JOSEPH P. PEDI
Town Clerk, 1496 Route 300
Town of Newburgh, New York 12550
Telephone 845-564-4554

WORKSHOP MEETING AGENDA
Monday, February 24, 2020
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: POLICE DEPARTMENT:
   A. Identification Detective
   B. DARE Officer

7. ENGINEERING:
   A. Orange Lake West Water Supply Feasibility Study
      i. Agreement with Orange Lake Homeowners' Association
      ii. C.T. Male Associates Proposal
   B. Schedule Public Hearing – Acquisition of Access Parcel for Newburgh Consolidated Water District

8. HOME RULE: Solar and/or Wind Energy Systems Exemptions

9. RECREATION DEPARTMENT:
   A. Trolley and Stage Request
   B. Chadwick Lake Park Guard Variance Request

10. HIGHWAY DEPARTMENT: MEO Promotion

11. ANIMAL CONTROL: Discussion of Introductory Local Law Involving Dog Custody

12. ADJOURNMENT

GJP; jpp
First Revision: February 21, 2020 @ 9:20 am

7Ai

DRAFT: 2/11/2020

WATER FEASIBILITY STUDY
CONTRIBUTION AND COOPERATION AGREEMENT

THIS AGREEMENT is made this _____ day of February, 2020 by and between the **TOWN OF NEWBURGH**, a municipal corporation of the State of New York, with principal offices located at 1496 Route 300, Newburgh, New York, 12550 (hereinafter "Town"), and **ORANGE LAKE HOMEOWNERS ASSOCIATION,** having an address at P.O. Box _____, Newburgh, New York (hereinafter "OLHOA").

W I T N E S S E TH

WHEREAS, OLHOA is a homeowners association devoted to the long term health and welfare of Orange Lake, the properties surrounding it and the community, and

WHEREAS, Orange Lake and its surrounding properties are located in the Town of Newburgh; and

WHEREAS, properties on the west side of Orange Lake whose owners are members of OLHOA are presently served by individual wells rather than receiving municipal or private water company water service; and

WHEREAS, OLHOA requested that the Town apply to the Orange County Water Authority ("OCWA") for a matching grant to study and evaluate whether there is an alternative that could be implemented cost effectively to improve drinking water quality for the west side of Orange Lake where individual well water capacity and quality issues have been present (the "Feasibility Study"); and

WHEREAS, such implementation would potentially entail the establishment of a water district by the Town and/or the construction of a municipal water supply and distribution system, and accordingly the Feasibility Study, which includes the preparation of a base map, would be a preliminary component of a map, plan and report for the establishment of such improvement district and/or the construction of municipal improvements ; and

WHEREAS, OCWA has awarded the Town a grant in an amount equal to fifty (50%) percent of the reimbursable costs of the Feasibility Study up to a maximum amount of $4,700.00, which will be reimbursed to the Town upon submission of the Feasibility Study and satisfactory evidence of payment of the costs by the Town, and

WHEREAS, a proposal together with a proposed contract have been submitted to the Town by C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C ("C.T. Male") to prepare the Feasibility Study at a cost not to exceed $9,400.00 (the "Proposal"), and

WHEREAS, OLHOA has agreed to contribute to the Town's costs of the Feasibility Study in the amount of $2,350; and

WHEREAS, the C.T. Male proposal provides that the Feasibility Study will be delivered to OLHOA as well as the Town; and

WHEREAS, the Town and OLHOA desire to agree on OLHOA's contribution and their cooperation with regard to the Feasibility Study

NOW THEREFORE, in consideration of the provisions set forth herein, Town and OLHOA agree as follows:

1) At the time of execution of this Agreement OLHOA shall pay to the Town the sum of $2,350.00 to be applied by the Town toward the payment to C.T. Male of the $9.400.00 for the performance of the professional services set forth in its Proposal for the Feasibility Study.

2) The Town agrees that OLHOA shall have no financial obligation other than the payment obligation set forth in Paragraph 1 above with respect to the costs of the Feasibility Study.

3) OLHOA agrees that it shall have no rights to any grant funds received by the Town from OCWA for the costs of the Feasibility Study.

4) The Town and OLHOA agree to reasonably cooperate in providing C.T. Male with such records and information as may be available to each party and relevant to the completion of the Feasibility Study and in securing the grant reimbursement from OCWA. The Town agrees to notify OLHOA of the scheduling of any presentation(s) by C.T. Male of its findings to the Town Board and/or public.

5) Nothing herein shall be construed to require the Town Board of the Town to appropriate funds or award a contract for professional services to C.T. Male or to prevent the Town from negotiating terms of the proposed contract with C.T.

Male. Such authority shall remain in the sole discretion of the Town Board. If the Town Board does not authorize a contact between the Town and C.T. Male for the performance of the Feasibility Study, however, the Town shall refund the $2,350.00 payment to OLHOA.

6) Nothing herein shall be construed to prevent the Town from including the actual, unreimbursed Town funds expended on the Feasibility Study in the cost of the improvements to be paid by benefitted properties, in the event the Town Board determines to proceed with the establishment of a water district and/or the construction of municipal water improvements serving properties on the west side of Orange Lake.

7) This Agreement is executed in and shall be construed in accordance with the laws of the State of New York.

