

Andrew J. Zarutskie
Town Clerk
Town of Newburgh
1496 Route 300
Newburgh NY 12550
Tel.(845) 564-4554

AGENDA

AUDIT/WORKSHOP TOWN COUNCIL MEETING
Wednesday, November 14, 2012
(7:00 p.m.)

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. MOMENT OF SILENCE
4. CHANGES TO AGENDA
5. APPROVAL OF AUDIT
6. RECEIVER OF TAXES: Water and Sewer Tax Levy
7. PARKE LANE AT NEWBURGH:
 - A. Road Intersection Waiver
 - B. Storm Water Agreement
 - C. V & T 1660-a Authorization
 - D. Road Name(s)
8. SCHEDULE PUBLIC HEARING for Introduction of Local Law Amending Zoning for a Parcel in the B District on Route 32 (North Plank Road) to R-3 District Zoning
9. SCHEDULE PUBLIC HEARING for Introduction of Local Law Amending Zoning for a Parcel located in the B Zone on New Road to a Residential R-2 Zone
10. SCHEDULE PUBLIC HEARING for Introduction of Local Law Amending "Schedules and Fees" Chapter 104
11. ACCOUNTING: Budget Transfers
12. ANIMAL CONTROL:
 - A. T-94 Withdrawal
 - B. Authorization to Conduct Repairs Using T Account
13. DPW: Budget Transfers for Sludge Removal
14. ENGINEERING:
 - A. Delaware Aqueduct Tap Water Treatment Plant Change Order Approval for Asbestos Removal and Disposal
 - B. West Stone Street Sewer Main Extension Budget Transfer to Capital Project
15. AUDIT Agreement with Vanacore, DeBenedictus, DiGiovanni & Weddell
 - A. Town
 - B. Justice Court
16. ASSESSOR: Settlement of Tax Certiorari (Central Hudson Gas & Electric)
17. FLEET MAINTENANCE: Award of Bid for Purchase of Loader Backhoe
18. ADJOURNMENT

5. AUDIT

AUDIT # 22
11/14/2012
VOUCHERS: 124459 to 124695

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Audit Date: November 14, 2012

To the Supervisor:

I certify that the vouchers listed above were audited by the Town Board on the above date and allowed in the amounts shown. You are hereby authorized and directed to pay each of the claimants the amount opposite his name.

I acknowledge the following vouchers are in violation of New York State's General Municipal Law section 103 (Competitive Bidding Laws) and approve payment thereof.

<u>Voucher</u>	<u>Vendor Name</u>	<u>Amount</u>
124483	Mid hudson mack	6,848.24
124545	Mid hudson mack	83.20
124546	Mid hudson mack	1,106.50
124547	Mid hudson mack	2,912.17
124549	Newburgh winwater	282.17
124550	Newburgh winwater	210.00
124570	Val u office	451.13
124571	Val u office	680.71
124646	NY Communication	3,725.00
124656	Schmidts wholesales	1,139.93
124667	Val u office	661.59

Dated: _____

Andrew J. Zarutskie, Town Clerk

Town Board:

Exceptions:

AUDIT # 22

November 14, 2012

VOUCHERS: 124459 to 124695

FUND	REGULAR	PREPAID
GENERAL	\$ 170,989.14	\$ 1,478.86
TRUST & AGENCY	16,037.45	-
STREET LIGHTING	16,012.33	-
HIGHWAY	50,702.41	119,995.00
WATER	177,125.28	5,000.72
SEWER	38,767.25	809.37
WATER CAPITAL	1,689.87	-
SEWER CAPITAL	-	-
HIGHWAY CAPITAL	2,083.90	-
GENERAL CAPITAL	4,950.00	-
SPECIAL DISTRICT	-	-
TOTAL	\$ 478,357.63	\$ 127,283.95
GRAND TOTAL	<u>\$ 605,641.58</u>	

6. RECEIVER OF TAXES: Water and Sewer Tax Levy

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Town of Newburgh
Crossroads of the Northeast
1496 Route 300
Newburgh, NY 12550
Mary Lou Venuto
Receiver of Taxes
Phone 845-564-4553
Fax 845-566-1432

Date: November 6, 2012
To: Wayne Booth, Supervisor
From: Mary Lou Venuto, Receiver of Taxes
Subject: Water & Sewer Relevy

Please put me on the Agenda for November 14, 2012 for the Unpaid Water & Sewer to be put on the 2013 Property Tax.

- 7. PARKE LANE AT NEWBURGH:**
 - A. Road Intersection Waiver**
 - B. Storm Water Agreement**
 - C. V & T 1660-a Authorization**
 - D. Road Name(s)**

NOV 14 2012

**DRAKE LOEB HELLER
KENNEDY GOGERTY
GABA & RODD PLLC
ATTORNEYS AT LAW**

RECEIVED

NOV 08 2012

Town of Newburgh

Wayne
555 Hudson Valley Avenue, Ste. 100
New Windsor, New York 12553

1 sub Phone: 845-561-0550

Fax: 845-561-1235

www.drakeloeb.com

James R. Loeb
Richard J. Drake
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Timothy P. McElduff, Jr.
Ralph L. Puglielle, Jr.

Nicholas A. Pascale
Benjamin M. Wilkinson

*LL.M. in Taxation

November 8, 2012

BY EMAIL AND FIRST CLASS MAIL

Wayne Booth, Supervisor
Town Board
Town of Newburgh
1496 Route 300
Newburgh, New York 12550

Re: Parke Lane at Newburgh // Roadway Intersection Waiver & Stormwater
Agreement Authorization
Our File No.: 13397 - 63879

Dear Supervisor Booth and Town Board Members:

The Planning Board has granted preliminary site plan approval to the Parke Lane at Newburgh. Several of the conditions of that approval require Town Board action. I write to request that the Town Board consider acting on the following conditions.

Roadway Intersection Waiver

Town Code § 185-25(C)(2) requires 150 feet between the centerline of streets. The design of the Parke Lane project necessitates that the entrance drive to the development be located 105 feet distant from the nearest intersection. This requires a waiver of the 150 foot requirement, which waiver is granted by the Town Board. The applicant has been working with the Town Engineer to improve sight line distances at this intersection. Indeed, one of the recommendations was to remove fencing on a neighboring parcel -- which has already been completed by the applicant. The removal of the fence significantly improves the sight line distances, which now exceeds what is required by the Town Code and the recommendations of the Planning Board's traffic consultant.

The enclosed plans have been revised to modify the Stewart Avenue Extension intersection with Stewart Avenue, the site driveway intersection with Stewart Avenue and the new sight distance, in accordance with the Town Engineer's comments.

At this time I ask that the Town Board consider and grant the waiver pursuant to Town Code § 185-25(C)(2).

Stormwater Maintenance Agreement

Another condition of the Planning Board's preliminary approval is the requirement that the applicant enter into a Stormwater Control Facility Maintenance

Writer's Direct
Phone: 845-458-7316
Fax: 845-458-7317
dcordisco@drakeloeb.com

Wayne Booth, Supervisor
November 8, 2012
Page 2

Agreement. The Town Attorney has kindly provided me with a model agreement, which we are conforming to the specifics of this site. I ask that the Town Board authorize the Supervisor to execute the agreement upon review and approval by the Town Attorney and Town Engineer.

If possible, kindly place these matters on the Town Board's next available agenda. My client is eagerly pursuing satisfying all other conditions of the site plan approval, and will be seeking final site plan approval in December, so that construction can begin as soon as possible.

Thank you.

Very truly yours,



DOMINIC CORDISCO

DRC/lo/260822
Enclosures

cc: Mark Taylor, Esq., Town Attorney
James Osborne, P.E., Town Engineer
Darrell Benedict, Highway Superintendent
John Ewasutyn, Planning Board Chairman
Ken Wersted, Planning Board Traffic Consultant
Pat Hines, Planning Board Consulting Engineer
Bryant Cocks, Planning Board Consulting Planner

Joseph Forgione, Parke Lane at Newburgh
Joseph Sarchino, RLA, John Meyer Consulting

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7B

TOWN OF NEWBURGH
TOWN ENGINEER
1496 Rte. 300
Newburgh, NY 12550
(845) 564-7814

MEMORANDUM

TO: Wayne Booth, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer *JWO*
DATE: November 13, 2012
RE: PB \ PARKE LANE at Newburgh (PB Project No.12-13)

Attached for the Town Board's review and approval is the cost estimate for the on-site Stormwater Management & Pollution Prevention Plan. The cost estimate in the amount of \$415,616 was prepared by John Meyer Consulting, PC and reviewed by Pat Hines, McGoey Hauser & Edsall. Based on my review in conjunction with Mr. Hines' recommendation, I am recommending that the Town Board approve the cost estimate of \$415,616. A security in this amount must be submitted to the Town in a form acceptable to the Town's Attorney. In addition, a separate check in the amount of \$4,000 must be submitted to the Town of Newburgh Code Compliance Department for an escrow covering Town compliance inspections.

As the above requires Town Board action, I am requesting that this item be placed on the next available agenda for approval. If you have any questions or comments, I am available to discuss them with you.

JWO/id

Attachment

cc: M. Taylor, Attorney
J. Ewasutyn, P.B. Chairman
G. Canfield, Code Comp. Supervisor
P. Hines, MH&E
J. Sarchino, J.Meyer Consult.



- Site Planning
- Civil Engineering
- Landscape Architecture
- Land Surveying
- Transportation Engineering
- Environmental Studies
- Permitting
- Construction Services

Project: Parke Lane at Newburgh
 Location: Town of Newburgh, NY
 Type of Estimate: Stormwater Cost Estimate

Job No.: 10146
 Date: 11/9/2012
 Revised Date: 11/12/2012
 Cmp'd: AL
 Chk'd: JS

Drawing Reference:
 Dwg. SP-5 "Utilities Plan", Rev. 5, dated 11/9/2012

ITEM	CLASSIFICATION OF WORK	QUAN	UNIT	UNIT PRICE	AMT	SECTION TOTAL
1.00	STORMWATER					
1.01	CATCH BASIN	21	EA	\$3,600.00	\$75,600.00	
1.02	STORMWATER MANHOLE	6	EA	\$4,000.00	\$24,000.00	
1.03	STORMWATER PIPE (HDPE-15")	1,426	LF	\$55.00	\$78,430.00	
1.04	STORMWATER PIPE (HDPE-18")	423	LF	\$68.00	\$28,764.00	
1.05	STORMWATER PIPE (HDPE-24")	444	LF	\$75.00	\$33,300.00	
1.06	STORMWATER PIPE (HDPE-36")	142	LF	\$105.00	\$14,910.00	
1.07	STORMWATER PIPE (HDPE-60")	624	LF	\$160.00	\$99,840.00	
1.08	CONCRETE HEADWALL	1	EA	\$6,100.00	\$6,100.00	
1.09	RIP RAP DRAINAGE CHANNEL	186	CY	\$52.00	\$9,672.00	
						\$370,616.00
2.00	STORMWATER MANAGEMENT					
2.01	INFILTRATION BASIN	ALLOW		\$30,000.00	\$30,000.00	
						\$30,000.00
3.00	EROSION CONTROL					
3.01	SEDIMENT & EROSION CONTROL MEASURES	ALLOW		\$15,000.00	\$15,000.00	
						\$15,000.00
					TOTAL	\$415,616.00

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PARKE LANE AT NEWBURGH, LLC

November 9, 2012

Wayne Booth, Supervisor
Town Board
Town of Newburgh
1496 Route 300
Newburgh, New York 12550

Re: Parke Lane at Newburgh // V&T § 1660-a Authorization

Dear Supervisor Booth and Town Board Members:

The Planning Board granted preliminary site plan approval to the Parke Lane at Newburgh. One of the conditions of that approval required that the applicant request and consent to Town of Newburgh Police and Parking Enforcement personnel to enter the project site for purposes of enforcing parking and other Vehicle and Traffic Law violations on site pursuant to New York State Vehicle and Traffic Law 1660-a.

Parke Lane at Newburgh, LLC is the owner of the Parke Lane at Newburgh residential development. Parke Lane at Newburgh, LLC hereby requests and consents to the control of parking and traffic at the Parke Lane at Newburgh residential development by Town of Newburgh legislation. We are the owners or person in general charge of the operation and control of the area. We also affirm our intention to provide and maintain all necessary parking and traffic-control devices, markings and notices at the Shopping Center by the effective date of the applicable local law, ordinance, rule or regulation.

Enclosed is a site plan which highlights the desired parking restrictions and traffic controls, and places where traffic controls will be provided. We additionally acknowledge the authority of town law enforcement officers to enforce New York Vehicle and Traffic Law Section 1203-c pertaining to off street parking spaces for the handicapped at the Shopping Center.

Very truly yours,

Very truly yours,

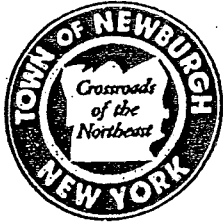
PARKE LANE AT NEWBURGH, LLC

By: 

Joseph M. Forgione, Managing Member

cc:

Joseph Sarchino, RLA, John Meyer Consulting
Dominic Cordisco, Esq.



NOV 14 2012

TOWN OF NEWBURGH

1496 Route 300, Newburgh, New York 12550

914-564-4554
Fax 914-566-1432

Town Clerk

DATE: 11-13-2013

TO: GERALD CANFIELD, CODE COMPLIANCE SUPERVISOR

FROM: ANDREW J. ZARUTSKIE, TOWN CLERK

RE: PROPOSED ROAD NAME

ATTACHED IS A REQUEST FOR APPROVAL OF A ROAD NAME.

PLEASE REVIEW AND MAKE THE NECESSARY EVALUATIONS. WE WILL NOT RECOMMEND SUBMISSION FOR TOWN BOARD ACTION UNTIL WE RECEIVE YOUR DECISION. OUR OFFICE WILL NOTIFY THE APPLICANT AND ALL INTERESTED DEPARTMENTS OF THE BOARD'S ACTION.

IN ADDITION, PLEASE COMPLETE THE BOTTOM OF THIS FORM AND THEN RETURN TO THIS OFFICE.

DECISION: Approved - No. 1 DATE: 11-13-2013
POST OFFICE

ACCEPTABLE ROAD NAME: DRANE DRIVE

SECTION 97 BLOCK 1 LOT 48
47

PARCEL NUMBERS: 100 TO 1500

FIRE DISTRICT: W.L.F.C.

LOCATION OF ROAD: OFF STEWART AVENUE

SUB-DIVISION NAME: PARK LANE

Gerald Canfield
GERALD CANFIELD
CODE COMPLIANCE SUPERVISOR

**8. SCHEDULE PUBLIC HEARING for Introduction of Local Law
Amending Zoning for a Parcel in the B District on Route 32 (North
Plank Road) to R-3 District Zoning**

INTRODUCTORY LOCAL LAW # ___ OF 2012
A LOCAL LAW AMENDING
CHAPTER 185 ENTITLED "ZONING"
OF THE CODE OF THE TOWN OF NEWBURGH
AND
THE ZONING MAP
OF THE TOWN OF NEWBURGH
TO REZONE
A PORTION OF TAX PARCEL SECTION 34 BLOCK 2 LOT 16.3
OFF OF NEW ROAD

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 185 Entitled 'Zoning' of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone A Portion of Tax Parcel Section 34 Block 2 Lot 16.3 off of New Road."

SECTION 2 - PURPOSE

The purpose of this local law is to rezone a certain section of a parcel of land located off of New Road from the B (Business) Zoning District to the adjoining R-2 (Residence) Zoning District.

The rezoning will encompass approximately 0.90 of an acre of land. The area is comprised of the rear area of the lot which is a "flag lot"; the remaining area of the lot running to New Road proposed to remain as B so that the B Zoning District area on the west side of New Road remains contiguous. The owners of the lot have petitioned for the change in zoning.

SECTION 3 - AMENDMENT TO CHAPTER 185 AND ZONING MAP

1. The Zoning Map of the Town of Newburgh, adopted and made a part of Chapter 185 of the Code of the Town of Newburgh pursuant to Section 185-5, as last amended by Local Law No. ___ of 2012, is hereby amended to change the Zoning District from B to R-2 for the property described in Schedule A annexed hereto and made a part hereof, being a portion of Tax Map Section 34 Block 2 Lot 16.3.
2. The Zoning Map of the Town of Newburgh, as amended by this local law, shall be maintained on file in the office of the Town Clerk.

