smith Trail, residential areas and commercial centers;

(7)

Historic preservation;

(8)

Recreational facilities.

G.

Impact thresholds. All development, use and occupancy of lands within the District shall be within the thresholds, standards, conditions and limitations set forth in Appendix E, Findings Statement.

Editor's Note: Appendix E is on file in the Town offices.

H.

Enforcement and penalties.

(1)

Violations of the provisions set forth in this PDD, including, but not limited to, violations of the thresholds set forth in Exhibit E, may be enforced in either the Town Court of the Town of Malta or in New York State Supreme Court, County of Saratoga. Enforcement proceedings may be brought on by the State of New York or the Town of Malta. The Supreme Court may issue an injunction prohibiting violation of this PDD, and/or an injunction prohibiting further development or use of any single parcel or development area within the district. Where the alleged violation concerns aspects of the district common to the owners, such as the construction and/or implementation of traffic mitigation measures or activities within nondevelopment areas, the Supreme Court may issue an injunction prohibiting further development anywhere within the district.

(2)

The Code Enforcement Officer of the Town of Malta may halt construction in any single parcel or development area within the District. Where the alleged violation concerns aspects of the District common to the owners, he may recommend to the Town Board that the demand be made against bond(s) or letter(s) of credit issued by the landowners' association.

(3)

The development and use restrictions contained within this PDD shall be interpreted broadly so as to bring about the intent of this PDD to protect the general public from negative environmental consequences to the maximum extent reasonably practicable.

(4)

In lieu of any fines otherwise provided by law, the sentencing court shall impose the following fines for the following offenses of this local law:

(a)

For a violation of provisions of this local law related to noise: a fine from \$500 to \$1,000 per violation for the first violation; from \$1,000 to \$2,000 per violation for the second violation within 18 months; and from \$2,000 to \$5,000 per violation for the third violation within 18 months of a prior violation.

(b)

For a violation of provisions of this local law related to driving a construction vehicle through the Village of Round Lake (other than on the bypass): \$100 to \$200 per violation for the first violation within 18 months of a prior violation; \$500 to \$1,000 per violation for the second violation within 18 months of a prior violation; \$1,000 to \$2,000 per violation for the third violation within 18 months of a prior violation.

(c)

For a violation of provisions of this local law related to cutting of trees: \$100 to \$200 per caliper inch at breast height, plus replanting of cut trees.

I.

Performance bonds or letters of credit. As directed by the Town of Malta Planning Board, the developer and the landowners' association shall file one or more bonds or letters of credit with the Town Supervisor in the amounts and form acceptable to the Town Engineer and Town Attorney to guarantee such performance and/or completion of the requirements of this PDD, and/or a bond or letter of credit for each discrete development or phase of development made or to be made therein, prior to issuance of a building permit for such development or phase of development. All such bonds and letters of credit shall remain in place until the satisfactory completion (including, but not limited to, issuance of a certificate of occupancy) and maintenance for one year after completion of each such discrete development or phase of development, including landscaping.

J.

Access and circulation. Access and traffic circulation within the Campus shall be provided by the following:

(1)

Site access. The developer shall provide for a connection to the campus from the Adirondack Northway (I-87) and US Route 9/NYS 67 with a bypass road around the Village of Round Lake constructed in general conformance with the plans set forth in Appendix A at Maps 4 and 5,

Editor's Note: Appendix A is on file in the Town offices.

and secondarily to Cold Springs Road. The site access will connect to the primary arterial boulevards as herein described. Phasing of site access shall be governed by the traffic thresholds and other traffic-related findings as adopted in Appendices C and E.

Editor's Note: Appendices C and E are on file in the Town offices.

(2)

Primary arterial boulevards shall be the primary circulation roadways within the campus and shall connect the various approved development areas. The boulevards shall be landscaped and shall provide a paved side path, of similar design and construction to the existing Dunning Street/Plains Road bike path, for pedestrian and bicycle circulation. No development shall have frontage on the primary arterial boulevards to enhance the vehicle capacity of these roadways and the aesthetics of the overall campus setting. There shall be a minimum one-hundred-foot-wide undisturbed buffer from the edge of any road or path to any parking or other construction within a development area.

(3)

Local streets and service roads are to provide circulation within development areas, as necessary, and connecting facilities and their related parking areas.