8) This Agreement and its amendments may be executed in multiple counterparts with each counterpart to be deemed an original, but all multiple copies together constituting one and the same instrument.

9) The invalidity or unenforceability of any provision(s) of this Agreement will not affect the validity or enforceability of any other provision(s).

10) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

11) This Agreement constitutes the entire Agreement between the parties any may only be modified in writing.

12) OLHOA shall not assign this agreement without the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed.

THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

TOWN OF NEWBURGH

By:_____
Scott M. Manley, Deputy Supervisor

ORANGE LAKE HOMEOWNERS ASSOCIATION

By:_____
, President

A ii

C.T. MALE ASSOCIATES
Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C.

12 Raymond Avenue, Poughkeepsie, New York 12603
845.454.4400 www.ctmale.com

February 6, 2020

Scott Manley, Deputy Supervisor
Town of Newburgh
1496 Route 300
Newburgh, NY 12550 *VIA EMAIL: councilmanmanley@townofnewburgh.org*

Re: Proposal
Implementation of the Orange County Water Authority/Town of Newburgh Alternative Water Supply Connection Grant, West Side Orange Lake, Orange County, New York

Dear Mr. Manley and Town Board Members:

Jim Thatcher and I met with the Orange Lake Homeowners Association (OLHA) at the Lakeview House on December 4, 2019 to discuss ways to address drinking water quality issues on the west side of Orange Lake. We believe it was a productive discussion, and we are pleased to provide the Town with this proposal to implement the Orange County Water Authority Grant to evaluate the feasibility of connecting to existing nearby water supplies.

C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. (C.T. Male) recommends the following scope of work to evaluate whether there is an alternative that could be implemented cost effectively to improve drinking water quality for the west side of Orange Lake.

The results of a prior feasibility study performed by the Town of Newburgh indicated that the West Side Orange Lake homeowners could not readily connect to the Town of Newburgh water supply, but Jim Osborne, the Town's water and sewer Superintendent, indicated at that December meeting, that there may be other nearby water supplies that could be used. The current grant provided by the Orange County Water Authority should be utilized to evaluate these other potential connection(s). As you are aware, the grant must be administered through the Town of Newburgh.

Scope

C.T. Male recommends the following scope of services:

Task 1 - Preparation of a Base Map; Development of Water Supply Requirements: C.T. Male will prepare a base map for the West Side Orange Lake (WSOL) area that can be

used to identify connection points, water line pathways, etc. This map will provide the basis for future grant preparation and preliminary engineering efforts.

We will calculate typical demand requirements for the West Side Homeowners including potential additional housing developments within the project area. This demand value will establish the number a gallons per day that would be required to support current and future development from an offsite water supply.

Task 2 – Connection Opportunities: There are several existing unused or underused water supplies located in proximity to the WSOL. We will review readily available information to determine if they have surplus capacity to provide the West Side with potable water. We will determine the potential costs to pipe the water and connect to the WSOL Homeowners.

Task 3 – Alternatives Analysis: Once the feasibility and costs are developed for the adjacent connection potential, we will prepare a feasibility study that includes a comparison of alternative solutions to address the water supply problem (e.g., lack of a local waste water treatment plant).

Task 4 – Preliminary Strategy and Future Grant Opportunities: Depending upon the options that are most feasible for the Homeowners, we will recommend a strategy for the WSOL to solve the water supply and quality problems and develop potential funding options for the Town and/or OLHA to pursue appropriate financing for future implementation.

Task 5 – Presentation to the Board and Public: The finding of our assessment may be of intertest to the Town Board, the OLHA Board and the public. We will present the results for discussion to the Town Board and any other interested parties. We will modify the results of Task 4 accordingly based on the feedback we receive from the Town and OLHA Boards. We anticipate one general meeting with the Town Board and a presentation or individual discussions with other interested homeowners.

Task 6 – Path Forward: Based on input from the Boards and homeowners, we will prepare a recommended course of action, and we will coordinate any future studies, design work, and funding strategies with other interested parties (e.g., Quassaic Creek Watershed Alliance, Riverkeeper, etc.) because of their interest in addressing overall water quality issues in Orange Lake. Coalitions of private citizen action groups and governmental agencies acting together increase the potential to secure grant funding.

Project Schedule and Fee

C.T. Male will complete this scope of work, including a written report to the Town and OLHA Boards and a minimum of one public presentation, for a not to exceed amount of **$9,400**, which is the total cost used by Orange County for their 50% grant award. It is our understanding that the OLHA intends to raise the remaining funds needed to complete this project after factoring the amount the Town recently committed ($2,350).

We anticipate completing this work by June 1, 2020. The work can be done sooner if desired; however, the current schedule is intended to coincide with the State's next consolidated funding application round and presumes that there will be a strategic plan regarding the path forward for the Town and OLHA at that time.

Authorization

If this Proposal is acceptable, please sign and return the attached Contract Agreement. We will not proceed with any of the above-referenced scope of work until that Agreement is in place. A signed copy of the Agreement and any other required Town documents, will serve as our authorization to proceed.

Again, we appreciate the opportunity to work with you. Please do not hesitate to contact me at (845) 454-4400 or via email at j.mciver@ctmale.com or Jim Thatcher at j.thatcher@ctmale.com if you have questions.