SECTION 4 - REPEAL All ordinances and local laws and any parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 5 - VALIDITY

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 shall not affect, impair or invalidate the remainder of this local law or the application thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board of the Town of Newburgh hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Schedule "A"

Description
Parcel Requesting
R-2 Zoning Classification
Lands of
Christian & Angela Kelly

ALL that piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange, State of New York, requesting a change in its zoning classification from a Business 'B' Zone to a Residential 'R-2' Zone and being a portion of Tax Parcel SBL: 34-2-16.3, designated as Lot No. 3 on a map entitled "*PROPOSED 3 LOT SUBDIVISION FOR : CHRIS KELLY*" dated September 23, 2004, last revised January 8, 2010 and filed in the Orange County Clerk's Office August 2, 2010 as Map No. 304-10 and being all of that portion of said Tax Lot 16.3 and said Subdivision Lot 3 which is west of the westerly property line of Tax Parcel SBL: 34-2-16.2, also designated as Lot No. 2 of the above referenced Map No. 304-10, and being more particularly bounded and described as follows:

BEGINNING at a point in the division line between the lands now or formerly of Malcolm, Tax Parcel SBL: 34-2-13 situated in a R-2 Zoning District, on the west, and the lands of Kelly being Lot No. 3 of the above referenced filed Map No. 304-10, Tax Parcel SBL: 34-2-16.3 and situated in a B Zoning District, on the east, said point of beginning being the southwesterly corner of said Lot No. 3 and the southwesterly corner of the parcel requesting the zoning classification described herein; thence, along the division line between the lands now or formerly of Malcolm and the lands of Kelly, and also along the division line between the R-2 Zoning District and the B Zoning District as depicted on the Town of Newburgh Zoning Map adopted March 6, 2006, North 6°03'00" East 185.62 feet to a point in the division line between the lands now or formerly of Malcolm, Tax Parcel SBL: 34-2-15.2 on the north and the parcel herein described on the south; thence, along the last said division line and through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 75°36'00" East 205.99 feet to a point in the division line between Lot No. 2 of filed No. 304-10, Tax Parcel SBL: 34-2-16.2 on the east and the parcel herein described on the west; thence, along the last said division line and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 1°25'42" West 146.37 feet to a point, said point being the southwesterly corner of the aforesaid Lot 2 of filed Map No. 304-10; thence, through the lands of Lot No. 3 of filed Map No. 304-10, Tax Parcel SBL: 34-2-16.3, and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 1°25'42" West 25.65 feet to a point in the division line between the lands now or formerly of Falty, Tax Parcel SBL: 34-2-17.1, on the south and the parcel herein described on the north; thence, along the last said division line and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, North 75°36'00" West 15.41 feet and North 75°53'00" West 205.70 feet to the point or place of beginning, containing 0.90 of an acre of land more or less.

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___ day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne C. Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
DETERMINING THAT PROPOSED
LOCAL LAW AMENDING
CHAPTER 185 ENTITLED "ZONING OF THE
CODE OF THE TOWN OF NEWBURGH
AND THE ZONING MAP OF THE
TOWN OF NEWBURGH TO REZONE
A PORTION OF TAX PARCEL SECTION 34
BLOCK 2 LOT 16.3 OFF OF NEW ROAD IS AN
UNLISTED ACTION AND PROVIDING FOR
COORDINATED REVIEW UNDER SEQR

Councilman/woman _____ presented the following resolution which was seconded
by Councilman/woman _____.

WHEREAS, the Town Board of the Town of Newburgh has received a petition from the owners of a parcel along New Road for the rezoning of the rear portion of the property, which can be characterized as a flag lot, from B (Business) District Zoning to R-2 (Residential) District Zoning; and

Whereas, the Town Board of the Town of Newburgh recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a and has determined that the petitioned change in the boundaries of the two districts encompassing only 0.90 acres does not require an amendment to the Town's Comprehensive Plan; and

WHEREAS, the Town Board of the Town of Newburgh has caused a local law amending the Zoning Code and Zoning Map of the Town of Newburgh which will implement the petitioned zoning change to be prepared; and

WHEREAS, the Town Board of the Town of Newburgh has caused a full Environmental Assessment Form (the "EAF") to be prepared for the proposed adoption of the proposed local law amending the Zoning Code and Zoning Map of the Town of Newburgh which would implement the petitioned zone change (the "Action"); and

WHEREAS, the Town Board proposed to undertake, fund and approve the Action and wishes to assume Lead Agency status in connection with the review of the Action pursuant to the State Environmental Quality Review Act.

NOW, THEREFORE, BE IT RESOLVED, the Town Board pursuant to Article 8 of the Environmental Conservation Law ("SEQR"), Part 617 of the General Regulations adopted pursuant thereto ("Part 617") and Chapter 100 entitled "Environmental Quality Review" of the

Town of Newburgh Municipal Code, hereby determines that the Action is subject to SEQR and is an Unlisted Action; and

BE IT FURTHER RESOLVED, that the following agencies identified by the EAF, using all due diligence, are involved agencies for the Action:

None

and;

BE IT FURTHER RESOLVED, that the following are identified as interested agencies for the Action:

Orange County Department of Planning

Town of Newburgh Planning Board

Town of Newburgh Zoning Board of Appeals

and;

BE IT FURTHER RESOLVED, that the Town Board hereby directs that a Lead Agency coordination letter be circulated among any involved agencies together with copies of the EAF, and such other information as is appropriate, indicating the Town Board's intent to assume the role of Lead Agency for the Action under SEQR and Part 617, and that copies thereof also be forwarded to all interested agencies for review and comment.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____
Gilbert J. Piaquadio, Councilman voting _____
Elizabeth J. Greene, Councilwoman voting _____
Ernest C. Bello, Jr., Councilman voting _____
Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

<p>1. APPLICANT SPONSOR Christian & Angela Kelly</p>	<p>2. PROJECT NAME Petition for R-2 Zoning Classification to construct 1 family house</p>
<p>3. PROJECT LOCATION: Municipality TOWN OF NEWBURGH County ORANGE</p>	
<p>4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 39 NEW ROAD, NEWBURGH, NY PORTION OF TAX PARCEL SBL: 34-2-16.3 WHICH LIES WEST OF TAX PARCEL SBL: 34-2-16.2 AND ADJACENT TO THE R-2 ZONING DISTRICT TO THE WEST OF SAID TAX PARCEL.</p>	
<p>5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration</p>	
<p>6. DESCRIBE PROJECT BRIEFLY: The applicant wishes to construct a new single family house on a parcel they own which is in a 'B' (Business) Zoning District. New single family homes are not permitted in 'B' Zoning Districts. Therefore, the applicant is petitioning the Town of Newburgh to annex that portion of SBL: 34-2-16.3 which is located west of SBL: 34-2-16.2 to the adjacent R-2 (Residential) Zoning District to the west.</p>	
<p>7. AMOUNT OF LAND AFFECTED: Initially <u>0.90</u> acres Ultimately <u>0.90</u> acres</p>	
<p>8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly: ACTION REQUIRES APPROVAL OF A ZONING DISTRICT BOUNDARY CHANGE</p>	
<p>9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: PRIMARILY SINGLE FAMILY HOMES WITH A SMALL AMOUNT OF BUSINESSES SCATTERED ALONG THE WESTERLY SIDE OF NEW ROAD.</p>	
<p>10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:</p>	
<p>11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:</p>	
<p>12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p style="text-align: center;">I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>CHARLES T. BROWN, PE</u> Date: <u>4/26/12</u></p> <p>Signature: </p>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
 No. The action will not adversely effect any of these factors. The Local Law modifies the Zoning Map for a 0.90 acre portion of a parcel from Business to residential zoning.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
 No. The action will not adversely effect these factors. The local law modifies the zoning map for a 0.90 acre parcel portion to the adjoining R-2 zoning in keeping with the residential neighborhood character.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
 No adverse effects from the action are anticipated on vegetation, fauna, shellfish, wildlife, habitats or threatened or endangered species.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
 No. The action will only affect existing plans as it shifts and existing zoning district boundary for only 0.90 acres.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
 No. The action is not anticipated to induce growth or subsequent development or related activities.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
 No long term, short term, cumulative or other adverse effects have been identified.

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:
 No.

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly):
 Yes No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:
 Yes No

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Town of Newburgh Town Board
 Name of Lead Agency

Date

Wayne C. Booth
 Print or Type Name of Responsible Officer in Lead Agency

Supervisor
 Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___nd day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne C. Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Belloc, Councilman

RESOLUTION OF TOWN BOARD
INTRODUCING LOCAL LAW
AMENDING CHAPTER 185
ENTITLED 'ZONING'
OF THE CODE OF THE TOWN OF
NEWBURGH AND
AMENDING THE ZONING MAP OF
THE TOWN OF NEWBURGH TO
REZONE A PORTION OF PARCEL
SECTION 34 BLOCK 2 LOT 16.3 OFF OF
NEW ROAD AND CALLING PUBLIC
HEARING

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

BE IT RESOLVED that a Local Law Amending Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone A Portion of Parcel Section 34 Block 2 Lot 16.3 off of New Road be and hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York, and

BE IT FURTHER RESOLVED that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law, and

BE IT FURTHER RESOLVED that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 the Town of Newburgh, New York on the ___ day of December, 2012 at 7:___ o'clock, p.m., and

BE IT FURTHER RESOLVED that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing in accordance with the requirements of the Municipal Home Rule Law and Section 25-1 of the Town of Newburgh Municipal Code and by posting one copy of the local law together with the notice of hearing on the signboard of his office not later than the day such notice is published; and

BE IT FURTHER RESOLVED that copies of the aforesaid local law and notice of the public hearing be forwarded to all municipalities, agencies and boards required to receive such

copies and notices in accordance with the provisions of the New York State General Municipal Law, the New York State Town Law and the Town of Newburgh Zoning Code.

The question of the adoption of the foregoing resolution was duly put to a vote on roll

call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the _nd day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

- Wayne C. Booth, Supervisor
- George Woolsey, Councilman
- Gilbert J. Piaquadio, Councilman
- Elizabeth J. Greene, Councilwoman
- Ernest C. Bello, Councilman

RESOLUTION OF TOWN BOARD PROVIDING FOR REFERRAL OF LOCAL LAW AMENDING CHAPTER 185 ENTITLED 'ZONING' OF THE CODE OF THE TOWN OF NEWBURGH AND THE ZONING MAP OF THE TOWN OF NEWBURGH TO REZONE A PORTION OF PARCEL SECTION 34 BLOCK 2 LOT 16.3 OFF OF NEW ROAD TO THE ORANGE COUNTY DEPARTMENT OF PLANNING, THE TOWN OF NEWBURGH PLANNING BOARD AND THE TOWN OF NEWBURGH ZONING BOARD OF APPEALS

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, a Local Law Amending Chapter 185 entitled "Zoning" of the Code of the Town of Newburgh and the Zoning Map of the Town of Newburgh to Rezone a Portion of Parcel Section 34 Block 2 Lot 16.3 off of New Road, has been introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York.

NOW, THEREFORE, BE IT RESOLVED that copies of the aforesaid local law be forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their reports in accordance with the provisions of the New York State General Municipal Law and the Town of Newburgh Zoning Code; and

BE IT FURTHER RESOLVED, that a copy of the aforesaid local law also be forwarded to the Town of Newburgh Zoning Board of Appeals for its comments.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

- George Woolsey, Councilman voting _____
- Gilbert J. Piaquadio, Councilman voting _____
- Elizabeth J. Greene, Councilwoman voting _____
- Ernest C. Bello, Jr., Councilman voting _____
- Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

Talcott Engineering DESIGN, PLLC.

1 GARDNERTOWN ROAD ~ NEWBURGH, NY 12550
(845) 569-8400* ~ (fax) (845) 569-4583
E-mail: talcottdesign12@gmail.com

Town of Newburgh
Town Board
1496 Route 300
Newburgh, NY 12550

April 26, 2012
Page 1 of 2

Attn: Town Board Members

Re: Proposed Zoning District Change
Lands of Christian & Angela Kelly
New Road, Town of Newburgh
SBL: 34-2-16.3 – Presently Zone B

Dear Town Board Members:

On behalf of our client, Christian Kelly, Talcott Engineering (TE) formally petitions the Town of Newburgh for a zoning change to a portion of Town of Newburgh Tax Parcel: Section 34 Block 2 Lot 16.3 from its present B Zone (Business) to a residential R-2 Zone which is directly adjacent to the subject parcels westerly boundary.

The subject parcel is Lot No. 3 of a Commercial Subdivision Mr. Kelly filed in 2010, of which Lot No. 1 being his existing house, and Lot No. 2 being the future site for his Custom Window Repair Business. The approved filed subdivision map shows a proposed well location and septic design suitable for a 4 bedroom house, but also suitable for a 6500 sq. ft. office building. The consensus at the time of the Planning Board review was that once the map was filed, the Kellys could either sell Lot No. 3 for commercial use, or opt for their first choice, building a new house on Lot No. 3 for themselves. The latter choice would require either a use variance or a zoning district change. The real estate market being what it's been the last 3 years, a flag lot, in a predominantly residential neighborhood, had little or no chance of being purchased for development for any commercial use. However, the Zoning Board of Appeals, under strong legal advisement from their counsel, David Donovan, denied a use variance application to build a single family home because the hardship was ruled self created. TE advised the Kellys that even though the decision seemed challengeable, petitioning the Town Board for a Zoning District change would be the best course of action at this time.

The Kellys, who do not possess the resources to purchase another parcel on which to build a new house, have directed TE to petition the Town of Newburgh to join the main parallelogram portion of their Lot No. 3 (see highlighted areas on attached maps) to the adjacent R-2 Zoning District. R-2 is the predominant zoning classification in the immediate neighborhood. The pole portion of said lot is proposed to remain in the B Zone along with Lot No. 1 and Lot No. 2 of the Kelly Subdivision (see highlighted areas on attached maps).

Attached hereto is a Tax Map/Zoning Overlay which provides a view of the B Zoning District north of NYS Route 32 between Weyants Lane (to the west) and New Road (to the East). Included on this map is a breakdown of the uses within this portion of the district, as well as a separate breakdown of the uses along the westerly side of New Road located in this B Zoning District. This breakdown points out that not only are residential uses in the majority, but that vacant parcels also outnumber the commercial uses in this district. This map also depicts the irregular boundary which presently exists between the B and R-2 Zoning District. This boundary demonstrates that Mr. Kelly's petition would not create an uncommon change, as similar jogs and jut outs already occur in the division line between the districts.

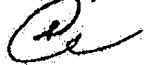
Environmentally, the use and zone requested proposes far less of an impact. A single family house in an R-2 Zone only allows 30% lot surface coverage, whereas an office building in a B Zone is allowed 80% lot surface coverage. That's 50% less lot surface coverage allowed on a R-2 zoned parcel.

TE has also included a copy of Sheet 1 of 2 of the site plan set and Sheet 1 of 3 of the Kelly's filed subdivision plan set. Sheet 1 of the Site Plan set demonstrates the locations of Mr. Kelly's proposed house, well and septic location. Sheet 1 of the filed subdivision plan set shows the complete metes and bounds of Lots 1 thru 3, existing easements, as well as existing structures on and near the Kelly property. On both plans the portion Lot 3 (SBL:34-2-16.3) requested to be re-zoned is highlighted in yellow. The portion of Lot 3 proposed to remain in the B Zoning District is highlighted in pink.

To complete the petition package, TE has provided a proxy allowing TE to make this petition, a metes and bounds description of that portion of Tax Parcel SBL: 34-2-16.3 for which the Kellys are requesting the R-2 Zoning Classification and a Short Environmental Assessment Form for use in the State Environmental Quality Review.

TE requests this petition be placed on the next available audit meeting for a initial review and discussion. If any of the Town Board members or their advisors have any questions regarding this petition, and its accompanying attachments, please feel free to contact us by phone (845-569-8400) or by e-mail (talcottdesign12@gmail.com).

Sincerely



Charles F. Brown, P.E.
President - Talcott Engineering Design, PLLC

Pc: J. Osborne, PE - Town Engineer /attach.
M. Taylor, Esq. - Town Attorney/attach.
A. Zarustskie - Town Clerk /attach.
C. Kelly /attach.