K.

Stormwater management. Separate stormwater management plans compliant with New York State Stormwater Management Design Manual shall be submitted for each site. In addition to the requirements set forth in the design manual, predevelopment infiltration into the lacustrine sands will be maintained for each site. A stormwater pollution prevention plan will be developed for each site as required by the State Pollutant Discharge Elimination System regulations and subject to approval in form and content by the Town of Malta Planning Board and New York State Department of Environmental Conservation. A copy of the NYSDEC letter of acceptance of the subject notice of intent shall be submitted to the Town prior to commencing any construction.

L.

Sewage transportation. Sanitary sewers will be provided throughout the campus by connection to the County sewer system. All sewer facilities shall be designed and constructed in accordance with the standards of the Saratoga County Sewer District No. 1. The owners and/or development entities shall enter into agreement with the Saratoga County Sewer District No. 1 (Sewer District) providing for ownership and operation by an entity other than the Sewer District subject to the direction of the Sewer District with performance guarantee through a bond approve in form by the Sewer District and the Town Attorney, or ownership by the Sewer District. No sanitary sewers shall operate as transportation corporations under New York State law. The sewer district shall determine what portion of these facilities are appropriate for public ownership. The determining factor for acceptance of dedication shall be whether such sewer facilities will provide service to only one, or potentially multiple, specific user(s) or entities within the campus.

M.  
Water transportation.

(1)  
Water for the initial 300,000 square feet of development in Development Area 5, for the residential development in Development Area 10, and for a backup supply for the nanotechnology manufacturing buildings in Development Area 1 will be provided by Saratoga Water Services, Inc., or other public water supply source approved by the Town of Malta. As part of the site plan review process, the water supply company shall provide documentation from the appropriate state agencies indicating that permitted capacity is available to serve the proposed development.

[Amended 2-5-2007 by L.L. No. 2-2007]

(2)  
Water beyond the initial development will be provided directly from the Hudson River by means of a water main run from the river at a point in the Town of Stillwater through the lands of the Town to the campus, in conformance with plans and descriptions found in the findings statement and Master Plan. Alternatively, water may be provided from any water delivery system owned and operated by the County of Saratoga or any entity formed by the County of Saratoga specifically and exclusively to operate a water delivery system upon site plan approval by the Town of Malta Planning Board.

(3)  
Upon construction and connection of either of the Hudson River treatment plants, and the transmission main to the LFTC site, an emergency connection to the Saratoga Water Services, Inc. water system infrastructure shall be provided.

N.  
Security and emergency response planning. Measures shall be taken to protect against terrorism and to secure all hazards in accordance with best available technology and guidance of the US Department of Homeland Security, NFPA 1600 and/or other law enforcement agencies. Spill response plans, risk management plans and emergency response plans shall be prepared and maintained up-to-date as required by all state and federal regulations, including but not limited to NYS DEC regulations; US OSHA regulations and US EPA regulations.

(1)  
All manufacturing facilities and other facilities required by state or federal law, shall prepare and file facility emergency response and hazardous materials management plans with the County Emergency Management Response Agency and local emergency responders prior to the issuance of a certificate of occupancy, and shall keep filed plans updated as directed by the same and as needed. Such plans shall be filed with the Town of Malta. There shall be a standing fire, emergency and hazardous materials response brigade for each nanotechnology manufacturing facility prior to a certificate of occupancy being issued.

(2)  
All manufacturing facilities and other facilities required by state or federal law, shall prepare and file facility security response plan with the appropriate authorities prior to the issuance of a certificate of occupancy, and shall keep plans updated as directed by the appropriate authorities and as needed.

O.  
Architectural guidelines. The following guidelines shall apply, except that either the Town Board or Planning Board may modify these guidelines with respect to individual applications.

(1)

Nanotechnology manufacturing and support facilities.

(a)  
Pedestrian/public access building areas.

[1]  
Building facades shall promote a blend of corporate identity with the regional architectural influences.

[2]  
Rooflines shall not be long flat planes.

[3]  
Roof materials shall compliment the facades in both color and material.

[4]  
Colors shall harmonize with the surrounding woods.

[5]  
Styles using columns, arcades, divided glazed surfaces and pedestrian-scale details are encouraged.