Respectfully,
C.T. MALE ASSOCIATES

James D. McIver, Jr., P.G.
Managing Geologist/Branch Manager

Enc: Contract Agreement

Ec: Ms. Dahlia Bartz Cabe, OLHA
Jim Thatcher, Manager, Community Development, C.T. Male
Chad Kortz, P.E., C.T. Male
Jolanda Jansen, P.E., C.T. Male

C.T. MALE ASSOCIATES

CONTRACT AGREEMENT

Project No.: _____

Agreement made this 3rd day of February 2020, by and between **C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C.**, a Design Professional Corporation registered in New York State and authorized to do business in the State of New York, (hereinafter called C.T. MALE ASSOCIATES); and the **TOWN OF NEWBURGH** (hereinafter called the CLIENT).

CLIENT and C.T. MALE ASSOCIATES agree as follows:

A. CLIENT and C. T. MALE ASSOCIATES, for the mutual consideration hereinafter set forth, agree as follows:

C.T. Male Associates will implement the Orange County Water Authority Grant to evaluate feasibility of connecting to existing nearby water supplies as per our proposal dated 02/03/20.

B. CLIENT agrees to pay C. T. MALE ASSOCIATES as compensation for services as follows:

Estimated fee not to exceed $9,400.00 for services including development of base map, analysis of alternative water supplies, feasibility study, strategize grant opportunities, preparation and presentation to Town Board, and provide recommendations on solution to current water supply issues.

C. CLIENT shall furnish the following:
- Signed Contract Agreement
- Copies of Relevant Environmental Reports and Permits

D. This Agreement, as signed by the CLIENT and/or his/her representative, includes the following Standard Terms and Conditions incorporated herein by this reference.

E. The person signing this Agreement warrants he/she has authority to sign as, or on behalf of, the CLIENT. If such person does not have such authority, it is agreed that he/she will be personally liable for all breaches of this Agreement, and that in any action against them for breach of such warranty, a reasonable attorney's fee shall be included in any judgment rendered.

F. CLIENT shall provide C.T. MALE ASSOCIATES personnel with any information regarding potential hazards or whether personal protective measures are required when working on project site(s) associated with this contract and that C.T. MALE ASSOCIATES personnel be afforded the opportunity to review any health and safety plan available for site(s) that they will be working on.

AGREED TO:

TOWN OF NEWBURGH
Attn: Scott Manley and Town Board

1496 Route 300
Newburgh, NY 12550
Phone: (845) 564-4552
Email: councilmanmanley@townofnewburgh.org

By: _____
Authorized Signature (Date)

Title: _____

AGREED TO:

C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C.

12 Raymond Avenue
Poughkeepsie, NY 12603
Phone: (845) 454-4400
Email: j.mciver@ctmale.com

By: _____
James D. McIver, Jr., P.G. (Date)

Title: Managing Geologist

STANDARD TERMS AND CONDITIONS OF AGREEMENT

1. EXTRA WORK: Extra work shall include, but not be limited to, additional office or field work caused by policy or procedural changes or governmental agencies, changes in the project, and work necessitated by any of the causes described in Paragraph 5 hereof. All extra work to be authorized by CLIENT in writing prior to commencement by C.T. MALE ASSOCIATES.

2. OWNERSHIP OF DOCUMENTS AND/OR ELECTRONIC MEDIA FILES: All tracings, specifications, computations, survey notes and media files and other original documents as instruments of service are and shall remain the property of C.T. MALE ASSOCIATES unless otherwise provided by law. CLIENT shall not use such items on other projects without C.T. MALE ASSOCIATES' prior written consent. C.T. MALE ASSOCIATES shall not release CLIENT's data without authorization.

3. LIMITATIONS OF PROBABLE COST ESTIMATES: Any estimate of the probable construction cost of the project or any part thereof is not to be construed, nor is it intended, as a guarantee of the total cost.

4. APPROVAL OF WORK: The work performed by C.T. MALE ASSOCIATES shall be deemed approved and accepted by CLIENT as and when invoiced unless CLIENT objects within 30 days of the invoice date by written notice specifically stating the details in which CLIENT believes such work is incomplete or defective.

5. DELAY: Any delay, default, or termination in or of the performance of any obligation of C.T. MALE ASSOCIATES under this Agreement caused directly or indirectly by strikes, accidents, acts of God, shortage or unavailability of labor, materials, power or transportation through normal commercial channels, failure of CLIENT or CLIENT's agents to furnish information or to approve or disapprove C.T. MALE ASSOCIATES' work promptly, late, slow or faulty performance by CLIENT, other contractors or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of C.T. MALE ASSOCIATES' work, or any other acts of the CLIENT or any other Federal, State, or local government agency, or any other cause beyond C.T. MALE ASSOCIATES' reasonable control, shall not be deemed a breach of this Agreement. The occurrence of any such event shall suspend the obligations of C.T. MALE ASSOCIATES as long as performance is delayed or prevented thereby, and the fees due hereunder shall be equitably adjusted.