**Description
Parcel Requesting
R-2 Zoning Classification
Lands of
Christian & Angela Kelly**

ALL that piece or parcel of land situate, lying and being in the Town of Newburgh, County of Orange, State of New York, requesting a change in its zoning classification from a Business 'B' Zone to a Residential 'R-2' Zone and being a portion of Tax Parcel SBL: 34-2-16.3, designated as Lot No. 3 on a map entitled "**PROPOSED 3 LOT SUBDIVISION FOR : CHRIS KELLY**" dated September 23, 2004, last revised January 8, 2010 and filed in the Orange County Clerk's Office August 2, 2010 as Map No. 304-10 and being all of that portion of said Tax Lot 16.3 and said Subdivision Lot 3 which is west of the westerly property line of Tax Parcel SBL: 34-2-16.2, also designated as Lot No. 2 of the above referenced Map No. 304-10, and being more particularly bounded and described as follows:

BEGINNING at a point in the division line between the lands now or formerly of Malcolm, Tax Parcel SBL: 34-2-13 situated in a R-2 Zoning District, on the west, and the lands of Kelly being Lot No. 3 of the above referenced filed Map No. 304-10, Tax Parcel SBL: 34-2-16.3 and situated in a B Zoning District, on the east, said point of beginning being the southwesterly corner of said Lot No. 3 and the southwesterly corner of the parcel requesting the zoning classification described herein; thence, along the division line between the lands now or formerly of Malcolm and the lands of Kelly, and also along the division line between the R-2 Zoning District and the B Zoning District as depicted on the Town of Newburgh Zoning Map adopted March 6, 2006, North 6°03'00" East 185.62 feet to a point in the division line between the lands now or formerly of Malcolm, Tax Parcel SBL: 34-2-15.2 on the north and the parcel herein described on the south; thence, along the last said division line and through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 75°36'00" East 205.99 feet to a point in the division line between Lot No. 2 of filed No. 304-10, Tax Parcel SBL: 34-2-16.2 on the east and the parcel herein described on the west; thence, along the last said division line and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 1°25'42" West 146.37 feet to a point, said point being the southwesterly corner of the aforesaid Lot 2 of filed Map No. 304-10; thence, through the lands of Lot No. 3 of filed Map No. 304-10, Tax Parcel SBL: 34-2-16.3, and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, South 1°25'42" West 25.65 feet to a point in the division line between the lands now or formerly of Falky, Tax Parcel SBL: 34-2-17.1, on the south and the parcel herein described on the north; thence, along the last said division line and continuing through the B Zoning District as shown on the aforesaid Town of Newburgh Zoning Map, North 75°36'00" West 15.41 feet and North 75°53'00" West 205.70 feet to the point or place of beginning, containing 0.90 of an acre of land more or less.

TO THE TOWN OF NEWBURGH

PROXY

Christian Kelly DEPOSES AND SAYS THAT
HE/SHE RESIDES AT 39 New Road, Newburgh, NY 12550
IN THE COUNTY OF Orange AND STATE OF New York
AND THAT HE IS THE OWNER IN FEE OF Town of Newburgh Tax Parcel:
Section 34 Block 2 Lot 16.3
WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING PETI-
TION AND THAT HE HAS AUTHORIZED Talcott Engineering Design, PLLC
TO MAKE THE FOREGOING PETITION AS DESCRIBED THEREIN.

DATED: 4/6/12

Christian Kelly

OWNER'S SIGNATURE

[Signature]

WITNESS' SIGNATURE

STATE OF NEW YORK: COUNTY OF ORANGE:

SWORN TO THIS 6 DAY OF April 2012

[Signature]
NOTARY PUBLIC

THOMAS R. LYNCH
Notary Public, State of New York
Qualified in Ulster County
Registration No. 01LY6201381
Commission Expires February 23, 2013

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

Lovelie A. Barksdale

SECTION 34 BLOCK 2 LOT 16

RECORD AND RETURN TO:
(Name and address)

*Ann Lawrence Esq.
81 Main St.
Cold Spring, NY 10516*

TO
*Christian Kelly
Angela Kelly*

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

<input type="checkbox"/> 2039 BLOOMING GROVE (TN)	<input type="checkbox"/> 4289 MONTGOMERY (TN)	NO. PAGES <u>4</u> CROSS REF. _____
<input type="checkbox"/> 2001 WASHINGTONVILLE (VLG)	<input type="checkbox"/> 4201 MAYBROOK (VLG)	CERT. COPY <input type="checkbox"/> ADD'L X-REF. _____
<input type="checkbox"/> 2289 CHESTER (TN)	<input type="checkbox"/> 4203 MONTGOMERY (VLG)	MAP# _____ PGS. _____
<input type="checkbox"/> 2201 CHESTER (VLG)	<input type="checkbox"/> 4203 WALDEN (VLG)	PAYMENT TYPE: CHECK <input checked="" type="checkbox"/>
<input type="checkbox"/> 2489 CORNWALL (TN)	<input type="checkbox"/> 4489 MOUNT HOPE (TN)	CASH <input type="checkbox"/>
<input type="checkbox"/> 2401 CORNWALL (VLG)	<input type="checkbox"/> 4401 OTISVILLE (VLG)	CHARGE <input type="checkbox"/>
<input type="checkbox"/> 2600 CRAWFORD (TN)	<input checked="" type="checkbox"/> 4600 NEWBURGH (TN)	NO FEE <input type="checkbox"/>
<input type="checkbox"/> 2800 DEERPARK (TN)	<input type="checkbox"/> 4800 NEW WINDSOR (TN)	CONSIDERATION \$ <u>150,000</u>
<input type="checkbox"/> 3089 GOSHEN (TN)	<input type="checkbox"/> 5089 TUXEDO (TN)	TAX EXEMPT <input type="checkbox"/>
<input type="checkbox"/> 3001 GOSHEN (VLG)	<input type="checkbox"/> 5001 TUXEDO PARK (VLG)	MORTGAGE AMT. \$ _____
<input type="checkbox"/> 3003 FLORIDA (VLG)	<input type="checkbox"/> 5200 WALKKILL (TN)	DATE _____
<input type="checkbox"/> 3005 CHESTER (VLG)	<input type="checkbox"/> 5489 WARWICK (TN)	MORTGAGE TAX TYPE:
<input type="checkbox"/> 3200 GREENVILLE (TN)	<input type="checkbox"/> 5401 FLORIDA (VLG)	<input type="checkbox"/> (A) COMMERCIAL/FULL 1%
<input type="checkbox"/> 3489 HAMPTONBURGH (TN)	<input type="checkbox"/> 5403 GREENWOOD LAKE (VLG)	<input type="checkbox"/> (B) 1 OR 2 FAMILY
<input type="checkbox"/> 3401 MAYBROOK (VLG)	<input type="checkbox"/> 5405 WARWICK (VLG)	<input type="checkbox"/> (C) UNDER \$10,000
<input type="checkbox"/> 3689 HIGHLANDS (TN)	<input type="checkbox"/> 5600 WAWAYANDA (TN)	<input type="checkbox"/> (E) EXEMPT
<input type="checkbox"/> 3601 HIGHLAND FALLS (VLG)	<input type="checkbox"/> 5889 WOODBURY (TN)	<input type="checkbox"/> (F) 3 TO 6 UNITS
<input type="checkbox"/> 3889 MINISINK (TN)	<input type="checkbox"/> 5801 HARRIMAN (VLG)	<input type="checkbox"/> (I) NAT. PERSON/CR. UNION
<input type="checkbox"/> 3801 UNIONVILLE (VLG)		<input type="checkbox"/> (J) NAT. PER. CR. UN/1 OR 2
<input type="checkbox"/> 4089 MONROE (TN)		<input type="checkbox"/> (K) CONDO
<input type="checkbox"/> 4001 MONROE (VLG)	CITIES	
<input type="checkbox"/> 4003 HARRIMAN (VLG)	<input type="checkbox"/> 0900 MIDDLETOWN	
<input type="checkbox"/> 4005 KIRYAS JOEL (VLG)	<input type="checkbox"/> 1100 NEWBURGH	
	<input type="checkbox"/> 1300 PORT JERVIS	
	<input type="checkbox"/> 9999 HOLD	

Donna L. Benson
DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM: American Deal Est.

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
DONNA L. BENSON, COUNTY CLERK AND CLERK OF THE
SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO
HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH
THE ORIGINAL THEREOF FILED OR RECORDED IN MY OFFICE
ON 11-7-02 AND THE SAME IS A CORRECT
TRUE AND FAITHFUL COPY. IN WITNESS WHEREOF, I HAVE
HEREON SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

LIBER 6052 PAGE 101

Donna L. Benson 1-26-12
COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY LIBER 6052 PAGE 101

ORANGE COUNTY CLERK'S OFFICE 71676 DAB
RECORDED/FILED 11/07/2002 09:12:03 AM
FEE \$ 47.00 EDUCATION FUND 20.00
SERIAL NUMBER: 003300
RE TAX 600.00

A 291 - Standard N.Y. B.T.U. F. 8007
Bargain & sale deed, with covenant against grantor's acts - Ind. or Corp., 11-98.

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made on 31st day of October, 2002

BETWEEN Lovelle A. Barksdale, residing at 39 New Road, Newburgh, New York 12550, party of the first part, and

Christian J. Kelly and Angela Kelly, Husband and Wife, residing at 471 Orchard Drive, Waldbill, New York 12589, parties of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN AND XXXX----- dollars, good and valuable consideration paid and any other lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Newburgh, County of Orange, State of New York and more particularly described in the Schedule A attached hereto and made a part thereof.

Being and intended to be the same premises conveyed to Willie Barksdale and Lovelle A. Barksdale by deed dated 8/19/71 from Bruce A. Baker and Ruthann Baker and recorded on 8/19/71 in Liber 1881 at page 976 in the Orange County Clerk's Office.

Willie Barksdale died 3/26/75
Being same premises commonly known as 39 New Road, Newburgh, New York 12550.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

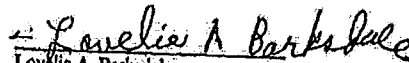
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the

right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.


IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


Lovell A. Barksdale

State of New York, County of Orange : s.s.:

On 10/31/02, before me, the undersigned personally appeared Lovell A. Barksdale, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are), with subscribed to the within instrument and acknowledged to me that he/she/they executed same in his/her/their capacity(ies) and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public KERCHMAN
Notary Public, State of New York
No. 02-4763909
Qualified in Orange County
Commission Expires October 31, 2006

Margain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS
TITLE No.

Lovell A. Barksdale,

SECTION 34
BLOCK 2
LOT 16
COUNTY/TOWN
ORANGE/NEWBURGH

TO

Christian T. Kelly and Angela Kelly,

RETURN BY MAIL TO:

Ms. Ann Lawrence, Attorney
PO Box 313
Cold Spring, NY 10516

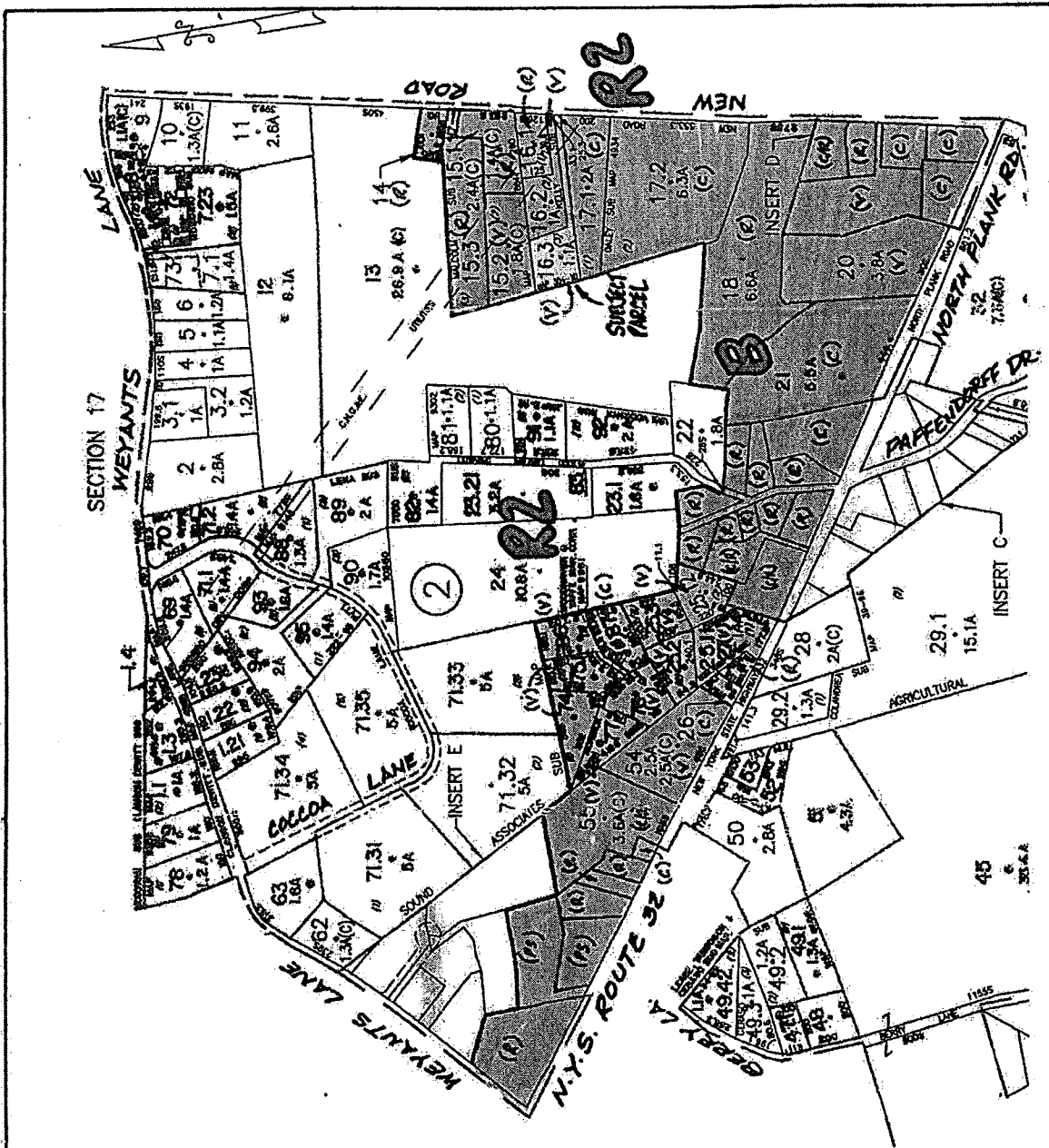
LIBER No. 6052 PAGE 104

Schedule A

The premises in which the insured has the estate or interest covered by this policy.

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE TOWN OF NEWBURGH, COUNTY OF ORANGE, AND STATE OF NEW YORK, AND BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER OF THE HIGHWAY LEADING FROM NORTH PLANK ROAD TO FOSTERTOWN CHURCH WHERE THE LINE OF LANDS OF ONE FALKEY STRIKES THE SAME RUNNING THENCE ALONG A STONE WALL BEING ALONG SAID FALKEY LINE NORTH 75 DEGREES 36' WEST 476.2 FEET TO A CORNER OF TWO STONE WALLS; THENCE STILL RUNNING ALONG SAID FALKEY LINE AND ALONG A STONE WALL NORTH 75 DEGREES 53' WEST 205.7 FEET TO A POST IN THE INTERSECTION OF TWO STONE WALLS AND IN LINE OF LANDS NOW OR FORMERLY OF EMIL BENA; THENCE RUNNING ALONG SAID BENA LINE AND ALONG A STONE WALL NORTH 6 DEGREES 3' EAST FOR 185.62 FEET; THENCE RUNNING THROUGH LANDS OF CLARA REPP SOUTH 75 DEGREES 36' EAST FOR 738.32 FEET TO THE CENTER OF SAID HIGHWAY; THENCE RUNNING SOUTH 23 DEGREES 34' WEST 185 FEET TO THE POINT OR PLACE OF BEGINNING.