[6]  
Large expanses of undivided reflective glass are discouraged.

[7]  
Masonry, brick, stone, metal and cast stone are preferred primary facade finishes.

[8]  
The use of exterior insulation foam systems (EIFs) at pedestrian contact levels is prohibited.

[9]  
Long unbroken horizontal facades are discouraged and facades that present a unified rhythm with numerous insets and broken planes are preferred.

[10]  
Up-lighting of facades is prohibited.

[11]  
Architectural styles that blend the modern international industry style building with the dominant regional historic vernacular styles (i.e., by using colonial, Greek revival, Victorian or classical influences, elements, building materials or finishes), are encouraged in focal point areas of public view, where otherwise appropriate and functional.

(b)  
Nonpublic/manufacturing and functional building areas.

[1]  
Functional need and industrial standards for utilities, deliveries, mechanical systems, and the like are recognized as requirements for those nonpublic view portions of the building.

[2]  
Guidelines for these areas are to be less restrictive and not intended to interfere with needs of the business. However, items listed below will be reviewed for adherence to the building's overall ability to blend as best as possible to its surrounding setting.

[3]  
Rooflines that are flat or slightly pitched are recognized as industry standard.

[4]  
Roof materials shall be selected so that roof colors are not reflective and are in the earth tone ranges.

[5]  
Building facade of concrete, masonry, steel, stone, or glass are to be permitted. However, attempts to blend with surrounding buildings and the environment are encouraged.

[6]

Building openings for overhead doors and loading areas shall be screened from public areas whenever possible.

[7]

Utility service structures and support buildings shall be of similar building style and design to their corresponding main structures.

(2)

Campus center facilities. All buildings within the campus center (Development Areas 2, 3, 6, 7, 9 and 18) shall have facades which front toward the public streets or core pedestrian areas, shall be constructed in such a manner as to promote pedestrian access to and throughout the campus center, and shall be enhanced by traditional architecture and appropriate landscaping.

(a)

Building facades shall be designed so that all sides of the building shall have a unified appearance.

(b)

Rooflines shall be designed to promote interest and avoid long, unbroken lines.

(c)

Entrances and building accents shall be enhanced through changes in the roofline.

(d)

Building colors shall compliment the entire campus core and be in harmony with existing and proposed buildings within the campus center; bold differences are discouraged.

(e)

The use of traditional building elements, such as columns, arcades, divided windows, architectural fenestration and pedestrian-scale details are encouraged.

(f)

Designs that incorporate interpretations of local vernacular styles are encouraged.

(g)

Masonry, brick, stone, and cast stone facades are preferred.

(h)

The use of extruded foam at pedestrian contact points is discouraged.

(i)

Buildings that incorporate interesting broken expanses along the facade are encouraged.

(j)

Buildings shall not be higher than 75 feet.

(3)

Landscaping standards and guidelines. The following guidelines shall apply to landscaping developed areas within the PDD:

(a)

Linkages to the parking, trails, walks, and drop-off points shall be landscaped in a manner that promotes areas for gathering, shade, and plantings indigenous to the surroundings.

(b)

Plantings shall be primarily smaller deciduous trees, which would reach a climax height of 30 to 50 feet.

(c)

New deciduous trees shall be augmented by flowerbeds of annuals and perennials.

(d)

Trees, plants and other landscape materials shall be those which are used typically through Saratoga County and have a specified hardiness zone classification of five or greater (e.g., Zones 1 through 5), and shall include a mixture of indigenous and adapted hybrid species.

(e)

Two hundred square feet of planting area shall be provided for every 20 parking spaces within the parking area. The provided planting area shall not be less than 5% of the total parking area and no more than 7% of the total parking area. Plantings within the 200 square feet shall consist of one deciduous tree with understory planting of shrubs and/or perennials. The minimum width of a planting area within the parking area shall be no less than 10 feet.

P.

Green space, buffers and setbacks. A minimum of 60% of the lands within the PDD shall be green space. Minimum buffers and setbacks between all adjacent land uses and zoning districts are identified on Appendix A, Map No. 2, PDD Buffers and Setbacks.

Editor's Note: Appendix A is on file in the Town offices.

To ensure that the buffers, open space and environmentally sensitive areas are adequately preserved during construction, buffer limits and the means of construction protection shall be established during the site plan review process, and shall include imposition of protective measures, such as fences.