6. TERMINATION: The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, C.T. MALE ASSOCIATES shall be paid for all services rendered to the date of termination, as well as for all reimbursable expenses and termination expenses. For purposes of this section, the failure of the CLIENT to pay C.T. MALE ASSOCIATES within thirty (30) days of receipt of an invoice shall be considered such a substantial failure. In the event of a substantial failure on the part of the CLIENT, C.T. MALE ASSOCIATES, in addition to the right to terminate set forth in this paragraph, may also elect to suspend work until the default in question has been cured without consequence. No delay or omission on the part of C.T. MALE ASSOCIATES in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy on any future occasion.

7. INDEMNIFICATION: CLIENT shall indemnify, defend and hold C.T. MALE ASSOCIATES harmless for any and all loss, cost, expense, claim, damage, or liability of any nature arising from: (a) soil conditions; (b) changes in plans or specifications made by CLIENT or others; (c) use by CLIENT or others of plans, surveys, or drawings unsigned by C.T. MALE ASSOCIATES or for any purpose other than the specific purpose for which they were designed; (d) job site conditions and performance of work on the project by others; (e) inaccuracy of data or information supplied by CLIENT; and (f) work performed on material or data supplied by others, unless said loss was solely caused by C.T. MALE ASSOCIATES' own negligence.

8. LITIGATION: Should litigation be necessary to collect any portion of the amounts payable hereunder, then all costs and expenses of litigation and collection, including without limitation, fees, court costs, and attorney's fees (including such costs and fees on appeal), shall be the obligation of the CLIENT.

9. REPLACEMENT OF SURVEY STAKES: C.T. MALE ASSOCIATES, if included in Paragraph A of the Agreement, will provide necessary construction stakes. In instances where it is determined that negligence on the part of the CLIENT or others results in the need for restaking, the cost of such restaking will be billed as an extra to the CLIENT on a time basis. It will be the CLIENT's responsibility to provide adequate protection of the stakes against his own negligence or the negligence of those working for or with him and against vandalism by others. If staking is ordered by the CLIENT or others prematurely and construction does not take place, it will also be the CLIENT's responsibility to protect said stakes until such time as construction takes place.

10. MAPPING: Areas obscured by dense vegetation or shadow will be labeled as "DENSE WOODS", "SHADOW", or "OBSCURED AREA". C.T. MALE ASSOCIATES cannot certify as to the accuracies within these areas. Field verification of such area(s) must be undertaken and is not included within the scope of this Agreement unless explicitly stated.

11. OBSERVATION AND TESTING OF CONSTRUCTION, SAFETY: The observation and testing of construction is not included herein unless specifically agreed upon in the Scope of Services as set forth in Paragraph A of this Agreement. It should be understood that the presence of C.T. MALE ASSOCIATES' field representative will be for the purpose of providing observation and field testing. Under no circumstances is it C.T. MALE ASSOCIATES' intent to directly control or supervise the physical activities of the contractor's workmen to accomplish the work on this project. The presence of C.T. MALE ASSOCIATES' field representative at the site is to provide the CLIENT with a continuing source of information based upon the field representative's observations of the contractor's work, but does not include any superintending, supervision, or direction of the actual work of the contractor or the contractor's workmen. The contractor should be informed that neither the presence of C.T. MALE ASSOCIATES' field representative nor observation and testing personnel shall excuse the contractor in any way for defects discovered in his work. It is understood that C.T. MALE ASSOCIATES will not be responsible for job or site safety on the project.

12. RESTRICTIONS ON USE OF REPORTS: It should be understood that any reports rendered under this Agreement will be prepared in accordance with the agreed Scope of Services and pertain only to the subject project and are prepared for the exclusive use of the CLIENT. Use of the reports and data contained therein for other purposes is at the CLIENT's sole risk and responsibility.

13. RISK ALLOCATION: The CLIENT agrees that C.T. MALE ASSOCIATES' liability for damages to the CLIENT for any cause whatsoever in connection with this project, and regardless of the form of action, whether in contract or in tort, including negligence, shall be limited to the greater of $100,000.00, or C.T. MALE ASSOCIATES' total fee for services rendered on the project.

14. CONSEQUENTIAL DAMAGES: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

15. CLIENT RESPONSIBILITIES: Client shall be responsible for providing all reasonable assistance required by C.T. MALE ASSOCIATES in connection with Services, including, without limitation, any assistance specified in the Proposal. In particular, Client will provide the following:

Reasonable ingress to and egress from the Site by C.T. MALE ASSOCIATES and/or its subcontractors and their respective personnel and equipment.

Clean, secure, and unobstructed space and areas at the Site for C.T. MALE ASSOCIATES equipment and vehicles or those of C.T. MALE ASSOCIATES' subcontractors.

Information in the possession of Client (including, without limitation, facility and/or Site schematics, engineering drawings and plot plans) detailing the construction of facilities located underground or above ground at the Site that pertain to the stated scope of work or are necessary to assist C.T. MALE ASSOCIATES in performing Services and/or to successfully carry out the project.