TAX MAP SECTION 34

'B' ZONE PROPERTY USE BREAKDOWN:

- 19 RESIDENTIAL (R)
- 11 COMMERCIAL (C)
- 16 VACANT (V) *INCLUDING THE SUBJECT PARCEL
- 4 COMMERCIAL/RESIDENTIAL (C/R)
- 2 PUBLIC SERVICE (Cronimer Valley Fire House & Ambulance) (PS)
- 50 PROPERTIES TOTAL

NEW ROAD 'B' ZONE PROPERTY USE BREAKDOWN:

- 6 RESIDENTIAL (R)
- 6 COMMERCIAL (C)
- 4 VACANT (V) *INCLUDING THE SUBJECT PARCEL
- 1 COMMERCIAL/RESIDENTIAL (C/R)
- 17 PROPERTIES TOTAL

TAX MAP/ZONING OVERLAY

FOR

PROPOSED ZONING CHANGE

LANDS OF

CHRISTIAN KELLY

PORTION OF TOWN OF NEWBURGH TAX PARCEL

SECTION 34 BLOCK 2 LOT 16.3

NEW ROAD TOWN OF NEWBURGH

ORANGE COUNTY NEW YORK

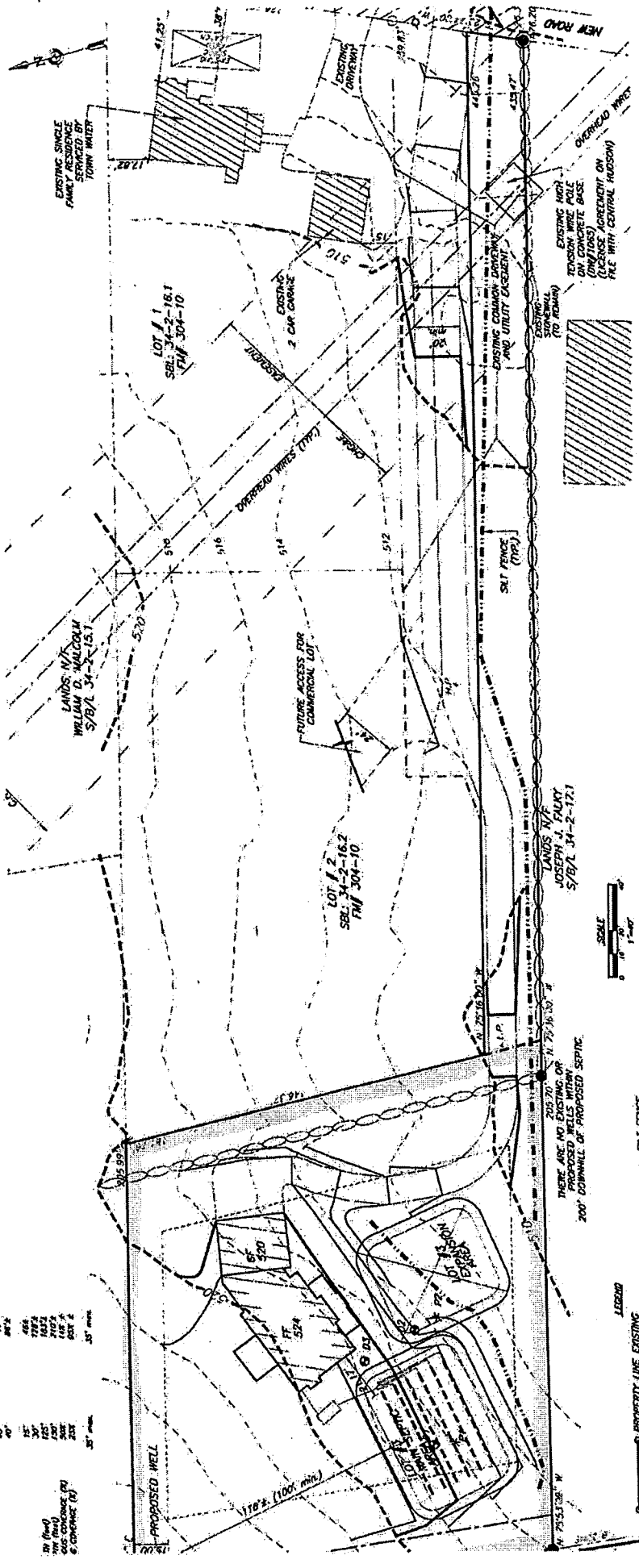
DATE: 3/09/12 SCALE: 1" = 400'

Talcott Engineering

DESIGN, PLLC.

1 GARDNERTOWN ROAD - NEWBURGH, NY 12550
(845) 569-8400 - (fax) (845) 569-4583

AREA	APPROXIMATE PERCENTAGE	PROPOSED
1	40%	RESIDENTIAL
2	40%	COMMERCIAL
3	20%	INDUSTRIAL
4	20%	AGRICULTURAL
5	20%	UNDEVELOPED



LEGEND

- PROPERTY LINE EXISTING
- PROPERTY LINE ADJOINING
- - - DRIVEWAY AND UTILITY EASEMENT EXISTING
- - - SETBACKS
- - - ZONING LINE EXISTING
- STONERILL
- CHARGE EASEMENT
- UTILITY EASEMENT
- HOUSE EXISTING
- PROPOSED BUILDING
- EXISTING CONTOURS (2')
- EXISTING CONTOURS (10')
- - - SALT FENCE
- SEPTIC EXISTING
- * P/ PERCOLATION TEST
- D/ DEEP TEST
- SEPTIC TANK
- PUMP/SEEP (IF REQUIRED)
- DISTRIBUTION BOX
- TO/TERMS
- TOE OF PAD
- EXPANDED AREA

SCALE

1" = 100'

NOTES:

1. (IN APPROXIMATE) SHOWING
2. SOME ARE APPROXIMATE
3. FOR ALL UTILITIES, SEE
4. ALL RECORDS, 1874

REVISIONS

NO.	DATE	BY	DESCRIPTION
1	12/19/04	J.P.	PREPARED FOR PERMITTING
2	12/19/04	J.P.	REVISED PER COMMENTS
3	12/19/04	J.P.	REVISED PER COMMENTS
4	12/19/04	J.P.	REVISED PER COMMENTS
5	12/19/04	J.P.	REVISED PER COMMENTS

APPROVED FOR PERMITTING

CHARLES T. BROWN, P.E.
 100 N. 10TH ST., SUITE 200
 DENVER, CO 80202

TACTIC DESIGN
 ENGINEERING, PLLC
 100 N. 10TH ST., SUITE 200
 DENVER, CO 80202

THIS SHEET, IN WHOLE AND IN PART, IS ACCOMPANIED BY FORMING SHEETS IN SET.

**9. SCHEDULE PUBLIC HEARING for Introduction of Local Law
Amending Zoning for a Parcel located in the B Zone on New Road to
a Residential R-2 Zone**

NOV 14 2012

NOV 14 2012

9

INTRODUCTORY LOCAL LAW I-9 OF 2012

A LOCAL LAW AMENDING THE ZONING MAP OF THE TOWN OF NEWBURGH TO REZONE A 1.872 ACRE PART OF A PARCEL IN THE B ZONING DISTRICT LOCATED ON NORTH PLANK ROAD (NYS ROUTE 32) TO THE R-3 ZONING DISTRICT.

BE IT ENACTED by the Town Board of the Town of Newburgh as follows:

SECTION 1.

Section 185-5 of the Code of the Town of Newburgh entitled "Zoning Map" is hereby amended to change the land classification of a 1.872 acre part of a parcel identified on the Town of Newburgh Tax Maps as Section 75, Block 1, Lot 36.2 (Lands N/F JPJR Holdings, LLC) and located on the northeasterly side of North Plank Road (NYS Route 32) from the current B Zoning District to the R-3 Zoning District. The description of the part of said parcel to be re-zoned is as follows:

"Beginning at a monument along the northeasterly line of North Plank Road (NYS Route 32) where the same is intersected by the division line of lands now or formerly of JPJR Holdings, LLC as described in Liber 11896, Page 1626 and other lands of JPJR Holdings, LLC as described in Liber 11896, Page 1630.

Thence from said monument North 47E04N100 East a distance of 245.00 feet to a point.

Thence through said lands of JPJR Holdings, LLC in Liber 11896, Page 1630 and along the approximate zoning division line between the B Zone and the R-3 Zone South 34E02N230 East a distance of 196.42 feet and South 26E24N050 East a distance of 169.62 feet to a point being the northeasterly corner of lands now or formerly of G&L Realty.

Thence along the division line of G&L Realty and JPJR Holdings, LLC South 59E22N100 West a distance of 230.00 feet to the northeasterly line of North Plank Road (NYS Route 32).

Thence along North Plank Road (NYS Route 32) North 30E37N500 West a distance of 87.10 feet and north 32E47N500 West 226.10 feet to the Point of Beginning."

SECTION 2. SAVINGS CLAUSE.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 3. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in Albany.

C D c e t a d Setti a e 0 9009D8.WM

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
INTRODUCING LOCAL LAW
AMENDING THE ZONING MAP
OF THE TOWN OF NEWBURGH
AND CALLING PUBLI HEARING

Councilman _____ presented the following resolution which was seconded by Councilman _____.

BE IT RESOLVED that a Local Law Amending the Zoning Map of the Town of Newburgh be and hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York; and.

BE IT FURTHER RESOLVED that a copy of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law, and

BE IT FURTHER RESOLVED that the Town Board shall hold a public hearing in the matter of the adoption of the aforesaid local law to be held at the Town Hall at 1496 Route 300 the Town of Newburgh, New York on the _____ day of _____ 2012 at 7:30 o'clock, p.m., and

BE IT FURTHER RESOLVED that the Town Clerk give notice of such public hearing by the publication of a notice in the official newspapers of the Town, specifying the time when and the place where such public hearing will be held at least three (3) days prior to the public hearing in accordance with the requirements of the Municipal Home Rule Law and Section 25-1 of the Town of Newburgh Municipal Code and by posting one copy of the local law together with the notice of hearing on the signboard of his office not later than the day such notice is published; and

BE IT FURTHER RESOLVED that copies of the aforesaid local law and notice of the public hearing be forwarded to all municipalities, agencies and boards required to receive such copies and notices in accordance with the provisions of the New York State General Municipal Law, the New York State Town Law and the Town of Newburgh Zoning Code.

The question of the adoption of the foregoing resolution was duly put to a vote on roll

call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.
C: Documents and Settings wayne 069009D .WM

At a meeting of the Town Board of the
Town of Newburgh, held at the Town Hall,
1496 Route 300, in the Town of Newburgh,
Orange County, New York on the day of
November, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne Booth, Supervisor

George Woolsey, Councilman

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
PROVIDING FOR REFERRAL OF
LOCAL LAW AMENDING THE
ZONING MAP OF THE TOWN OF
NEWBURGH

Councilman _____ presented the following resolution which was
seconded by Councilman _____.

WHEREAS, the Town Board of the Town of Newburgh has, pursuant to a request by a
landowner, caused a local law to be prepared that would change the land classification of part of
said landowner's property from the B Zoning District to the R-3 Zoning District; and

WHEREAS a Local Law Amending the Zoning Map of the Town of Newburgh has been
introduced before the Town Board of the Town of Newburgh in the County of Orange and State
of New York.

NOW, THEREFORE, BE IT RESOLVED that copies of the aforesaid local law be
forwarded to the Orange County Department of Planning and the Town of Newburgh Planning
Board for their reports in accordance with the provisions of the New York State General
Municipal Law and the Town of Newburgh Zoning Code; and

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.
'C: Documents and Settings wayne 069009D .WM

**10. SCHEDULE PUBLIC HEARING for Introduction of Local Law
Amending "Schedules and Fees"
Chapter 104**

**INTRODUCTORY LOCAL LAW NO. OF THE YEAR 2012
 AMENDING CHAPTER 104 ENTITLED
 "SCHEDULE OF FEES"
 OF THE CODE OF THE TOWN OF NEWBURGH:
 WATER METER RATES AND
 SEWER OPERATION AND MAINTENANCE CHARGES
 EFFECTIVE JANUARY 1, 2013**

BE IT ENACTED by the Town Board of the Town of Newburgh, County of Orange as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 104 entitled 'Schedule of Fees' of the Code of the Town of Newburgh: Water Meter Rates and Sewer Operation and Maintenance Charges Effective January 1, 2013".

SECTION 2 - AMENDMENTS TO CHAPTER 104

That Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code is amended as follows:

1. Subsection 104-3(B)(2) of Section 104-3 entitled "Sanitation and water fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

"(2) Meter rates. Meter rates for the sale of water to all consumers within the Consolidated Water District and Colden Park Water District of the Town of Newburgh and the duly constituted extensions thereto, excluding water sold to the Town of New Windsor, the New York State Thruway Authority or outside-the-district users, shall be as follows:

Usage Per Quarter	Rate
First 7,500 gallons	\$11.00 minimum charge per quarter
Next 10,000 gallons	\$2.48 per 1,000 gallons

Next 82,500 gallons	\$4.20 per 1,000 gallons
Over 100,000 gallons	\$4.85 per 1,000 gallons

- (a) A penalty equal to 5% of the original bill shall be added to the metered water charges if not paid in full within 30 days from the due and payable date.
- (b) The Town of New Windsor, the New York State Thruway Authority and the outside-the-district users will pay rates and charges as per agreements entered into with the town. In the event that water assessments under the benefit formula cannot be made applicable for any reason to any consumer and any agreement between the town and such users does not reflect payment of the same in one form or another, the town reserves the right to surcharge such users as to meter rates so as to provide for equitable payment of all charges between all users, said surcharge to be applicable in the last calendar quarter charge."

2. Subsection 104-3(C)(1) of Section 104-3 entitled "Sanitation and water fees" of Chapter 104 entitled "Schedule of Fees" of the Town of Newburgh Municipal Code be and hereby is amended to read as follows:

"(1) Sewer operation and maintenance charge.

Sewer District	Rate/Fee (per gallons consumed per premises)
Algonquin	\$3.00/1,000
Crossroads	\$3.20/1,000
Gidney	\$3.25/1,000
Meadow Hill South	\$3.28/1,000
Meadow Hill North	\$3.00/1,000
17K/UA	\$3.28/1,000
Nob Hill	\$0.00315/gallon
Fleetwood	\$6.50/1,000
Wintergreen	\$4.25/1,000"

SECTION 3 - UNCONSTITUTIONALITY OR ILLEGALITY

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 shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect on the later of the date it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law or January 1, 2013.

DRAFT

At a meeting of the Town Board of the Town of Newburgh, Held at the Town Hall, 1496 Route 300 in the Town of Newburgh, Orange County, New York on the ___th day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

Wayne C. Booth, Supervisor
George Woolsey, Councilman
Gilbert J. Piguadio, Councilman
Elizabeth J. Greene, Councilwoman
Ernest C. Bello, Jr., Councilman

RESOLUTION OF TOWN BOARD
INTRODUCING LOCAL LAW
AMENDING CHAPTER 104 ENTITLED
'SCHEDULE OF FEES' OF THE
TOWN OF NEWBURGH MUNICIPAL
CODE: WATER METER RATES AND
SEWER OPERATION AND
MAINTENANCE CHARGES
EFFECTIVE JANUARY 1, 2013
AND PROVIDING FOR
PUBLIC NOTICE AND HEARING

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

BE IT RESOLVED that Introductory Local Law No. ___ of the Year 2011 entitled "A Local Law Amending Chapter 104 entitled 'Schedule of Fees' of the Town of Newburgh Municipal Code: Water Meter Rates and Sewer Operation and Maintenance Charges Effective January 1, 2013" be and it hereby is introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York, and

BE IT FURTHER RESOLVED that copies of the aforesaid proposed local law in final form be laid upon the desk of each member of the Town Board at least seven (7) days prior to a public hearing on said proposed local law, and

BE IT FURTHER RESOLVED that the Town Board hold a public hearing on said proposed local law at the Town Hall, 1496 Route 300

in the Town of Newburgh, New York, on the __th day of December,
2012 at 7:00 o'clock p.m., and

BE IT FURTHER RESOLVED that the Town Clerk publish or cause to
be published a public notice in the official newspaper of the Town,
of said public hearing at least three (3) days prior to the public
hearing.

The question of the adoption of the foregoing resolution was
duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piaquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon duly declared adopted.

11. ACCOUNTING: Budget Transfers

NOV 14 2012



TOWN OF NEWBURGH

1496 Route 300, Newburgh New York 12550

JACQUELINE M. CALARCO, CPA
ACCOUNTANT

845-564-5220
Fax 845-566-1432
E-Mail: townacct@frontiernet.net

To: Wayne C. Booth, Supervisor
CC: Board Members
From: Jacqueline M. Calarco, Town Accountant *JMC*
Date: November 8, 2012
RE: Budget Transfer

Please approve the following budget transfers:

From:	To:	Amount:
General:		
Police Retirement	Employee Retirement	
001.9015.0800	001.9010.0800	\$10,000
Highway:		
Social Security	Employee Retirement	
030.9030.0800	030.9010.0800	\$ 4,000

12. ANIMAL CONTROL:

A. T-94 Withdrawal

B. Authorization to Conduct Repairs Using T Account



12a

TOWN OF NEWBURGH ANIMAL CONTROL & SHELTER
645 Gidney Ave. Newburgh, NY 12550


November 9, 2012

To: Town Board

Subject: Authorization to Pay Veterinarian Services Utilizing T-94 Account

I am requesting authorization to use the T-94 account to pay for veterinarian services from Newburgh Veterinary Hospital for the months of September and October for your authorization for payment of this voucher in the total amount of \$950.90.