Q.

Signs. The owners may construct and maintain monument entrance, directional and informational signs, in addition to normal street signs, within the District. Individual facility owners within the District may use either or both monument signs or building signs to identify their premises, however in no instance shall the signs exceed 200 square feet. Signs may be illuminated, providing that such signs are consistent with the lighting standards in Subsection T of this legislation and that, with the exception of common campus entrance signs, signs shall not be visible from outside the campus. Additionally, building-mounted signs shall not be located higher than 35 feet above finished grade, to the top of the sign. Main campus entrance signs and a way-finding signage package shall be submitted and approved prior to the first certificate of occupancy being issued for the District.

R.

Building height and area requirements.

[Amended 2-5-2007 by L.L. No. 2-2007]

(1)

Maximum building height (including all structures erected thereon) shall be 110 feet above finished ground level within Development Area 1, and 75 feet above finished ground level elsewhere within the PDD, including all rooftop-mounted equipment. For the purposes of this provision, "building height" is defined as the distance between ground level and the highest finished elevation of the building roof. Nanotechnology manufacturing facilities shall additionally have the following setback and buffer requirements, except for Development Area 10:

(a)

Buildings shall be set back within the development area a minimum of 700 feet to 1,000 feet from primary arterial boulevards to provide space for employee parking;

(b)

An additional front yard setback of 100 feet to 200 feet for entryways and landscaping shall be provided to screen parking;

(c)

Side and rear yard buffers shall be a minimum of 100 feet to provide room for landscaping and fencing; and

(d)

Buildings shall be set back 500 feet to 1,000 feet from major roads or primary arterial boulevards which may have the potential for vibration.

(2)

Setbacks for the Development Area 10 residential units will be 35 feet front, 45 feet garage, 35 feet for lot corners, 12 feet side and 20 feet rear.

S.

Parking. Parking shall be provided according to the following schedule applicable to the various allowable uses. The parking schedule set forth herein is the minimum standard; however, the Town of Malta Planning Board may reduce the amount of parking spaces for a particular use upon a showing by the applicant that the application of

the minimum parking schedule set forth above would create an excess number of parking spaces beyond what is reasonably needed, and that reducing required parking spaces would be environmentally beneficial (e.g., by reducing unneeded paving and impermeable surfaces, such as by construction of multilevel parking structures). Parking garages are strongly encouraged.

(1)

Nanotechnology manufacturing facilities: 0.8 parking spaces per employee (minimum; per shift).

(2)

Nanotechnology manufacturing support businesses: 0.8 parking spaces per employee (minimum; per shift).

(3)

Campus commercial: 1.0 parking spaces per 300 square feet net leaseable floor area. This requirement may be waived if adequate street parking or common parking lots are otherwise provided within the Campus Commons area of Development Areas 6, 7, 8 and 11.

(4)

Office: 1.0 parking spaces per 300 square feet net leaseable floor area, or, alternatively, one space per employee, as determined at site plan approval phase.

(5)

Community uses and conference center: adequacy of parking not subject to a particular standard; parking plans to be submitted and approved at site plan approval phase.

T.

Lighting. Outdoor lighting shall be installed so as to minimize to the greatest extent possible the lighting of the sky above the campus. No outdoor light shall be installed, modified or permitted to be used which casts a beam of light above a plane horizontal with the earth, other than temporary construction lighting. All outdoor lighting, excluding temporary lighting, shall be consistent with the following criteria:

(1)

Proposed area lighting will employ predominantly high-pressure sodium lighting, with the use of limited metal halide lighting as appropriate in areas outside of public views.

(2)

All lighting fixtures will be focused with full cut-offs installed in a horizontal position to prevent upward reflection or glow to night skies, and reduce the amount of light pollution beyond the edges of illuminated areas.

(3)

Lighting fixtures will be set at a height which will limit the amount of light trespass and encourage the use of two-hundred-fifty-watt high-pressure sodium fixtures, and minimize the usage of higher wattages. Using lower wattage fixtures at lower heights will help to distribute the lighting more evenly and eliminate pockets of bright light. Lighting fixtures shall be set back from the development site boundaries to mitigate glare to surrounding properties.