Prior to any boring, drilling, and/or excavation work being commenced by C.T. MALE ASSOCIATES, the specific location(s) of such work will be provided to Client. Prior to any boring, drilling, excavation or other intrusive subsurface activities on the Site, Client or Client's representative shall identify any private and public subsurface obstruction or utility that Client or its representative knows or believes to exist at the Site. C.T. MALE ASSOCIATES, at its discretion, may contact the local public utility locator and, if agreed by Client, a private utility locator to determine the existence and location of subsurface obstruction or utilities. Client or Client's representative will provide C.T. MALE ASSOCIATES with prior approval of each location where C.T. MALE ASSOCIATES will carry-out any intrusive activity on the Site. Client agrees that if C.T. MALE ASSOCIATES or its subcontractor causes damage to a subsurface obstruction or utility that was not properly identified by Client, or marked by the public utility locator or private utility locator, if any, the Client shall indemnify, defend and hold harmless C.T. MALE ASSOCIATES, its officers, directors, employees and independent contractors from and against any and all claims, costs, fines, or other liability arising out of, or in connection with any damage

to any such subsurface obstruction or utilities, except to the extent such claims, costs, fines, or other liability are caused by C.T. MALE ASSOCIATES' negligence or willful misconduct.

16. CONTROLLING LAWS: This Agreement is to be governed by the laws of the **State of New York**.

17. INSURANCE C.T. MALE ASSOCIATES shall procure and maintain throughout the period of this agreement, at C.T. MALE ASSOCIATES' own expense, insurance for protection from claims under worker's compensation, temporary disability and other similar insurance required by applicable State and Federal laws, and shall maintain general and professional liability insurances. Certificates for all such policies of insurance shall be provided to the CLIENT upon written request. C.T. MALE ASSOCIATES shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance.

18. STANDARD OF CARE: CLIENT agrees that in performing requested tasks, in accordance with this contract or amendments thereto, C.T. MALE ASSOCIATES will provide statements of adherence to standards or specifications only when said standards or specifications are included in the scope of services. In the event C.T. MALE ASSOCIATES is required to sign a statement or certificate on behalf of CLIENT, which differs from or exceeds the scope of services contracted for, CLIENT hereby agrees to indemnify and hold C.T. MALE ASSOCIATES harmless from any liability arising from or resulting from such statement or certificate.

19. SUCCESSORS AND ASSIGNS: Neither CLIENT nor C.T. MALE ASSOCIATES shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law.

20. MEDIATION: CLIENT and C.T. MALE ASSOCIATES agree to resolve all claims, disputes or controversies, or in relation to the interpretation, application or enforcement of this agreement through mediation. The parties further agree that the CLIENT will require, as a condition for participation in the project and their agreement to perform labor or services, that all contractors, subcontractors, subcontractors and material-persons, whose portion of the work amounts to five thousand dollars ($5,000) or more, and their insurers and sureties shall agree to this procedure.

21. EQUAL EMPLOYMENT OPPORTUNITY: C.T. MALE ASSOCIATES is committed to equal employment opportunity for all persons regardless of race, color, sex, age, national origin, marital status, handicap, or veteran's status. In striving to eliminate discrimination in the workplace, it is our policy to deal only with sub-contractors, vendors, suppliers, and other affiliates who recognize and support equal employment opportunity and comply with all applicable State and Federal Equal Employment Opportunity laws and regulations including the annual filing of Standard Form EEO-1.

22. NOTICES: All notices called for by this Contract shall be in writing and shall be deemed to have been sufficiently given or served when presented personally and when deposited in the mail, postage prepaid, certified and return receipt requested.

E. Stewart Jones Hacker Murphy LLP
ATTORNEYS & COUNSELORS AT LAW

28 SECOND STREET
TROY, NY 12180
PHONE: (518) 274-5820
FAX: (518) 274-5875

7 AIRPORT PARK BOULEVARD
LATHAM, NY 12110
PHONE: (518) 783-3843
FAX: (518) 783-8101

511 BROADWAY
SARATOGA SPRINGS, NY 12866
PHONE: (518) 584-8886

www.joneshacker.com

PLEASE REPLY TO:
Latham

January 15, 2020

VIA E-MAIL – supervisor@townofnewburgh.org
Gil Piaquadio, Supervisor
Town of Newburgh
Town Hall
1496 Route 300
Newburgh, New York 12550

Re: *RPTL §487 (Solar and/or Wind Energy Systems Exemption)*

Dear Gil:

You have asked us to gather information to assist the Town of Newburgh in deciding whether it should opt out of RPTL §487, which is the exemption statute for solar energy, wind power and/or farm waste energy systems ("alternative energy systems"). Since this is more of a policy question, I am unable to give a legal opinion, but I will provide information and lay out some of the pros and cons of opting out or not.

New York State ("NYS") is encouraging the development of cleaner and/or alternative energy systems and therefore offering tax incentives to owners of these systems. RPTL §487, copy attached, is the exemption statute that applies to the increase in value caused by the construction of alternative energy systems (real property only).

Alternative energy systems are considered "real property" once the systems have been permanently affixed to land or a structure (RPTL §102(12)(b)) and, as such, are taxable unless they qualify for an exemption (RPTL §300). To be eligible for the exemption, the installation of the systems have to be complete. RPTL §487 "generally provides for a 15-year exemption from real property taxation for the increase in value resulting from the installation of a qualifying system." *Department of Taxation and Finance Office of Counsel*, Issue #2 dated January 25, 2016. This exemption applies unless a taxing jurisdiction (County, City/Town, Village and School District) "opts out" of the exemption.[1] This is done either by adoption of a local law, ordinance or resolution stating that the exemption shall not be available.[2]

A Town has three options as to how to address this exemption.