Sincerely,


Chantel Haight
Animal Control Supervisor

Cc: Accounting

TOWN OF NEWBURGH

1496 Route 300
Newburgh, New York 12550
(845) 564-4552

DEPARTMENT _____

CLAIMANT'S
NAME
AND
ADDRESS

NEWBURGH VETERINARY HOSPITAL
1716 Route 300
Newburgh, NY 12550
Tel: (845) 564-2660
www.newburghvet.com

DO NOT WRITE IN THIS BOX

Date Voucher Received		VOUCHER NO.
FUND - APPROPRIATION	AMOUNT	
Total		
Abstract #		

TERMS Net 30 Days

Invoice # _____

Canine

Dates	Quantity	Description of Materials or Services	Unit Price	Amount
6/12	531329			888.30
7/12	531400			10.00
9/12	532344			52.60
			TOTAL	950.90

CLAIMANT'S CERTIFICATION

Dora M Cast certify that the above account in the amount of \$ 950.90 is true and correct; that the items, services and disbursements charged were rendered to or for the municipality on the dates stated; that no part has been paid or satisfied; that taxes, from which the municipality is exempt, are not included; and that the amount claimed is actually due.

10/26/12
DATE

Dora M Cast
SIGNATURE

Bookkeeper
TITLE

(Space below for municipal use)

DEPARTMENT APPROVAL

The above services or materials were rendered or furnished to the municipality on the dates stated and the charges are correct.

Date Authorized Official

APPROVAL FOR PAYMENT

This claim is approved and ordered for paid from the appropriations indicated above

Date

Auditing Board

Repairs needed at Animal Control facility:

URGENT:

At least 3 of the dog's guillotine doors are completely out of commission. These need to be repaired immediately. All doors need inspection and maintenance for safety.

I would like to install flap systems on the kennel doors ASAP to conserve heat and AC and limit flies.

Screen door in kennel area was damaged by Sandy, needs replacement.

Large portion of siding is off building exposing insulation which is damaged.

As per Tom Dubetski the extinguisher needs to be attached to the wall with a hook or spike.

Cat room broken outlet behind garbage can by microwave. Code Compliance has issued a violation.

Furnace room light needs repair, possibly a ballast.

MAINTENANCE:

Parking area needs repaving and re-grading

Kennel number 10 the inside door needs to be raised as it is dragging on floor.

The shed has holes in the roof and walls.

Two light bulbs needed in outside kennel area at two end kennels.

In pantry area the screen door has pulled away from its frame which is rotted

Holes in sheetrock by Barbara's desk and in bathroom. Bathroom molding is attached with duct tape and staples. The bathroom sink is cracked.

The outdoor exercise pens are not in good condition and were not of an industrial nature from the beginning. They are unsightly and need replacement. The kennels have been repaired but are still causing a hazard. Dogs escape daily. Any repairs could hold us over till spring, when replacement should be considered.

PROJECTS FOR SPRING:

Kennels need painting. Specialized paint and prepping will be required.

Parking area needs repaving and re-grading.

We need one very large exercise area for training and allowing the dogs to let off steam.

13. DPW: Budget Transfers for Sludge Removal


NOV 14 2012

13

**TOWN OF NEWBURGH
COMMISSIONER OF PUBLIC WORKS**
311 NYS Route 32
Newburgh, New York 12550
(845) 564-7813

MEMORANDUM

TO: Wayne Booth, Town Supervisor and Town Board Members

From: John Platt, Commissioner of Public Works 

Date: November 8, 2012

Re: Budget Transfer

I am requesting approval of the budget transfer delineated below to cover expenses for sludge removal at the Chadwick Lake Water Treatment Plant.

From: # 8330-0472

Amount: \$ 15,000.00

From: # 8330-0481

Amount: \$ 15,000.00

To: # 8330-0457

Amount: \$ 30,000.00

As the above needs Town Board action, I am requesting that this item be placed on the next available agenda for approval. If you should have any questions or need any additional information, please feel free to call on me.

Thank you.

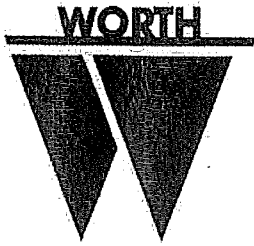
Cc: J. Calarco, Accountant

14. ENGINEERING:

A. Delaware Aqueduct Tap Water Treatment Plant Change Order Approval for Asbestos Removal and Disposal

B. West Stone Street Sewer Main Extension Budget Transfer to Capital Project

NOV 14 2012



14a

November 7, 2012

VIA EMAIL
9 Pages

GHD Consulting Engineers, LLC.
1 Remington Park Drive
Cazenovia, New York 13035

ATTN: Mr. Andrew Weiss

RE: DAT Newburgh WTP
218 Lattintown Road
Newburgh, NY 12550
WCCI Project No. #192
GC-PCO-024

Dear Mr. Weiss:

Please find attached Worth Construction Co., Inc.'s **Proposed Change Order No. GC-PCO-024**. The attached worksheet outlines the additional costs to have the ACM contaminated soils at the proposed 8" Water Main adjacent to the existing Clearwell and DAT Pump Station removed and properly disposed of.

The total additional cost for this Proposed Change Order GC-PCO-024 is **FOURTEEN THOUSAND EIGHT HUNDRED NINETY EIGHT Dollars + 66/100 Cents (\$14,898.66)**. Work included in this change order proposal is as detailed in the attached documents.

If you have any questions, please feel free to contact us.

Very truly yours,

WORTH CONSTRUCTION CO., INC.

A handwritten signature in black ink, appearing to read "Ryan Chianelli", with a long horizontal flourish extending to the right.

Ryan Chianelli
Project Manager

cc: GC-PCO-024 - File
Michael Pontoriero, GHD file, Field File

14B

**TOWN OF NEWBURGH
TOWN ENGINEER
1496 Rte. 300
Newburgh, NY 12550
(845) 564-7814**

MEMORANDUM

TO: Wayne Booth, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer *JWO*
DATE: November 7, 2012
RE: S \ WEST STONE STREET SEWER DISTRICT EXTENSION

Now that the Town Board has acted to create the West Stone Street Sewer District Extension and approved the Consolidation Agreement, costs incurred for the design, bidding and construction of the new sewer collection system can be funded by the Crossroads Consolidated Sewer District. To this end, I am requesting the following budget transfers for this year to a new capital project.

FROM: #8130.0458.5010 (Repairs to Collection)
TO: #050.9902.0900.5010 (Interfund Transfer)
AMOUNT: \$ 20,000

FROM: #8130.0473.5010 (Repairs to Treatment Plant)
TO: #050.9902.0900.5010 (Interfund Transfer)
AMOUNT: \$15,000

FROM: #8130.0499 (Other Expenses)
TO: #050.9902.0900.5010 (Interfund Transfer)
AMOUNT: \$15,000

FROM: #050.9902.0900.5010 (Interfund Transfer)
TO: #070.0070.2801.7006 (Capital Project)
AMOUNT: \$250,000

Additional funds from either the Crossroads Reserve Fund or the 2013 Budget will be required to fully fund this project. The additional amount will be determined based on actual bids.

As the above requires Town Board action, I am requesting that this item be placed on the next available agenda for approval. If you have any questions or comments, I am available to discuss them with you.

JWO/id
cc: J. Platt, DPW Commissioner
J. Calarco, Accountant

15. **AUDIT Agreement with Vanacore, DeBenedictus, DiGiovanni
& Weddell**
 - A. **Town**
 - B. **Justice Court**



15a

September 6, 2012

Town Board
Town of Newburgh
1469 Route 300
Newburgh, NY 12550

Attention: Mr. Wayne Booth,

This letter is to explain our understanding of the arrangements for the services we are to perform for Town of Newburgh ("the Town") for the year ending December 31, 2012. We ask that you either confirm or amend that understanding.

Audit Services

We will perform an audit of Town of Newburgh's governmental activities, business-type activities, aggregate discretely presented component units, each major fund, and aggregate remaining fund information as of and for the year ending December 31, 2012 which collectively comprise basic financial statements. We understand that the financial statements will be prepared in accordance with accounting principles generally accepted in the United States of America. The objective of an audit of financial statements is to express an opinion on those statements.

We are responsible for forming and expressing an opinion about whether the financial statements that have been prepared by management, with the oversight of the Town Board, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

We will conduct the audit in accordance with auditing standards generally accepted in the United States of America and "Government Auditing Standards" issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Accordingly, a material misstatement, may remain undetected. Also, an audit is not designed to detect errors or fraud that are immaterial to the financial statements. The determination of abuse is subjective; therefore, Government Auditing Standards do not expect us to provide reasonable assurance of detecting abuse.

An audit of financial statements includes obtaining an understanding of the Town and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, we will communicate to management and the Town Board any significant deficiencies or material weaknesses that we become aware of during the course of the audit.

We will also communicate to the Town Board (a) any fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements that becomes known to us during the audit, (b) any illegal acts that we become aware of during the audit (unless they are clearly inconsequential), (c) various matters related to the Town's accounting policies and financial statements and (d) any disagreements with management or other serious difficulties encountered in performing the audit, should any arise.

In addition to our report on the Town financial statements, we will also issue the following reports or types of reports:

A Report on internal control related to the financial statements. This report will describe the scope of testing of internal control and the results of our tests of internal controls.

A schedule of findings, responses and questioned costs.

The funds that you have told us are maintained by the Town and that are to be included as part of our audit are listed here.

- * General Fund
- * Highway Fund
- * Water Fund
- * Sewer Fund
- * Drainage Fund
- * Capital Projects Fund
- * Lighting Fund
- * Agency Fund

Town of Newburgh's Responsibilities

Management is responsible for the financial statements, including the selection and application of accounting policies, adjusting the financial statements to correct material misstatements, and for making all financial records and related information available to us. Management is responsible for providing us with a written management representation letter confirming certain representations made during the course of our audit of the financial statements and affirming to us that it believes the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole and to the opinion units of the financial statements.

Management is responsible for establishing and maintaining effective internal control over financial reporting and for informing us of all significant deficiencies and material weaknesses in the design or operation of such controls of which it has knowledge.

Management is responsible for identifying and ensuring that the entity complies with the laws and regulations applicable to its activities, and for informing us about all known material violations of such laws or regulations. In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the entity involving management, employees who have significant roles in internal control and others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators or others.

Management is also responsible for (a) making us aware of significant vendor relationships where the vendor is responsible for program compliance, (b) following up and taking corrective action on audit findings, including the preparation of a summary schedule of prior audit findings and a corrective action plan and (c) report distribution, including submitting the reporting package.

The Town Board is responsible for informing us of its views about the risks of fraud within the Town, and its knowledge of any fraud or suspected fraud affecting the Town.

The Town agrees that it will not include our reports, or otherwise make reference to us, in any public or private securities offering without first obtaining our consent. Any request to consent is also a matter for which separate arrangements will be necessary. After obtaining our consent, the Town also agrees to provide us with printer's proofs or masters of such offering documents for our review and approval before printing and with a copy of the final reproduced material for our approval before it is distributed. In the event our auditor/client relationship has been terminated when the Town seeks such consent, we will be under no obligation to grant such consent or approval.

Because Vanacore, DeBenedictus, DiGiovanni and Weddell, LLP will rely on Town of Newburgh and its management and audit committee to discharge the foregoing responsibilities, Town of Newburgh holds harmless and releases Vanacore, DeBenedictus, DiGiovanni and Weddell, LLP, its partners and employees from all claims, liabilities, losses and costs arising in circumstances where there has been a knowing misrepresentation by a member of Town of Newburgh's management which has caused, in any respect, Vanacore, DeBenedictus, DiGiovanni and Weddell, LLP's breach of contract or negligence. This provision shall survive the termination of this arrangement for services.

Town of Newburgh's Records and Assistance

If circumstances arise relating to the condition of the Town's records, the availability of appropriate audit evidence, or indications of a significant risk of material misstatement of the financial statements because of error, fraudulent financial reporting or misappropriation of assets which, in our professional judgment, prevent us from completing the audit or forming an opinion, we retain the unilateral right to take any course of action permitted by professional standards, including declining to express an opinion or issue a report, or withdrawal from the engagement.

During the course of our engagement, we may accumulate records containing data that should be reflected in the Town's books and records. The Town will determine that all such data, if necessary, will be so reflected. Accordingly, the Town will not expect us to maintain copies of such records in our possession.

The assistance to be supplied by Town personnel, including the preparation of schedules and analyses of accounts, will be discussed and coordinated with you. The timely and accurate completion of this work is an essential condition to our completion of the audit and issuance of our audit report.

If, in connection with our audit, you request us to perform accounting services necessary for the preparation of the financial statements (such as maintaining depreciation schedules, drafting the financial statements, etc.), you agree to designate an appropriate individual to oversee the services, make all management decisions involved in those services, evaluate the adequacy and results of the services, and accept responsibility for the results of the services.

From time to time and depending upon the circumstances, we may use third-party service providers to assist us in providing professional services to you. In such circumstances, it may be necessary for us to disclose confidential client information to them. We enter into confidentiality agreements with all third-party service providers and we are satisfied that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others.

Fees, Costs, and Access to Workpapers

Our fees for the services described above are based upon the time required by the individuals assigned to the engagement, plus direct expenses. We propose that our fee for this audit engagement will be \$28,400 for the year ending December 31, 2012. This fee estimate will be subject to adjustments based on unanticipated changes in the scope of our work and/or the incomplete or untimely receipt by us of the information on the client participation list. All other provisions of this letter will survive any fee adjustment. Interim billings will be submitted as work progresses. Billings are due upon submission.

It is agreed by Town of Newburgh and Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP that, should you hire any of our professionals assigned to this project within eighteen months of this assignment, you will be billed 100 percent of their current annual salary. This additional fee is being charged to offset recruitment, training and development expenses we would incur to replace this person. In addition, our professional standards require that we perform certain additional procedures, on current and previous years' engagements, whenever a partner or professional employee leaves the firm and is subsequently employed by, or associated with, a client in a key position. Accordingly, the Town agrees it will compensate Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP for any additional costs incurred as a result of the Town's employment of a partner or professional employee of Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP.

In the event we are requested or authorized by Town of Newburgh, or are required by government regulation, subpoena or other legal process, to produce our documents or our personnel as witnesses with respect to our engagements for Town of Newburgh, Town of Newburgh will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

Claim Resolution

It is agreed by the Town of Newburgh and Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP, or any successors in interest, that no claim arising out of services rendered pursuant to this agreement by or on behalf of the Town shall be asserted more than two years after the date of the last audit report issued by Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP.

If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Rules for Professional Accounting and Related Services Disputes before resorting to litigation. The costs of any mediation proceeding shall be shared equally by all parties.

Additional Terms of Our Engagement

This letter constitutes the complete and exclusive statement of agreement between Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP and Town of Newburgh, superseding all proposals, oral or written, and all other communications, with respect to the terms of the engagement between the parties.

In accordance with Government Auditing Standards, a copy of our most recent peer review report has been provided for your information.

If this letter defines the arrangements as you understand them, please sign and date the enclosed copy and return it to us. We appreciate your business.

Sincerely,

VANACORE, DeBENEDICTUS, DIGIOVANNI & WEDDELL
Limited Liability Partnership



Tonia A. Crown, CPA
Partner

Confirmed on behalf of the addressee:

Date

System Review Report

To the Partners of
Vanacore, DeBenedictus, DiGiovanni
& Weddell, LLP

Peer Review Committee
New York State Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Vanacore DeBenedictus DiGiovanni & Weddell, LLP (the firm) in effect for the year ended March 31, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Vanacore DeBenedictus DiGiovanni & Weddell, LLP, in effect for the year ended March 31, 2011, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Vanacore DeBenedictus DiGiovanni & Weddell, LLP has received a peer review rating of *pass*.



August 4, 2011
Camp Hill, Pennsylvania

JUN 27 2012 Justice Court

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**VANACORE
DEBENEDICTUS
& DIGIOVANNI
WEDDELL**

LIMITED LIABILITY PARTNERSHIP
CERTIFIED PUBLIC ACCOUNTANTS BUSINESS DEVELOPMENT CONSULTANTS

October 28, 2011

Town of Newburgh
311 Route 32
Newburgh, NY 12550

Attention: Town Council

This letter is to explain our understanding of the arrangements for, and the nature and limitations of, the audit services we are to perform for the Town of Newburgh pertaining to its Justice Court for the year ended December 31, 2011.

We ask that you either confirm or amend our understanding regarding the procedures to be performed and their timing. The sufficiency of these procedures is the sole responsibility of the Town Council. We make no representation regarding the sufficiency of the procedures described, either for the purpose for which these services have been requested or any other purpose.

Our engagement will be conducted in accordance with standards established by the American Institute of Certified Public Accountants and will include applying procedures to selected records and transactions and consulting services related to certain operational matters of the Town's Justice Court for the period referred to in the preceding paragraph. Because these procedures and consulting services do not constitute an audit made in accordance with generally accepted auditing standards, we will not express an opinion on any of the specific elements, accounts or items referred to in our report, on internal control or any aspects thereof, or on the financial statements of the Justice Court taken as a whole. Our report will contain a paragraph pointing out that if we had performed additional procedures or if we had conducted an audit of the financial statements in accordance with generally accepted auditing standards, matters in addition to any findings, observations and recommendations that may result from the procedures performed might have come to our attention and been reported to you.