(4)

The light levels in parking and pedestrian areas shall be in accordance with Illuminating Engineering Society of North America standards. Parking areas shall have a minimum maintained level of 0.5 footcandles with a uniformity ratio of four to one.

(5)

Low-level lighting shall be used at each roadway and along boulevards for safety and security. Light fixtures shall be selected to prevent upward reflection or glow and prevent light trespass outside of road rights-of-way.

(6)

Security lighting at or near buildings will be lit down and inward toward the building to mitigate outward glare and reflection. Flood lighting shall be permitted only when no adequate substitute is available.

(7)

Signs may be externally or internally lit. Externally lit signs will have shielded fixtures to prevent glare and/or light trespass.

(8)

Adjacent to residential properties, no direct-light source will be visible at the edge of the development area.

(9)

All nonessential lighting must be extinguished after business hours.

(10)

Lighting fixtures (luminaires) and bulbs will be selected to optimize energy efficiency consistent with New York State energy plans.

U.

Forestry management. Areas 12, 13, 14, 15, 17 and 19 may be logged under a forestry management plan submitted to the New York State Department of Environmental Conservation (Department), shall be subject to all instructions of the Department, and shall be subject to approval of the Town of Malta, except that clear-cutting shall not be permitted in any nondevelopment area. Cutting of trees shall be permitted in Areas 16 and 18 only to the extent necessary to permit recreational uses. Portions of the District currently hold a Fisher Act tax exemption through a plan which has been filed with the Department. Prior to applying to the Town of Malta for site plan review for any property located within the District, the owner must have taken all steps necessary to remove Fisher Act classification (tax exempt status) for the development area in which the property subject to site plan review is located, and such classification must have been revoked. Immediately upon the effective date of this legislation, no timber may be cut except in strict conformance with the conditions set forth herein. The owner and/or landowners' association shall bond for erroneous cutting, subject to fines provided herein. The owner shall bear the expense of the cost of a Town consultant with respect to such plans.

V.

Common area management and security.

(1)

If there is a single owner of the land within the District, he, she or it shall be solely responsible for the management of common areas (e.g., nondevelopment areas, roadways, paths). Should the ownership of the District be in more than one person or entity, each owner shall be a member of a landowners' association, the contractual terms (including amendments) of which shall be approved by the Town Board of the Town of Malta, and which terms shall provide for security for the District and for the development and maintenance of common areas (henceforth "landowners' association"). No person or entity may acquire real property within the District without becoming a member of the landowners' association, and no person or entity may conduct any business activity (including construction) without being a member in good standing of the landowners' association. The landowners' association's terms shall also provide for the posting of bonds in amounts and forms approved by {and running in favor of} the Town, together with the payment of costs, fees and expenses necessary to provide adequate security and to develop and maintain common areas, and that the Town of Malta and/or any member of the association may enforce the terms of the association. Each member of the landowners' association shall be jointly and severally responsible for the acts or omissions of the association, and the Town of Malta may look to any such member to fulfill the obligations of the association upon the association's default. The public shall have free and unrestricted access to all paths, trails and walkways during daylight hours. Other language of this subsection notwithstanding, the association is not responsible for compliance within Development Area 10. If there is a single owner of the land within the District, he, she or it shall be solely responsible for the management of common areas (e.g., nondevelopment areas, roadways, paths). Should the ownership of the District be in more than one person or entity, each owner shall be a member of a landowners' association, the contractual terms (including amendments) of which shall be approved by the Town Board of the Town of Malta, and which terms shall provide for security for the District and for the development and maintenance of common areas (henceforth "landowners' association"). No person or entity may acquire real property within the District without becoming a member of the landowners' association, and no person or entity may conduct any business activity (including construction) without being a member in good standing of the landowners' association. The landowners' association's terms shall also provide for the posting of bonds in amounts and forms approved by {and running in favor of} the Town, together with the payment of costs, fees and expenses necessary to provide adequate security and to develop and maintain common areas, and that the Town of Malta and/or any member of the association may enforce the terms of the association. Each member of the landowners' association shall be jointly and severally responsible for the acts or omissions of the association, and the Town of Malta may look to any such member to fulfill the obligations of the association upon the association's default. The public shall have free and unrestricted access to all paths, trails and walkways during daylight hours. Other language of this subsection notwithstanding, the association is not responsible for compliance within Development Area 10.