1. Do nothing, in which case RPTL §487 would automatically be in effect pursuant to the statutory terms, thus making alternative energy systems fully

[1] The School District, County, City/Town, Village, etc. can opt out independent of what the other taxing jurisdictions are doing.
[2] A copy of the local law, etc. opting out of the exemption must be filed with the NYS Dept. of Taxation and NYSERDA.

exempt for 15 years. RPTL §487(10). RPTL §487 is an "opt out" not "opt in" statute.

2. "Opt out" of the exemption pursuant to RPTL §487(8)(a), by local option, a County, City/Town, Village or School. If you opt out it is for both residential and commercial (you cannot pick one over the other) and the alternative energy systems would then be fully taxable. If a Town decides to opt out, it can later opt back in. Alternative energy systems started prior to a Town opting out will not be affected by the "opt out." Alternative energy systems are deemed to be started once an Interconnection Agreement is fully executed with a utility and, if required, a deposit is paid. The owner or developer of such systems shall provide written notification to the appropriate local jurisdiction upon execution of the contract. RPTL §487(8)(b).

3. A taxing jurisdiction can offer the RPTL §487 exemption but require a PILOT, which would allow for some generation of revenue depending on the PILOT terms. There is a 60-day window for the taxing jurisdiction to request a PILOT after the notice is given by the owner as stated above. The PILOT may require annual payments in an amount not to exceed the amounts which would normally be due if not for the exemption and shall not be longer than 15 years. RPTL §§487(9)(a) & (b). Each taxing jurisdiction may enter into a separate PILOT or they may all agree to do a joint PILOT. This would be a Town-derived 15-year PILOT and not an IDA PILOT. Attached is a copy of a proposed PILOT from NYSERDA.

Taxing jurisdictions are handling this in many different ways. Some Towns adopt moratoriums on solar farms until such time as their policy has been set. Some taxing jurisdictions have opted out.[3] In Orange County, the Towns of Crawford, New Windsor and Pine Bush, as well as the Valley Central and Walkill School Districts have opted out.

RPTL §487 does not allow partial opt-outs. It is either all sized projects or no projects. As with any exemption, there can be advantages and disadvantages.

If the Town does not opt out and offers the exemption, it encourages development of alternate/clean/green energy systems, e.g. solar farms, which are usually developed on vacant land. Although the land can be purchased, so far, the trend seems to be to enter into a long-term lease. By entering into this lease, the classification of the land changes from

[3] A list of jurisdictions can be found at https://www.tax.ny.gov/research/property/legal/localop/487opt.htm.

agricultural or residential vacant land to commercial land. This change of classification/use of the property may increase the value of the land, so that the assessed value of the land can be changed and the amount of taxes that are then paid on the land may increase. Although you would lose out on the tax revenues on the systems, due to the potential increase in land value there may be an increase in the tax base. In addition, there are usually no additional roads that have to be plowed by the Town and there are no additional children going to school.

If the Town decides to require a PILOT instead of the total exemption, it would be a middle ground between full exemption and opting out. The Town would receive some payment pursuant to the terms of the PILOT instead of receiving nothing and would fulfill what NYS wants by encouraging the development of alternative energy systems.

If you opt out of the exemption but alternative energy systems are developed in the Town, there would be increased tax revenue from the systems. However, the owner of the property could file a tax certiorari challenge and the Town's litigation costs can rise. By not opting out, the Town often avoids future litigation although the owner could dispute the value of the land. It is not often that the value of the land alone is disputed. Since the land is usually leased, the method of valuation would be the income approach utilizing the actual income and expense statement and the revised land assessment should be supported. Owner alternative energy systems often will not dispute the land assessment since they are avoiding the taxation on the real property.

If the Town decides that it will not opt out, thus encouraging the development of alternative energy systems in the Town, I would suggest that the Town address removal of the real property/equipment at the end of the lease (or bankruptcy of the company). To ensure that the real property (panels, racking, inverters, etc.) is removed from the site[4], the site plan approval and/or Planning Board approval should include language that requires decommissioning of the site plus a bond surety as an additional backup. The dollar amount to collect depends upon various factors, the most important of which is the value/size of the alternative energy system. Additionally, it is difficult to accurately estimate the salvage costs and condition of the equipment at the time of decommissioning because the cost to salvage, disassemble and restore the property will continue to rise over the life of the project due to inflation. A more accurate method for determining a proper bond amount would be to develop a current decommissioning cost, calculate a cost 15 or 30 years from now at an appropriate inflation rate and then take a credit for the salvage value. Attached please find a sample of a Decommissioning Bond.

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[4] Although companies claim that the salvage value of the site's materials far exceed the actual cost to decommission the site. It is the removal of the real property that is important.

Another advantage to encouraging alternative energy systems in the Town is that it allows residents whose homes might not be suitable for an alternative energy system, or who cannot afford a system of their own to participate in the growth of clean energy and subscribe to this type of energy, thus being part of the solution for climate change which many consider to be an issue of our time.

It is important that the Town should be aware that there are companies that solicit residents who are in an area that have alternative energy systems (mostly solar farms) and offer the residents the ability to sign up to receive some credits on their electric bills through this type of energy.[5] I feel that it is important that the Town be aware of this as residents will probably ask the Town about it.