At the conclusion of the work, we will present a report to the Town Council outlining the procedures performed and our findings, observations and recommendations resulting therefrom. We will also submit reports outlining the results of any additional procedures performed.

Evaluation of the findings and recommendations resulting from our procedures, the preparation of management's response to these findings and recommendations, and determination of which recommendations will be implemented is the responsibility of the Town Council. We would be available to comment to the Council as to whether, in our view, the response to the findings addresses the substance of the findings.

Our report will contain a statement that it is intended solely for the use of the Town and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. Other parties to whom the report may be provided should be advised that the procedures were performed only for the purposes of the Town.

The internal control evaluation process involves the following procedures:

- Review of internal controls including interviews and documentation of the various cycles (i.e. cash disbursements, receipts). Evaluate the Town Justice Court's record keeping procedures to ensure that all appropriate information is being recorded.
- Testing of specific transactions to ensure that they have been handled properly according to existing policies and procedures.
- Review of the Town Justice Court's recording keeping and reporting procedures, including bank reconciliations, court records and monthly reports to the Justice Court Fund.

Our fees are based on the time required by the individuals assigned to the engagement. The price for the internal control evaluation will be \$5,100. If additional services are required of VDDW beyond the initial evaluation, these services will be billed at individual hourly rates, which vary according to the degree of responsibility involved and the skill required. Billings are due upon submission.

In the event we are requested or authorized by the Town or are required by government regulation, subpoena or other legal process to produce our documents or our personnel as witnesses with respect to our work for the Town Justice Court, the Town will, so long as we are not a party to the proceeding in which such information is sought, reimburse us for our professional time and expenses, as well as fees and expenses of our counsel, incurred in responding to such requests.

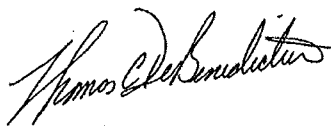
It is agreed by Town of Newburgh Justice Court and Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP, or any successors in interest, that no claim by or on behalf of either party arising out of services rendered pursuant to this agreement shall be asserted more than three years after the date of any report issued by us or one year after the date of termination of Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP's services, whichever occurs first.

This letter constitutes the complete and exclusive statement of agreement between Vanacore, DeBenedictus, DiGiovanni & Weddell, LLP and the Town of Newburgh, superseding all other communications, oral or written, with respect to the terms of the engagement between the parties.

If this letter defines the arrangements as you understand them, please sign and date the enclosed copy and return it to us. Thank you for this opportunity to be of assistance. We appreciate your business.

Very truly yours,

VANACORE, DeBENEDICTUS, DiGOVANNI & WEDDELL
Limited Liability Partnership



Thomas C. DeBenedictus, CPA
Director of Audit Services

Confirmed on behalf of addressee(s):

System Review Report

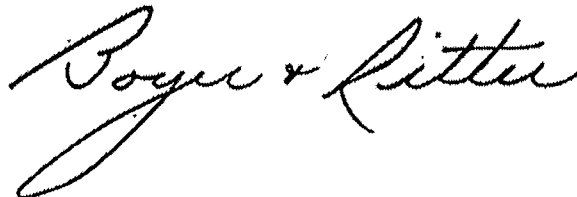
To the Partners of
Vanacore, DeBenedictus, DiGiovanni
& Weddell, LLP

Peer Review Committee
New York State Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Vanacore DeBenedictus DiGiovanni & Weddell, LLP (the firm) in effect for the year ended March 31, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Vanacore DeBenedictus DiGiovanni & Weddell, LLP, in effect for the year ended March 31, 2011, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Vanacore DeBenedictus DiGiovanni & Weddell, LLP has received a peer review rating of *pass*.



August 4, 2011
Camp Hill, Pennsylvania

16.ASSESSOR: Settlement of Tax Certiorari (Central Hudson Gas & Electric)

NOV 14 2012

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At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of November, 2012 at 7:00 o'clock p.m.

PRESENT:

- Wayne C. Booth, Supervisor
- George Woolsey, Councilman
- Gilbert J. Piquadio, Councilman
- Elizabeth J. Greene, Councilwoman
- Ernest C. Bello, Jr., Councilman

**RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDING UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
CENTRAL HUDSON GAS & ELECTRIC
CORPORATION
MULTIPLE PARCELS
INDEX NUMBERS 2001-4903, 2002-4521,
2003-4800, 2004-4530 (Tried Proceedings)
and 2005-4246, 2006-5282, 2007-6023, 2008-
6955, 2010-7229 and 2011-006408
(Outstanding Proceedings)**

Councilman/woman _____ presented the following resolution which was seconded by Councilman/woman _____.

WHEREAS, Central Hudson Gas & Electric Corporation ("Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the real property tax assessments of several parcels located in the Town of Newburgh, Orange County, New York on the tax assessment rolls for the tax years 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010 and 2011; and

WHEREAS THE Court issued a Decision and Order dated December 23, 2008 with respect to the Tried Proceedings for 2001-2004; and

WHEREAS, special counsel to the Town, Hacker & Murphy, LLP, has negotiated a settlement of both the Tried Proceedings and the Pending Proceedings with the Petitioner, the terms of which are embodied in a Stipulation of Settlement annexed hereto and recommended that the Town Board authorize the settlement; and

WHEREAS, after review and discussion, the Town Board has determined it to be in the best interests of the Town to authorize the settlement.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes, directs and ratifies the execution and delivery of the Stipulation of Settlement by Hacker & Murphy, LLP on behalf of the Town; and

BE IT FURTHER RESOLVED, that Hacker & Murphy, LLP, the Town Supervisor, the Attorney for the Town, the Town's Sole Assessor and other officers of the Town are hereby

authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the settlement; and

BE IT FURTHER RESOLVED that the aforesaid resolutions shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

George Woolsey, Councilman voting _____

Gilbert J. Piquadio, Councilman voting _____

Elizabeth J. Greene, Councilwoman voting _____

Ernest C. Bello, Jr., Councilman voting _____

Wayne C. Booth, Supervisor voting _____

The resolution was thereupon declared duly adopted.

**STATE OF NEW YORK
SUPREME COURT COUNTY OF ORANGE**

In the Matter of the Application of

**CENTRAL HUDSON GAS & ELECTRIC
CORPORATION,**

Petitioner,

-against-

**TOWN OF NEWBURGH ASSESSOR, TOWN OF
NEWBURGH BOARD OF ASSESSMENT REVIEW,
and the TOWN OF NEWBURGH, ORANGE COUNTY,
STATE OF NEW YORK,**

Respondents.

In the Matter of the Application of

**CENTRAL HUDSON GAS & ELECTRIC
CORPORATION,**

Petitioner,

-against-

**TOWN OF NEWBURGH ASSESSOR, TOWN OF
NEWBURGH BOARD OF ASSESSMENT REVIEW,
and the TOWN OF NEWBURGH, ORANGE COUNTY,
STATE OF NEW YORK,**

Respondents.

**PRESENT: Hon. John R. LaCava
Supreme Court Justice**

WHEREAS, Petitioner, Central Hudson Gas and Electric Corporation ("Petitioner" or

**STIPULATION OF
SETTLEMENT**

Index Nos. 2001-4903, 2002-4521,
2003-4800, 2004-4530
(Tried Proceedings)

Honorable John R. LaCava

Index Nos. 2005-4246, 2006-5282,
2007-6023, 2008-6955, 2010-7229,
2011-006408
(Outstanding Proceedings)

Honorable Catherine M. Bartlett

“Central Hudson”), commenced the above captioned proceedings in the Orange County Supreme Court of the State of New York pursuant to Article 7 of the Real Property Tax Law to review the real property tax assessments made by Respondents for each of the years 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010 and 2011 on premises of Petitioner described on the Town of Newburgh Final Assessment Rolls as Parcel Nos. (“Subject Property”):

Tax ID No.
646-9999-107.700-1002 (old#999-5-451)
646-9999-107.700-1012 (old#999-5-452)
646-9999-107.700-1032 (old#999-5-454)
646-9999-107.700-1051 (old#999-5-456)
646-9999-107.700-1061 (old# 999-5-457)
646-9999-107.700-1071 (old#999-5-458)
646-9999-107.700-1081 (old#999-5-459&60)
646-999-107.700-1103 (old#999-5-463)(30%)
646-9999-107.700-1101 (old#999-5-464)(70%)
646-9999-107.700-1023 (old#999-5-465)(37%)
646-9999-107.700-1022 (old #999-5-466)(63%)
646-9999-107.700-2013 (old#999-5-476)
43-3-1
43-5-33
72-8-2
999-5-600

being the real property mentioned and more fully described in the Petitions filed,

WHEREAS, the Court held a trial with respect to the 2001, 2002, 2003 and 2004 above-captioned proceedings (“Tried Proceedings”), following which the Court issued a Decision and Order, dated December 23, 2008 (“Court Decision”) granting Petitioner’s petitions and determining a value for the improvements and the fee owned land (see attached Exhibit A);

WHEREAS, Respondents, Town of Newburgh, Town of Newburgh Assessor and Town of Newburgh Board of Assessment Review (“Respondents”), appealed said Court Decision to the

Appellate Division, Second Department, which issued a Memorandum Decision and Order, dated May 18, 2010 ("Second Department Decision") that affirmed the Court's Decision to the extent of its determination of values for the fee owned land and improvements, but remanded for further proceedings to determine the appropriate inclusion of rights of way in such valuation determinations (see attached Exhibit B);

WHEREAS, the parties have reached an agreement for settlement of the proceedings referred to in the captions above, by and through their attorneys, based on the following agreements:

A. For each proceeding captioned above (2001 through 2012, excluding 2009), Petitioner reserves the right to litigate whether the valuation or costs to obtain the right of way (easement) may be included in the valuation of the Subject Property (hereafter, "right-of-way issue" or "easement issue") for each of the 2001 through 2008, and the 2010, 2011 and 2012 final assessment rolls, but agrees to Respondents' appraised values of said easements (to the extent that easements are found to be applicable in valuing the Subject Property for said years);

B. For the Tried Proceedings (2001, 2002, 2003 and 2004 final assessment rolls), the parties agree to the Court Decision's established assessed values for improvements and fee owned land of the Subject Property;

C. For the 2005, 2006 and 2007 final assessment rolls, the parties agree to apply the Court Decision's assessed values for the Subject Property's improvements and fee owned land as determined for the 2004 final assessment rolls (*i.e.*, apply RPTL §727 for these years).

D. For the 2008, 2010 and 2011 final assessment rolls, the parties agree to apply the Court's determined full values for the Subject Property's improvements and fee owned land for the 2004 final assessment rolls, applying the applicable final equalization rate for each respective year to compute the appropriate assessed value.

E. For the 2012 final assessment rolls, the parties agree that the assessed value shall be the same as the assessed values determined on the 2011 final assessment rolls (as set forth in "D", above), and Petitioner reserves its right to challenge the right of way issue with respect to the easement value contained in said assessed values.

F. For all years comprising the above-captioned proceedings (except for the 2010, 2011 and 2012 proceedings), and notwithstanding Petitioner's reservation of rights as to

right of way issue, the Town will pay refunds, with interest per RPTL §726, based on the assessed value resulting from the combined (1) Court determined values for improvements and fee owned land and (2) the agreed valuations for the right of ways (see paragraph 2, below, and solely for purposes of computing refunds).

F. The Town agrees to pay additional refunds, with interest per RPTL §726, should the right of way issue be finally decided in Petitioner's favor (in whole or in part).

G. Notwithstanding the foregoing, interest shall not be paid with refunds paid for the 2010, 2011 and 2012 final assessment rolls.

IT IS HEREBY ADJUDGED, AGREED AND ORDERED, that:

1. Petitioner reserves the right of way issue (i.e., to litigate whether the valuation or costs to obtain rights of way are properly included in determining the real property value of the Subject Property pursuant to the Real Property Tax Law) for each of the years in question (and relative to the 2012 final assessment rolls).

2. The full values of the rights-of way, for purposes of this settlement and to compute refunds only (pending a final determination on the reserved right of way issue), are set forth below:

Tax Identification No.	Easement Determination for 2001	Easement Determination for 2002	Easement Determination for 2003	Easement Determination for 2004
646-9999-107.700-1081	\$55,000	\$61,000	\$70,000	\$80,000
646-9999-107.700-1002	\$323,000	\$355,000	\$408,000	\$469,000
646-9999-107.700-1071	\$1,074,000	\$1,182,000	\$1,359,000	\$1,563,000
646-9999-107.700-1103	\$88,200	\$96,900	\$111,600	\$128,700
646-9999-107.700-1101	\$205,000	\$226,100	\$260,400	\$300,300
646-9999-107.700-1012	NOT APPLICABLE			
646-9999-107.700-1032	NOT APPLICABLE			
646-9999-107.700-1023	\$67,000	\$73,000	\$84,000	\$97,000
646-9999-107.700-1022	\$300,000	\$330,000	\$380,000	\$438,000
646-9999-107.700-1051	\$45,000	\$50,000	\$57,000	\$65,000
646-9999-107.700-1061	NOT APPLICABLE			
646-9999-107.700-2013	\$97,500	\$107,000	\$123,000	\$141,000

3. For purposes of this settlement only and subject to a final determination regarding the right

of way issue, the assessments for Petitioner's real property designated upon the assessment rolls for the Town of Newburgh for each of the years 2001 to 2012 by the following tax identification numbers be and the same are reduced as follows:

2001 Final Assessment Rolls

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002 (old#999-5-451)	867,312	1,152,100	284,788
646-9999-107.700-1012 (old#999-5-452)	125,189	266,900	141,711
646-9999-107.700-1032 (old#999-5-454)	165,970	181,200	15,230
646-9999-107.700-1051 (old#999-5-456)	316,291	366,000	49,709
646-9999-107.700-1061 (old# 999-5-457)	132,302	161,300	28,998
646-9999-107.700-1081 (old#999-5-459&60)	286,417	421,000	134,583
646-999-107.700-1103 (old#999-5-463)(30%)	91,046	111,420	20,374
646-9999-107.700-1101 (old#999-5-464)(70%)	212,062	259,980	47,918
646-9999-107.700-1023 (old#999-5-465)(37%)	156,505	226,875	70,370
646-9999-107.700-2013 (old#999-5-476)	615,749	991,300	375,551
43-3-1	1,073,115	1,390,500	317,385
43-5-33	57,852	189,100	131,248
72-8-2	24,658	150,000	125,342
999-5-600	43,626	94,300	50,674
Totals	4,168,094	5,961,975	1,793,881

2002 Final Assessment Rolls

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	876,819	1,152,100	275,281
646-9999-107.700-1012	128,097	266,900	138,803
646-9999-107.700-1032	154,804	181,200	26,396
646-9999-107.700-1051	322,725	366,000	43,275
646-9999-107.700-1061	135,545	161,300	25,756
646-9999-107.700-1081	284,991	421,000	136,009
646-9999-107.700-1103	94,285	111,420	17,135
646-9999-107.700-1101	219,999	259,980	39,981
646-9999-107.700-1023	167,723	226,875	59,152

646-9999.107-700-1022	285,582	378,125	92,543
646-9999.107-700-2013	653,891	991,300	337,410
43-3-1	1,038,678	1,390,500	351,822
43-5-33	61,566	189,100	127,534
72-8-2	26,811	150,000	123,189
999-5-600	43,196	94,300	51,105
Totals	4,494,712	6,340,100	1,845,391

2003 Final Assessment Rolls

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	798,034	1,152,100	354,066
646-9999-107.700-1012	122,148	266,900	144,752
646-9999-107.700-1032	138,384	181,200	42,816
646-9999-107.700-1051	289,536	366,000	76,464
646-9999-107.700-1061	123,053	161,300	38,247
646-9999-107.700-1081	259,225	421,000	161,775
646-9999-107.700-1103	91,068	111,420	20,352
646-9999.107.700-1101	212,492	259,980	47,488
646-9999.107.700-1023	162,199	226,875	64,676
646-9999.107.700-1022	276,177	378,125	101,948
646-9999.107.700-2013	652,813	991,300	338,487
43-3-1	926,515	1,390,500	463,985
43-5-33	56,550	189,100	132,550
72-8-2	23,977	150,000	126,023
999-5-600	35,287	94,300	59,013
Totals	4,167,458	6,340,100	2,172,642

2004 Final Assessment Rolls

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	699,480	1,152,100	452,620
646-9999-107.700-1012	110,148	266,900	156,752
646-9999-107.700-1032	125,690	181,200	55,510
646-9999-107.700-1051	254,466	366,000	111,534
646-9999-107.700-1061	105,324	161,300	55,976
646-9999-107.700-1081	221,502	421,000	199,498
646-9999-107.700-1103	83,576	111,420	27,844
646-9999.107.700-1101	195,010	259,980	64,970