(2)

The owners may form a business improvement district encompassing the campus (excluding Development Area 10 and including Area 18 at the option of the Town of Malta) to provide for security for the District and for the development and maintenance of common areas. Upon the establishment of such a business improvement district, the Town Board may waive some or all of the provisions of Subsection V(1) by resolution.

(3)

A Recreational Master Plan encompassing Development Area 16, and linkages to Development Areas 16 and 18, shall be completed prior to and as a condition for the issuance of a certificate of occupancy for the first 300,000 square feet of development within the District (exclusive of residential development in Development Area 10), which Recreational Master Plan shall be completed with the assistance of the Town's Planning and Parks and Recreation Departments, and the Town Planning Board, except that the Town Board may, by resolution, extend the time by which the Recreational Master Plan must be completed, in its sole and nonreviewable discretion.

[Amended 2-5-2007 by L.L. No. 2-2007]

W.

Mitigation. The following measures will be taken to mitigate the negative environmental impacts of the PDD, in addition to those set forth in Appendix E.

Editor's Note: Appendix E is on file in the Town offices.

With respect to all mitigation or impact fees specifically set forth herein, the amounts of said fees shall be adjusted for inflation annually in accordance with the Consumer Price Index. Unless otherwise stated, the mitigation requirements set forth in this local law shall be paid by the owners. Failure to complete any required mitigation measure, including the payment of any mitigation fee, shall be grounds for suspension by the Code Enforcement Officer or a court of competent jurisdiction to prohibit any further construction activity within the District until such mitigation measure or payment has been made.

(1)

Transportation.

(a)

Round Lake Bypass: in conformance with rendering of gateways set forth as Appendix A, Drawing(s) 6, which bypass must be constructed prior to the issuance of a certificate of occupancy for any buildings within the campus, except for residential development within Development Area 10, and except for 300,000 square feet of new building construction within Development Area 5.

(b)

I-87 Exit 11A, which exit must be constructed prior to a certificate of occupancy being issued for the third Nanotechnology Manufacturing Facility within Development Area 1 or 1,800 trips in the a.m. peak hour or 1,875 trips in the p.m. peak hour, all as more fully set forth in Appendix E.

(c)

Thresholds: 600 trips or 500,000 square feet of occupied (i.e., nonmechanical) floor area per each development phase. A total of 2,400 trips or 2,000,000 square feet of occupied floor area shall be permitted, inclusive of the Luther Forest Campus and the NYSEDA STEP property.

(d)

Should an access road be built into the District from a new exit on Interstate 87, land belonging to individuals residing on Easy Street in the Town of Malta could foreseeably be taken through the eminent domain process. Although the owner of the District may purchase one or more of these Easy Street properties on terms agreeable to the parties, and although owners of East Street properties are guaranteed by the New York State and Federal Constitutions and by statute just compensation for any takings, the entity applying for site plan review of Development Area 10 ("developer") shall, as a condition for receiving subdivision approval, offer to (1) purchase the parcels of owners of real property as of the date of this legislation identified by Tax Map Numbers 240.-2-19.2, 240.-2-19.3 and 240.-2-19.4 for fair market value, said value to be determined by an MAI appraisal obtained at the expense of the developer; or (2) exchange with the individual owners of said parcel's their respective parcels for a house and property located in Development Area 10 of equivalent market value, said values to be determined by MAI appraisals obtained at the expense of the Developer. This offer must remain in effect for two years from the date first extended.

(2)

Electric power. At critical viewsheds, electric transmission lines will be single-pole, double-davit overhead lines

and incorporate necessary landscaping and screening. 1.1 miles of electric transmission lines shall be located underground, as set forth in Exhibit F. All distribution lines within the campus associated with the project shall be underground. A mitigation fee of \$950,000 shall be paid to the Town of Malta as mitigation for the visual and other impacts of the overhead transmission lines, to be used for mitigation of other overhead utility lines within visual proximity of the proposed transmission line, said sum to be indexed for inflation. Payment of the mitigation fee shall be made on or before commencement of construction of the transmission line. The existing distribution line proximate to 84 Lumber on NYS Route 9 will be buried.