Please let me know if there are any questions.

Very truly yours,

E. STEWART JONES HACKER MURPHY LLP

By: _____
Cathy L. Drobny
cdrobny@joneshacker.com
Direct Dial: (518) 213-0116

CLD:kah
Attachments

[5]The following website explains a little more about residents joining a community solar project: https://www.nyserda.ny.gov/All-Programs/Programs/NY-Sun/Solar-for-Your-Home/Community-Solar.

Effective: April 12, 2019

McKinney's RPTL § 487

§ 487. Exemption from taxation for certain energy systems

Currentness

1. As used in this section:
(a) "Solar or wind energy equipment" means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation or wind is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by law.
(b) "Solar or wind energy system" means an arrangement or combination of solar or wind energy equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar or wind energy and its conversion, storage, protection and distribution.
(c) "Authority" means the New York state energy research and development authority.
(d) "Incremental cost" means the increased cost of a solar or wind energy system or farm waste energy system or component thereof which also serves as part of the building structure, above that for similar conventional construction, which enables its use as a solar or wind energy or farm waste energy system or component.
(e) "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming waste and food processing wastes with a rated capacity of not more than one thousand kilowatts that is (i) manufactured, installed and operated in accordance with applicable government and industry standards, (ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities, (iii) operated in compliance with the provisions of section sixty-six-j of the public service law, (iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues and food processing wastes, and (v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.
(f) "Farm waste energy system" means an arrangement or combination of farm waste electric generating equipment or other materials, hardware or equipment necessary to the process by which agricultural waste biogas is produced, collected, stored, cleaned, and converted into forms of energy such as thermal, electrical, mechanical or chemical and by which the biogas and converted energy are distributed on-site. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling or insulation system of a building.
(g) "Micro-hydroelectric energy equipment" means any energy storage device, penstock, turbine, generator and other materials, hardware and equipment necessary to the process by which the flow of stream or river water or water from other water bodies is (i) converted into electrical energy; (ii) protected from unnecessary dissipation; and (iii) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does not include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards established by law.
(h) "Micro-hydroelectric energy system" means an arrangement or combination of micro-hydroelectric energy equipment designed to provide electrical energy by the use of flowing water. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does not include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards established by law.

(i) "Fuel cell electric generating equipment" means a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than two thousand kilowatts. It does not include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards established by law.
(j) "Fuel cell electric generating system" means an arrangement or combination of equipment designed to produce electrical energy through reaction of chemicals, including but not limited to hydrogen, oxygen, methane and natural gas.
(k) "Micro-combined heat and power generating equipment" means an integrated, cogenerating building heating and electrical power generation system, owned, leased or operated by a residential customer, located at such customer's premises, operating on any fuel and of any applicable engine, fuel cell, fuel-flexible linear generator or other technology with a rated capacity of at least one kilowatt and not more than ten kilowatts electric and any thermal output that has a design total fuel use efficiency in the production of heat and electricity of not less than eighty percent, and annually produces at least two thousand kilowatt hours of useful energy in the form of electricity that may work in combination with supplemental or parallel conventional heating systems, that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does not include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards established by law.
(l) "Micro-combined heat and power generating equipment system" means an arrangement or combination of equipment designed to produce electrical energy and heat for a residential customer on such customer's premises.
(m) "Electric energy storage equipment" means a set of technologies capable of storing electric energy and releasing that energy as electric power at a later time. Electric energy storage technologies may store energy as potential, kinetic, chemical or thermal energy, that can be released as electric power and include, but are not limited to, various types of batteries, flywheels, electrochemical capacitors, compressed air storage and thermal storage devices.
(n) "Electric energy storage system" means an arrangement or combination of equipment designed to store electrical energy in electric energy storage equipment and release electric power at a later time.
(o) "Fuel-flexible linear generator electric generating equipment" or "fuel-flexible linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment and associated balance of plant components that directly convert the linear motion of the oscillators into electricity and which has a combined rated capacity of not more than two thousand kilowatts.
(p) "Fuel-flexible linear generator electric generating system" means an arrangement or combination of fuel-flexible linear generator electric generating equipment designed to produce electrical energy from linear motion created by the reaction of gaseous or liquid fuels, including but not limited to biogas and natural gas.
2. Real property which includes a solar or wind energy system, farm waste energy system, micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment and electric energy storage system, or fuel-flexible linear generator electric generating system approved in accordance with the provisions of this section shall be exempt from taxation to the extent of any increase in the value thereof by reason of the inclusion of such solar or wind energy system, farm waste energy system, micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment and electric energy storage system, or fuel-flexible linear generator electronic generating system for a period of fifteen years. When a solar or wind energy system or components thereof, farm waste energy system, micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment and electric energy storage system, or fuel-flexible linear generator electronic generating system also serve as part of the

building structure, the increase in value which shall be exempt from taxation shall be equal to the assessed value attributable to such system or components multiplied by the ratio of the incremental cost of such system or components to the total cost of such system or components. The exemption provided by this section is inapplicable to any structure that satisfies the requirements for exemption under section four hundred eighty-three-e of this title.