646-9999.107.700-1023	154,690	226,875	72,185
646-9999.107.700-1022	263,390	378,125	114,735
646-9999.107.700-2013	569,232	991,300	422,068
43-3-1	805,608	1,390,500	584,892
43-5-33	54,270	189,100	134,830
72-8-2	21,306	150,000	128,694
999-5-600	29,346	94,300	64,954
Totals	3,693,038	6,340,100	2,647,062

**For each of the
2005, 2006 and 2007 Final Assessment Rolls**

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	699,480	1,152,100	452,620
646-9999-107.700-1012	110,148	266,900	156,752
646-9999-107.700-1032	125,690	181,200	55,510
646-9999-107.700-1051	254,466	366,000	111,534
646-9999-107.700-1061	105,324	161,300	55,976
646-9999-107.700-1081	221,502	421,000	199,498
646-9999-107.700-1103	83,576	111,420	27,844
646-9999.107.700-1101	195,010	259,980	64,970
646-9999.107.700-1023	154,690	226,875	72,185
646-9999.107.700-1022	263,390	378,125	114,735
646-9999.107.700-2013	569,232	991,300	422,068
43-3-1	805,608	1,390,500	584,892
43-5-33	54,270	189,100	134,830
72-8-2	21,306	150,000	128,694
999-5-600	29,346	94,300	64,954
Totals	3,693,038	6,340,100	2,647,062

**For the
2008 Final Assessment Rolls**

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	475,890	1,152,100	676,210
646-9999-107.700-1012	74,939	266,900	191,961
646-9999-107.700-1032	85,513	181,200	95,687
646-9999-107.700-1051	173,126	366,000	192,875
646-9999-107.700-1061	71,657	161,300	89,643

646-9999-107.700-1081	150,699	421,000	270,302
646-9999-107.700-1103	56,861	111,420	54,559
646-9999.107.700-1101	132,675	259,980	127,305
646-9999.107.700-1023	105,243	226,875	121,632
646-9999.107.700-1022	179,197	378,125	198,928
646-9999.107.700-2013	387,276	991,300	604,024
43-3-1	548,094	1,390,500	842,406
43-5-33	36,923	189,100	152,178
72-8-2	14,496	150,000	135,505
999-5-600	19,966	94,300	74,335
Totals	2,512,555	6,340,100	3,827,550

For the
2010 Final Assessment Rolls

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	570,720	1,152,100	581,380
646-9999-107.700-1012	89,872	266,900	177,028
646-9999-107.700-1032	102,553	181,200	78,647
646-9999-107.700-1051	207,624	366,000	158,376
646-9999-107.700-1061	85,936	161,300	75,364
646-9999-107.700-1081	180,728	421,000	240,272
646-9999-107.700-1103	68,191	111,420	43,229
646-9999.107.700-1101	159,113	259,980	100,867
646-9999.107.700-1023	126,214	226,875	100,661
646-9999.107.700-1022	214,906	378,125	163,219
646-9999.107.700-2013	464,448	991,300	526,852
43-3-1	657,312	1,390,500	733,188
43-5-33	44,280	189,100	144,820
72-8-2	17,384	150,000	132,616
999-5-600	23,944	94,300	70,356
Totals	3,013,225	6,340,100	3,326,875

**For the
2011 and 2012 Final Assessment Rolls**

Tax ID No.	Reduced Assessed Value (Including right of way)	Town's Assessed Value	Ordered Reduction
646-9999-107.700-1002	619,440	1,152,100	532,660
646-9999-107.700-1012	97,544	266,900	169,356
646-9999-107.700-1032	111,307	181,200	69,893
646-9999-107.700-1051	225,348	366,000	140,652
646-9999-107.700-1061	93,272	161,300	68,028
646-9999-107.700-1081	196,156	421,000	224,844
646-9999-107.700-1103	74,012	111,420	37,408
646-9999.107.700-1101	172,696	259,980	87,284
646-9999.107.700-1023	136,989	226,875	89,886
646-9999.107.700-1022	233,251	378,125	144,874
646-9999.107.700-2013	504,096	991,300	487,204
43-3-1	713,424	1,390,500	677,076
43-5-33	48,060	189,100	141,040
72-8-2	18,868	150,000	131,132
999-5-600	25,988	94,300	68,312
Totals	3,270,451	6,340,100	3,069,649

Each respective year's "Reduced Assessed Value" includes Respondents' right of way determination, as set forth in paragraph 2, above (equalized), solely for the purpose of determining refunds pursuant to Real Property Tax Law §726 in paragraph 5, below; however, the parties agree that should Petitioner prevail (in whole or in part) on the right of way issue, Respondents would owe further refunds, with interest, pursuant to RPTL §726, in addition to the refunds specified and to be paid herein for each of the 2001 through 2008 and the 2010, 2011 and 2012 final assessment rolls.

4. Respondent Assessor, or other Town Officials, having custody of the assessment rolls of the Town of Newburgh for each of the years 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010 2011 and 2012, herein, shall forthwith correct, revise or establish the entries for the assessment of each tax identification number to reflect, at a minimum, the Reduced Assessed Values set forth

herein, by making the necessary and appropriate notations on each said final assessment rolls (subject to a final determination of the right of way issue).

5. Petitioner shall recover from the Town of Newburgh, County of Orange, New York and all other taxing entities, including all school and special districts, that use each of the 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012 final assessment rolls of said Town, the various principal amounts paid to such taxing entities as and for excess taxes for each said 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012 year (with each said entity being responsible for repaying only those excess taxes paid to said entity) that results from the difference between the ordered final assessment (as set forth above for each said year 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012) and the Town's stated assessment for the above-described tax identification number on its 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012 final assessment rolls (or other levying period for which each of the 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012 final assessment rolls were used), with accrued interest as required by RPTL § 726 (from the date of payment of said excess taxes). Respondents shall pay said refunds to Central Hudson Gas & Electric Corporation within forty-five days of the service of the notice entry of this Order (or within ten days of demand with respect to the 2012 final assessment rolls, only). In so agreeing to said refunds, Petitioner does not waive its right to any additional refunds that might arise in the final determination of the right of way issue.

6. Notwithstanding the foregoing, interest shall not be paid on refunds paid for the 2010, 2011 and/or 2012 assessment rolls, provided said refunds are paid as set forth in paragraph 5, above; otherwise, interest accrues as set forth in RPTL §726.

7. Upon entry of this Stipulation, the above-captioned proceedings shall be discontinued,

without costs to either party and with prejudice, with respect to the tax identification number 646-9999-107.700-1071, except that should Petitioner prevail, in whole or in part, on the right of way issue, Respondents agrees to reduce the assessment for said Tax Identification Number 646-9999-107.700-1071 to the combined Court's Decision's determined value for the improvements plus the value finally determined with respect to rights of way for each respective year and as set forth in paragraph 3, above. Should such combined value following a final determination on the right of way issue for any year in question be less than the Town's assessed value for said year, then, the Town shall pay refunds pursuant to RPTL §726 on such excess assessments, if any. 646-9999-107.700-1022 (old #999-5-466)

8. Upon entry of this Stipulation, the above-captioned proceedings shall be discontinued, without costs to either party and with prejudice, with respect to the tax identification number 646-9999-107.700-1022 (old #999-5-466) for the 2001 proceeding, only, except that should Petitioner prevail, in whole or in part, on the right of way issue, Respondents agrees to reduce the assessment for said Tax Identification Number 646-9999-107.700-1022 (old #999-5-466) to the combined Court's Decision's determined value for the improvements plus the value finally determined with respect to rights of way for 2001 and as set forth in paragraph 3, above. Should such combined value following a final determination on the right of way issue for 2001 be less than the Town's assessed value for that year, then, the Town shall pay refunds pursuant to RPTL §726 on such excess assessments, if any.

9. It is specifically agreed between the parties that this Stipulation and any portion thereof, as well as all facts pertaining to the negotiation and execution of this Stipulation shall be inadmissible in any subsequent action or proceeding before any court of law or administrative body for any

purpose, except that this Stipulation and its provisions shall be admissible in any action or proceeding for enforcement of its provisions.

10. This Stipulation shall be deemed as benefiting Petitioner, the Town of Newburgh, County of Orange, State of New York, and all applicable school districts and all other taxing authorities which use the Town's assessment rolls for tax purposes, or who would otherwise be bound or adversely affected by any final judgment in any pending tax certiorari proceeding between the parties.

11. Subject to this Stipulation being approved by a Justice of the Supreme Court, the parties hereto represent that the persons executing this Stipulation have been fully authorized by their respective clients to enter into this Stipulation with full and binding effect upon their clients, the parties to this proceeding.

12. This Stipulation is the full, final and complete Stipulation, and it supersedes any prior oral or written agreement between the parties. The parties are entering into this Stipulation to save litigation expenses that would be sustained if the issues herein could not be resolved amicably.

13. This Stipulation may not be modified except by a subsequent writing signed by the authorized representative of all parties herein.

14. If any provision of this Stipulation shall be determined to be invalid, illegal, null or void, or unenforceable to any extent, the remainder of this Stipulation and its application shall not be affected and shall be enforceable to the fullest extent permitted by law.

15. The provisions of RPTL §727 are waived (except with respect to the 2005, 2006 and 2007 final assessment rolls). Should Respondents establish the assessed values set forth in paragraph 3, above, on the 2012 final assessment rolls, Petitioner agrees to limit its challenge of the Town's

assessment on said 2012 final assessment rolls to the extent of the right of way issue and the easement values set forth in paragraph 3, above. Should the Court find in favor of Petitioner on the right-of-way issue, as reserved herein, Respondents agree to reduce said assessed values on the 2012 final assessment rolls, as determined by the Court and pay any resultant refunds pursuant to Real Property Tax Law §726..

16. Petitioner and Respondents further agree that for the 2013 tentative assessment rolls the parties will meet and Petitioner will provide cost information on the Subject Property (including any additions or retirements since 2011) and proposed valuation. The parties agree to use reasonable efforts to reach an agreement on the appropriate values for said parcels for the 2013 final assessment rolls. If such an agreement cannot be reached, each party shall be free to exercise whatever rights and remedies are available pursuant to the Real Property Tax Law.

FOR: PETITIONER
by their attorneys,
HISCOCK & BARCLAY, LLP

FOR: RESPONDENTS
by its attorneys,
HACKER & MURPHY, LLP

By: _____
Mark D. Lansing
80 State Street
Albany, New York 12207

By: _____
Patrick Seely
7 Airport Park Boulevard
Latham, New York 12210

Dated: March __, 2012

October
Dated: ~~March~~ 2012

IT IS SO ORDERED.

ENTER

Dated: _____, 2012
White Plains, New York

John R. La Cava
Justice of the Supreme Court

**17. FLEET MAINTENANCE: Award of Bid for Purchase of Loader
Backhoe**

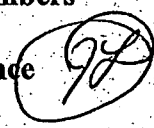
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**TOWN OF NEWBURGH
FLEET MAINTENANCE
88 GARDNERTOWN ROAD
NEWBURGH, NY 12550
(845) 561-2288 Fax# (845) 561-3975**

TO: Wayne Booth, Supervisor, and Town Board Members

FROM: James LaColla, Head Mechanic-Fleet Maintenance



DATE: November 14, 2012

RE: Bid Award

CC: Mark Taylor, Town Attorney

We have received bid proposals for the purchase of a loader backhoe. The apparent winner was Hoffman Equipment Company of NY, with the low bid of \$99,000. Highway Superintendent Darrell Benedict and myself have reviewed the bids and are satisfied that the proposal from Hoffman Equipment fully meets or exceeds our specifications. We therefore recommend that this bid be accepted and authorization to make this purchase be given.

TOWN OF NEWBURGH
NOTICE OF BID INVITATION
LOADER BACKHOE

The Town Board of the Town of Newburgh, County of Orange, New York, hereby invites the submission of sealed bids for Loader Backhoe.

Bids must be in writing on the forms furnished and shall be subject to the conditions contained in the Instruction to Bidders and Specifications as well as the following; (1) the Town Board reserves the right to reject all bids and re-advertise for new bids; (2) all bidders shall be prepared to submit proof of responsibility as required by the Town Board; (3) each bid must contain the certificate set forth and required by Section 103d of the General Municipal law relating to non-collusion and (4) no bidder may withdraw his bid with 45 days after the actual date of the opening of the same.

Detailed specifications for the above item(s) may be secured at the Town Clerk's Office, 1496 Route 300, Newburgh, New York, 12550.

All bids are to be submitted on bid forms obtainable at the Town Clerk's Office, 1496 Route 300, Newburgh, New York 12550 and shall be contained in sealed envelopes marked "Loader Backhoe".

Sealed bids will be received by the undersigned on behalf of the Town Board up until 10:00 a.m., on October 30, 2012 at the Town Clerk's Office, 1496 Route 300, Newburgh, New York 12550 when the same will be publicly opened and read aloud. The Town Board reserves the right to reject any or all bids and to waive any irregularity in a bid as the interests of the Town may require.

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF NEWBURGH

ANDREW J. ZARUTSKIE, TOWN CLERK

October 3, 2012

GENERAL INFORMATION

Please complete the following qualification questions as provided for herein. Bidders are responsible for submission of accurate and clear descriptions of the information requested. Omissions, vagueness or inaccurate descriptions or responses shall not be interpreted in favor of the bidder and shall be grounds for bid rejection.

General Background Information:

Bidder's Main Office: Hoffman International

300 South Rte 9thville Rd. Pleasanton NY 08854

Manager's Name (Contact): Mike Anderson

Firm's Legal Name: Hoffman Equipment Company of N.Y.

Street Address (Box Numbers): 1440 Rt 9W

City: Marlboro

State: NY

Zip: 12542

Telephone Number: 845-236-3000

e-mail address: dave.kock@hoffmanequip.com

Name of assigned site supervisor: David Kock

Telephone number: 845-332-2422

e-mail address: dave.kock@hoffmanequip.com

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

The bidder further certifies that this bid is made without any connection with any other person making a bid for the same purpose, and is in all respects fair and without collusion or fraud, and that no elected official or other officer or employee or person whose salary is payable in whole or in part from the Town treasury is directly or indirectly interested therein, or in supplies materials and equipment to which it relates, or in any portion of the profits thereof.

Bidder Name and Address: Hoffman Equipment
1440 Rt. 9W
Marlboro NY 12542

Signature (Authorized): BY: Dave Katz

Title: Territory Manager

Date: 10-22-12

CERTIFICATE OF COMPLIANCE
WITH GENERAL MUNICIPAL LAW
SECTIONS 103-a AND 103-b
GROUND FOR CANCELLATION OF CONTRACT BY MUNICIPAL
CORPORATIONS

Upon the refusal of a person, when called before a grand jury to testify concerning any transaction or contract had with the State, and political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, a. such person, and any firm, partnership or corporation, of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal corporation or any public department, agency or official thereof for goods, work, or services, for a period of five years after such refusal, and b. any and all contracts made with any municipal corporation or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by the municipal corporation without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the municipal corporation for goods delivered or work done prior to the cancellation or termination shall be paid. This condition shall be further subject to any other provisions or subsequent amendments to Section 103a and 103b of the General Municipal Law.

In acknowledgment of the above:

Hoffman Equipment
Bidder's Business Name

By: David Kal

Title: Territory Manager

Date: 10-22-12

INSTRUCTIONS TO BIDDERS AND GENERAL SPECIFICATIONS

1. Bidders interested in bidding on the referenced items should read the entire document. The vendor must complete all sections of this document including the General Information, Non-Collusive Bidding Certification and Certificate of Compliance with General Municipal Law Sections 103-a and 103-b and sign where indicated. When the specific specifications so indicate a bid bond in the stated amount must also be submitted. Your signature identifies your acceptance of all terms and conditions herein. Bids must be signed by the authorized representative/officer/agent of the bidder. The Town of Newburgh shall be the sole judge as to whether any bid complies with these specifications, and such a decision shall be final and conclusive.
2. All bidders must fill in the prices being requested in the places and formats indicated. All blank spaces in said bid shall be filled in and no changes shall be made in the phraseology, or in the items, terms and conditions contained therein. Each bid must be submitted on the prescribed form and all blank spaces for bid prices must be filled in ink or typewritten in both words and figures. Bid prices shall include all labor, materials (other than gasoline) and equipment necessary to complete the work in accordance with the contract documents or these specifications and instructions. All prices must be NET, F.O.B. to the Town of Newburgh Highway Department, 90 Gardnertown Road, Newburgh, unless otherwise indicated. Negligence on the part of the bidder in preparing a bid confers no right of withdrawal or modification of a bid after such bid has been opened. The Town of Newburgh is exempt from the New York sales tax and Federal excise taxes.
3. Completed bids should be sent to the following address: Town Clerk, 1496 Route 300, Newburgh, New York 12550. All bids must be properly signed and received by the time and date specified in order to be valid. The Town will not be held responsible for those bids lost in the mail or addressed to a Town facility other than the Town Clerk's Office, 1496 Route 300, Newburgh, New York 12550.
4. Please indicate "LOADER BACKHOE" on the outside of your submitted sealed bid. Bids submitted in unmarked envelopes which are opened by the Town in its normal course of business will not be accepted. If time permits, the proposals will be returned to the bidder informing them that the proposal may be resubmitted in a sealed envelope properly marked as indicated above.