[Amended 10-1-2007 by L.L. No. 18-2007]

(3)

Telecommunications. Cellular communications facilities are restricted to those maximum heights as set within Subsection R and shall only be permitted as building mounted structures.

(4)

Quality of life. Owners shall have the responsibility of participating in committees formed from time-to-time by the Town Board concerning issues related to the campus. A committee shall be formed by the Town of Malta named the "Luther Forest Technology Campus Community Response Board," which shall advise the Town Board on issues related to the campus, the members of which shall be appointed by the Town Board for one-year terms.

(5)

Growth-inducing impacts.

(a)

Future planning studies: The Town of Malta intends to complete Master Plan and Zoning updates as well as a Town-wide Generic Environmental Impact Statement prior to completion of the first fab in Development Area 1. Throughout build out of the campus, the Town will also undertake various other planning studies, and periodically update the Town Master Plan and Zoning Ordinance as the Town Board deems necessary. Each business/tenant locating within the LFTC will contribute to a Town Planning Fund which will be used to complete the studies and implement the planning strategies necessary to meet the Town's goals. Contributions will be due at the time of site plan approval and will be in the amounts outlined below:

[1]

Nanotechnology manufacturing facility in Development Area 1: \$100,000 (each facility); and

[2]

Ancillary development within LFTC: \$0.12 per square foot.

(b)

Open space and recreation.

[1]

The owner shall transfer to the Town of Malta by warranty deed the parcel designated on Exhibit A, Map 1, as Development Area 18 to be used for park, community and/or recreational purposes, in the size of at least 28 acres, prior to or at the time of the first application for site plan review of any land within the District. The owner shall pay all closing costs, including the costs of a survey. The owner shall take all steps available to remove Fisher Act designation from Development Area 18.

[Amended 2-5-2007 by L.L. No. 2-2007]

[2]

All easements obtained or retained by the owners for placement or maintenance of water and/or sewer lines shall also contain an easement for use as public pathways and trails, paved or unpaved. The form and extent of use of these easements for public pathways and trails shall be determined by the Town of Malta Planning Board during site plan review, or by later requirement of the Malta Town Board by resolution, on notice to the owner(s) of the affected easement(s) and the landowners' association, at the expense of the owners. The Town Board shall have the ability to waive this requirement when it proves to be impracticable or undesirable, upon consultations with the Town Parks and Recreation Department and the Town Planning and Building Department.

[3]

To further minimize the impact of the campus on the open space and recreational facilities of Malta, an open space and recreation fee of \$0.69 per square foot shall be paid for all nonresidential structures constructed and

\$1,000 per residential housing unit. (NOTE: Said fees are based on 2004 dollars and shall be adjusted for inflation pursuant to the Consumer Price Index.) Said sums shall be due and payable at the time a building permit is obtained. It is further understood that these open space and recreation fees reflect a credit for the value of the 28 acres of land to be received from the District. Open space and recreation fees paid pursuant to this legislation shall only be expended for open space and parkland acquisition and recreational capital improvements or for debt service relating to said open space and recreation capital improvements expenditures. The open space and recreation fee collected should be expended within 10 years. All open space and recreation fees shall be calculated by the Town of Malta Building and Planning Department at the time of initial site plan application, as applicable.

[Amended 2-5-2007 by L.L. No. 2-2007]

(6)  
Health and safety.

(a)  
To further minimize the potential impact of excessive air emissions from traffic between the campus and the Town, the owner or landowner's association shall study (or cause to be studied), in conjunction with the Town Planning Department, the feasibility of a shuttle system between the campus and downtown area of Malta. The system may be designed and operated by the owners or a third party. The study shall be completed prior to the issuance of a certificate of occupancy of the first manufacturing facility within Development Area 1. The study shall be updated prior to the issuance of a certificate of occupancy of each additional manufacturing facility within Development Area 1, or as requested by the Town of Malta.

(b)  
Independent environmental audits. Environmental audits of the nanotechnology manufacturing facilities within the campus shall be completed by a qualified, independent third party, as requested by the Town of Malta. The audit shall consist of a review of appropriate local, state and federal laws, implementing regulations and guidance documents and the facilities compliance with these laws, implementing regulations and guidance documents, as well as the individual permit conditions for each of the permits that have been issued for the facility. The cost of this audit shall be paid for by the owner of the facility.