5. Awards will be made, if at all, to the "lowest responsible bidder" meeting the specifications. The Town reserves the right to reject any and all bids or portion thereof, or any bids that are vague, incomplete or indefinite. The Town may make such investigation as it deems necessary to determine the ability of the bidder to perform the work. The bidder shall furnish to the Town all such information for this purpose as the Town may request. The Town reserves the right to reject any bid if the evidence submitted by or discovered by investigation of a bidder fails to satisfy the Town that such bidder is qualified to carry out the obligations of the contract and to the work contemplated therein. The Town reserves the right to examine the responsibility of bidders for contracts and proposed subcontractors on a case-by-case basis, including but not limited to an examination of the skill, judgment, integrity, good faith, sufficiency of financial resources, quality of execution, performance and conduct on prior similar contracts, and labor practices of a bidder and/or of a proposed subcontractor; and to investigate and consider the background of such bidders and subcontractors for this purpose, including their ownership, management, affiliation, history of past performance, and compliance with relevant state and federal laws and regulations.

6. The submission of the bid proposal shall constitute an irrevocable offer which shall remain in full force and effect until the bid proposals received by the Town are either accepted or rejected.

7. Bidders are advised to become familiar with all conditions, instructions and specifications governing this bid. Once the award has been made, failure to have read all the conditions, instructions and specifications shall not be cause to alter the original bid. All bids must be priced as specified in the bid specifications or on the bid form submitted, and must be signed and dated. No exceptions will be allowed with regard to errors made in the computation of a bid. Purchases by the Town of Newburgh are not subject to any federal, state or local taxes. Do not include any of these taxes when bidding or invoicing. Exemption certificates will be furnished upon request.

8. Any deviation from specifications shall be clearly stated and fully explained by accompanying specification sheets with submitted bid. Unless qualified by the provision NO SUBSTITUTE, the use of the name of a manufacturer, brand, make or catalog designation in specifying an item does not restrict Bidders to the manufacturer, brand, make or catalog designation identification. This is used simply to indicate the character, quality and/or performance equivalence of the commodity desired, but the commodity on which bids are submitted must be of such character, quality and/or performance equivalence that it will serve the purpose for which it is to be used equally as well as that specified. In submitting bids on a commodity other than as specified, Bidder shall furnish complete data and identification with respect to the alternate commodity he/she proposes to furnish. The Town reserves the right to make final determination of equivalency. Consideration will be given to bids submitted on alternate commodities to the extent that such action is deemed to serve best the interests of the Town. If the Bidder does not indicate that the commodity he proposed to furnish is other than specified, it will be construed to mean that the Bidder proposes to furnish the exact commodity described.

9. The prices quoted herein, if accepted, will be considered guaranteed, unadjustable prices for Competitive Bid Loader/Backhoe 12

the terms stated herein, unless otherwise so identified in other sections of this bid request. Once bids are opened the prices shall remain firm for forty five (45) days after the bid opening.

10. The Town of Newburgh reserves the right to reject any and all bids if deemed in the best interest of the Town to do so. The Town shall have the authority to award orders, contracts, or services to the bidder(s) best meeting the specifications and conditions as judged solely by the Town.

11. The Town Board shall determine whether bid exceptions are minor in nature or represent a serious departure from the purpose and intent of the specifications and whether or not the best interests of the Town will be promoted by waiving original requirements and accepting exceptions.

12. Time is of the essence in delivery. The Town reserves the right to refuse any goods or services and to cancel any and all parts of this bid if the bidder fails to deliver all or any part of the goods or services in accordance with the terms of the bid. The Town reserves the right to inspect all material furnished for conformity with the specifications. The right is reserved to reject and return at the vendor's expense and risk any unacceptable material.

TOWN OF NEWBURGH
ORANGE COUNTY, NEW YORK

LOADER BACKHOE

BID SUBMITTED TO:

TOWN OF NEWBURGH
1496 ROUTE 300
NEWBURGH, NY 12550

THE UNDERSIGNED, HAVING A PRICIPAL PLACE OF BUSINESS AT THE ADDRESS GIVEN BELOW AND BEING EXPERIENCED AND RESPONSIBLE FOR THE PERFORMANCE OF THE SAME, PROPOSE TO FURNISH ONE (1) LOADER BACKHOE TO TOWN OF NEWBURGH IN ACCORDANCE WITH THE NOTICE OF BIDDERS AND THE BID SPECIFICATIONS.

LOADER BACKHOE

DELIVERED TO THE
TOWN OF NEWBURGH

\$ 99,000

DATED: 10-22-12
BIDDER: Hoffman Equipment
NAME/TITLE: David Koch / Territory mgr.
ADDRESS: 1490 Rt 9W
Marlboro, NY 12542
TELEPHONE: 845.236.3000
SIGNATURE/TITLE: David Koch / Territory mgr.

NOTE: SEALED ENVELOPES TO BE CLEARLY MARKED
"BID FOR LOADER BACKHOE"

BID SPECIFICATIONS

It is the intention of this specification to describe the minimum requirements for a **LOADER BACKHOE**. Bidders shall list any and all deviations from this specification in order for their proposal to receive full consideration. Bidders shall furnish complete manufacturer's literature and detailed specifications with their proposal. The use of manufacturer's names and/or model numbers is strictly for the purpose of indicating the quality of materials required.

- ENGINE:** 4-cylinder, turbocharged diesel engine with a minimum 108 net horsepower at 2,200 rpm, a diesel particulate filter, engine displacement of 207 cubic inches, minimum SAE net torque rating of 338 ft-lbs at 1,200 rpm, torque rise of 30% at rated speed, tier Iva certified per federal emissions standards, parent metal bore design, direct high pressure common rail fuel injection, internal oil cooler, integral water pump, engine shall be equipped with a 9 blade suction fan with minimum diameter of 19.6 inches, an aspirated dual-stage air cleaner, polly-v belt for fan and alternator, automatic self-adjusting belt tensioner, vertical spin-on engine oil filter, cold weather starting aid to be that of non-ether based system, liquid cooled engine, 500-hour engine oil change interval.
- ELECTRICAL:** 12-volt electrical system, minimum 120-amp alternator, single battery with 850 cold cranking amps, optional dual batteries with 850 cca (each)
- FULLY SYNCHRONIZED TRANSMISSION:** Torque converter drive with a fully synchronized transmission, four (4) forward speeds, three (3) reverse speeds, minimum forward travel speed of 24.2 mph with standard tires, minimum reverse travel speed of 15.9 mph with standard tires, electric forward/reverse shuttle shift, planetary transmission gears, clutch disconnect button on shift lever, clutch disconnect button on loader control lever.
- POWER TRAIN:** The loader backhoe power train shall be componentized, heavy duty axles with brake that can be serviced without removing the axle from the frame, on-the-go electro-hydraulic rear differential lock engagement, lube-for-life drive shaft cross bearings, a single fill and check point for rear axle shall be standard equipment.

The powershift transmission shall provide the following:

minimum of four (4) forward and three (3) reverse speeds, shall have a kickdown function for ease of operation.

The four-wheel drive units include the following features:

conventional differentials in the front axle, conventional differentials in the rear axle, front axle with a minimum 74.3 inch fixed tread with 14 x 17.5 tires, on-the-go electrical four-wheel drive engagement, front and rear axles with outboard planetaries, single, double-rod steering cylinder, steering cylinder located behind the axle, lube-for-life drive shaft cross bearings.

The axle load rating shall be:

front axle (2wd) maximum static - 65,506 lbs minimum,
front axle (4wd) maximum static - 67,883 lbs minimum
rear axle maximum static - 70,848 lbs minimum
front axle (2wd) dynamic operating - 44,261 minimum
front axle (4wd) dynamic operating - 47,426 minimum
rear axle dynamic operating - 49,494 lbs minimum
front axle (2wd) static operating - 17,704 lbs minimum
front axle (4wd) static operating - 18,969 lbs minimum
rear axle static operating - 19,798 lbs minimum

BRAKES:

fully hydraulic, multiple wet disc brake located outboard, low effort, power boosted, oil cooled brakes, brakes operated by two (2) suspended brake pedals, maintenance-free and self-adjusting, spring applied, hydraulically (SAHR) released parking brake

**LOADER AND
LINKAGE
FEATURE:**

the loader arms shall be heavy duty and in line, arch design for short turning circle, dual parallel lift cylinders, cushioned loader cylinder, automatic ride control with adjustable speed setting (4 wd only)

The loader linkage shall have the following features:

Dual parallel bucket cylinders, cushioned bucket cylinders, bucket cylinders with reverse linkage, dual cast dump links to bucket, full bucket rollover for dozing, full bucket rollover for stability in backhoe operation, automatic bucket self-leveling, return-to-dig

LOADER BUCKET: the loader bucket shall be a multi purpose 4/1 bucket, rear bucket rolled wrapper, pre-drilled edge, heavy duty lifting eyes, bucket position indicator, minimum SAE dump cylinder breakout force of 12, 776 pounds force, minimum SAE lift capacity to full height of 8,425 pounds, minimum SAE dump clearance of 8 feet 11.4 inches at full height and 45 degree dump angle, minimum SAE dump reach of 29.2 inches at full height and 45 degree dump angle, minimum hinge pin height of 11 feet 5.6 inches, minimum dig depth below ground of 6.2 inches, maximum loader lowering time (power down) of 2.5 seconds, maximum loader lowering time (return-to-dig) of 3.8 seconds, maximum bucket dumping time of 2.0 seconds, maximum bucket raising time to full height of 3.7 seconds

BACKHOE & CONTROLS:

Grease pins in the swing tower to boom base, replaceable bushings in the swing tower to boom base mounting pins, optional extendible exterior dipper stick, extendible dipper stick can be pinned to prevent movement, internal bolt-on, replaceable wear strip for extendible dipper stick, 700-pound front-mounted counterweight to extendahoe, stabilizers fully retractable within the width of the tires, over-center backhoe design for improved balance during transport and roading, optional integrated hydraulic backhoe coupler with in-cab controls, pro control system to provide precise control and eliminate over-swing, standard serrated teeth on dipper arm for gripping objects and available optional teeth segments

The backhoe controls shall be of an ergonomic design with low lever effect. Factory option of pilot controls w/power lift & pattern changer.

BACKHOE BUCKET:

The backhoe bucket shall be heavy duty, available in 24-inch digging width.

OPERATING CONFIGURATION:

Configuration-machine equipped with 4wd, 2 door cab, cloth air suspension seat, 93 inch 4 in 1 loader bucket, 24 inch HD backhoe bucket, extendahoe dipperstick, dual batteries, flip over stabilizer pads, backhoe coupler, backhoe auxiliary hydraulics, no operator

TRACTOR DIMENSIONS (4WD):

Maximum wheel base of 84.5 inches, maximum transport height of 11 feet 7.3 inches, maximum overall transport width of 7 feet 9 inches, maximum height of 8 feet 10.7 inches to top of cab/ 8 feet 9.4 inches to top of canopy, maximum height to top of exhaust stack of 8 feet 9.1 inches

**BACKHOE
EXTENDAHOE:**

Minimum SAE dig depth with over-center Extendahoe extended for 24-inch flat bottom of 19 feet 5 inches, provide power lift feature,
minimum digging force bucket cylinder 14,940 pounds force retracted/extended),
minimum digging force dipper cylinder 9,047 pounds force (retracted),
minimum dig force dipper cylinder 6,463 pounds force (extended),
maximum stabilizer spread in operating position of 10 feet 8.5 inches flip pads,
minimum boom lift capacity at 10 feet of 3,937 pounds (retracted),
minimum boom lift capacity at 10 feet of 3,051 pounds (extended),
minimum boom lift capacity at 12 feet of 3,898 pounds (retracted)
minimum boom lift capacity at 12 feet of 3,037 pounds (extended)
minimum dipper lift capacity at 10 feet of 6,650 pounds (retracted)
minimum dipper lift capacity at 10 feet of 4,849 pounds (extended)
minimum dipper lift capacity at 12 feet of 6,409 pounds (retracted)
minimum dipper lift capacity at 12 feet of 5,252 pounds (extended)
minimum boom lift capacity at 10 feet of 4,188 pounds (retracted)
power lift
minimum boom lift capacity at 10 feet of 3,246 pounds (extended)
power lift
minimum boom lift capacity at 12 ft of 4,147 pounds (retracted)
power lift
minimum boom lift capacity at 12 feet of 3,231 pounds (extended)
power lift
minimum dipper lift capacity at 10 feet of 6,650 pounds (retracted)
power lift
minimum dipper lift capacity at 10 feet of 4,849 pounds (extended)
power lift
minimum dipper lift capacity at 12 feet of 6,409 pounds (retracted)
power lift
minimum dipper lift capacity at 12 feet of 5,252 pounds (extended)
power lift.

OPERATOR ENVIRONMENT:

The loader backhoe shall have a cab with one door on the left side of machine, Power lift function to increase backhoe hydraulic pressure to increase lift capacity while reducing the engine rpm decreasing the dba and fuel consumption, minimum of four (4) isolation mounts, insulation for maximum temperature and sound control, sound level maximum of 72 dba, optional left and right hand doors, suspended brake pedals, suspended accelerator, electro-hydraulic differential lock, transmission shift lever within easy reach of the operator and integrated clutch disconnect button, all glass surfaces free of rubber moldings, rear side glass swing open 180 degrees (both sides), front and rear windshield wipers, interior dome light, interior rear view mirror, retractable seat belt, deluxe suspension seat, built in molded cup holder, front console storage area, single handle loader control with top-mounted clutch cut-out button, auxiliary loader hydraulic control built into the single handle loader control, forward/reverse power shuttle lever mounted on the steering column, parking brake switch located within easy reach to the right of the operator, operator warning system that alerts the operator with an audible alarm when the parking brake is applied and the operator engages the forward/reverse lever, instrumentation located to the right of the operator, two (2) accessory power plugs.

The loader backhoe cab also shall have the following for backhoe operation:

easy-to-swing seat to access backhoe controls, audible alarm to alert operator of transmission engagement when swinging seat, pilot controls, foot pedals for backhoe swing, over-center backhoe release inside the cab, rotary throttle control located within easy reach to the left of the operator, stabilizer controls located together to permit one-hand operation.

HYDRAULICS:

The loader hydraulics shall be closed center and allow for smooth loader operation, the backhoe hydraulics shall be variable volume and allow for smooth backhoe operation, variable displacement axial piston pump, dual mode torque regulation, total pump flow to be 43 gpm at 2,340 psi available to the loader valve and backhoe valve, allows operation of optional hand-held hydraulic tools, anti-cavitation valves in the dipper and loader circuit, pilot-operated check valves for stabilizers and boom circuit, anti-rebound valve for backhoe swing precision, factory installed backhoe auxiliary hydraulics to be of a uni-directional or combo directional, or combo directional design with adjustable flow control.

SERVICEABILITY:

The loader backhoe shall be easy to services from ground level, tilt hood that permits access to the engine with the loader arms raised or lowered, remote hydraulic test ports for ground level service diagnosis, optional remote battery disconnect switch and jump start, minimum 42-gallon side-mounted fuel tank, minimum hydraulic system (total) fill of 34.75 gallons (standard hoe) / 36.25 gallons (extendahoe), minimum transmission total system fill of 21 quarts (4wd), minimum engine oil fill (with filter) of 14.4 quarts, minimum 13.25-gallon hydraulic reservoir (with filter), minimum window washer reservoir fill of 3.05 quarts, lube for life drive line components, remote front axle pivot lubrication fitting, 500 hour service interval for engine oil.

WARRANTY:

Full machine warranty of 12 months, unlimited hours, engine warranty of two (2) years or 2,000 hours, power train warranty of two (2) years or 2,000 hours.

OPTIONS:

Machine shall be equipped with a Helac PT-07 swing coupler, machine shall be equipped with 48" ditch bucket w/boce, Machine shall be equipped with 6,000 lbs capacity quick attach pallet forks