(c)  
Noise. The owner operator of each nanotechnology manufacturing facility shall be required to perform and fund noise monitoring at the following milestones and frequencies:

[1]  
Quarterly for the first year after the commencement of full operation, and thereafter as requested by the Town Board;

[2]  
Upon reinstallation of venting equipment.

(7)  
Emergency services. It is the Town's goal to maintain the involvement of its citizens in fire and ambulance services, and to provide excellence in meeting fire and health related emergencies. Individual owners and operators of nanotechnology manufacturing facilities shall prepare written annual emergency preparedness plans. These plans shall identify risks and disclose dangers and specify training and equipment needs. These plans shall be prepared in consultation with the emergency services providers in the Town of Malta and the Malta Emergency Preparedness Committee.

(8)  
Construction impacts.

(a)  
Inspectors. The owners shall pay all costs associated with building inspections, including the hiring and employment costs (including fringe benefits and employers' tax contributions) of one or more full- or part-time building inspectors whose responsibility shall be to provide inspection services at the campus. This cost shall be calculated and billed on an hourly basis.

(b)  
Engineering, expert and legal professional fees. Engineers', experts' and attorneys' fees incurred by the Town of

Malta in connection with the inspection, monitoring and review of the PDD shall be paid by the owner whose property and/or application is serviced by those professionals. Owners shall be required to fund an escrow account as determined and administered by the Town of Malta Building and Planning Department.

X.

Trails. The owner shall construct and maintain paved shared-use public pathways and trails within the campus at a minimum of 7.5 miles and as set forth on Exhibit A, Map 2.

Editor's Note: Exhibit A is on file in the Town offices.

These trails shall be available to the public on a year-round basis from dawn to dusk for all nonmotorized vehicular uses. The shared-use public pathway and trails within the campus shall be constructed to the standards as set forth in the Town of Malta Linkage Study adopted in 2003. Said trails shall be connected to the existing public trails within the Town of Stillwater and in the Town of Malta, including the Zim Smith Trail, with approval from the Town of Malta Parks and Recreation Director and the Building and Planning Coordinator. All shared-use public pathways shall be completed contemporaneously with said adjacent roadway. A recreational trails master plan shall be developed for the campus, including Areas 16 and 18. This master plan shall be developed with input from the Town of Malta Parks and Recreation Director and the Building and Planning Coordinator. This plan shall be approved by the Town's Parks and Recreation Director and Building and Planning Coordinator prior to the issuance of a certificate of occupancy for the first building in Development Area 5. Said master plan shall provide that there will be no hunting or trapping within Area 16. Additionally, one-half of the trails within Development Area 16 shall be completed prior to the issuance of a certificate of occupancy for the first building in Development Area 5. The remaining trails within this area shall be completed prior to the issuance of a certificate of occupancy for the first nanotechnology manufacturing facility within Development Area 1. The time periods set forth in this Subsection X may be extended by the Town Board by resolution, in its sole and nonreviewable discretion.

[Amended 2-5-2007 by L.L. No. 2-2007]

Y.

Special provisions controlling construction. The following temporary facilities shall be allowed to service the needs of construction employees, subject to site plan review and approval.

(1)

Construction office.

(2)

Temporary food service.

(3)

Portable rest rooms.

(4)

Storage trailers.

(5)

Storage yards.

Z.

Amendments. Other provisions of the Code of the Town of Malta notwithstanding, the Town of Malta may itself bring on an application to amend this local law, as it may from time-to-time be amended, subject to the provisions of the Code of the Town of Malta and New York State Town Law. Upon any application for amendment to this PDD, the Town of Malta shall determine whether such changes are environmentally significant so as to require the preparation of a supplemental EIS according to the SEQR standards at 6 NYCRR Part 617.

[Amended 2-5-2007 by L.L. No. 2-2007]

AA.

Supersession. This local law is hereby adopted pursuant to the provision of § 10 of the New York State Municipal Home Rule Law and § 10 of the New York State Statute of Local Governments, it being the intent of the Town Board to supersede any and all contrary or inconsistent state laws.

BB.

Savings clause. If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by

any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment, order and/or decision shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CC.

Effective date. This local law shall take effect 10 days after being filed in the office of the New York Secretary of State.