3. The president of the authority shall provide definitions and guidelines for the eligibility for exemption of the solar and wind energy equipment and systems, farm waste energy equipment and systems, micro-hydroelectric equipment and systems, fuel cell electric generating equipment and systems, micro-combined heat and power generating equipment and systems, electric energy storage equipment and electric energy storage system, and fuel-flexible linear generator electric generating equipment and systems described in paragraphs (a), (b), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) of subdivision one of this section.

4. No solar or wind energy system, farm waste energy system, micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment and electric energy storage system, or fuel-flexible linear generator electric generating system shall be entitled to any exemption from taxation under this section unless such system meets the guidelines set by the president of the authority and all other applicable provisions of law.

5. The exemption granted pursuant to this section shall only be applicable to (a) solar or wind energy systems or farm waste energy systems which are (i) existing or constructed prior to July first, nineteen hundred eighty-eight or (ii) constructed subsequent to January first, nineteen hundred ninety-one and prior to January first, two thousand twenty-five, and (b) micro-hydroelectric energy systems, fuel cell electric generating systems, micro-combined heat and power generating equipment systems, electric energy storage equipment or electric energy storage system, or fuel-flexible linear generator electric generating system which are constructed subsequent to January first, two thousand eighteen and prior to January first, two thousand twenty-five.

6. Such exemption shall be granted only upon application by the owner of the real property on a form prescribed and made available by the commissioner in cooperation with the authority. The applicant shall furnish such information as the commissioner shall require. The application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village. A copy of such application shall be filed with the authority.

7. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted pursuant to this section on the assessment roll with the taxable property, with the amount of the exemption as computed pursuant to subdivision two of this section in a separate column. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

8. (a) Notwithstanding the provisions of subdivision two of this section, a county, city, town or village may by local law or a school district, other than a school district to which article fifty-two of the education law applies, may by resolution provide either (i) that no exemption under this section shall be applicable within its jurisdiction with respect to any solar or wind energy system or farm waste energy system which began construction subsequent to January first, nineteen hundred ninety-one or the effective date of such local law, ordinance or resolution, whichever is later, and/or (ii) that no exemption under this section shall be applicable within its jurisdiction with respect to any micro-hydroelectric energy system, fuel cell electric generating system, micro-combined heat and power generating equipment system, electric energy storage equipment or electric energy storage system, or fuel-flexible linear generator electric generating system constructed subsequent to January first, two thousand eighteen or the effective date of such local law, ordinance or resolution, whichever is later. A copy of any such local law or resolution shall be filed with the commissioner and with the president of the authority.

(b) Construction of a solar or wind energy system or a farm waste energy system shall be deemed to have begun upon the full execution of a contract or interconnection agreement with a utility; provided

however, that if such contract or interconnection agreement requires a deposit to be made, then construction shall be deemed to have begun when the contract or interconnection agreement is fully executed and the deposit is made. The owner or developer of such a system shall provide written notification to the appropriate local jurisdiction or jurisdictions upon execution of the contract or the interconnection agreement.

9. (a) A county, city, town, village or school district, except a school district under article fifty-two of the education law, that has not acted to remove the exemption under this section may require the owner of a property which includes a solar or wind energy system which meets the requirements of subdivision four of this section, to enter into a contract for payments in lieu of taxes. Such contract may require annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption under this section. If the owner or developer of such a system provides written notification to a taxing jurisdiction of its intent to construct such a system, then in order to require the owner or developer of such system to enter into a contract for payments in lieu of taxes, such taxing jurisdiction must notify such owner or developer of its intent to require a contract for payments in lieu of taxes within sixty days of receiving the written notification.

(b) The payment in lieu of a tax agreement shall not operate for a period of more than fifteen years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.

10. Notwithstanding the foregoing provisions of this section, on or after April first, two thousand nineteen, a county, city, town or village may by local law or a school district, other than a school district to which article fifty-two of the education law applies, may by resolution provide that real property that comprises or includes a solar or wind energy system, farm waste energy system, microhydroelectric energy system, fuel cell electric generating system, microcombined heat and power generating equipment system, electric energy storage system, or fuel-flexible linear generator as such terms are defined in paragraphs (b), (f), (h), (j), (l), (n), and (o) of subdivision one of this section (hereinafter, individually or collectively, "energy system"), shall be permanently exempt from any taxation, special ad valorem levies, and special assessments to the extent provided in section four hundred ninety of this article, and the owner of such property shall not be subject to any requirement to enter into a contract for payments in lieu of taxes in accordance with subdivision nine of this section, if: (a) the energy system is installed on real property that is owned or controlled by the state of New York, a department or agency thereof, or a state authority as that term is defined by subdivision one of section two of the public authorities law; and (b) the state of New York, a department or agency thereof, or a state authority as that term is defined by subdivision one of section two of the public authorities law has agreed to purchase the energy produced by such energy system or the environmental credits or attributes created by virtue of the energy system's operation, in accordance with a written agreement with the owner or operator of such energy system. Such exemption shall be granted only upon application by the owner of the real property on a form prescribed by the commissioner, which application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village.

PAYMENT IN LIEU OF TAXES AGREEMENT
FOR SOLAR ENERGY SYSTEMS PURSUANT TO REAL PROPERTY TAX LAW § 487

THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES FOR REAL PROPERTY, effective as the date on cover page, above, by and between {NAME OF ("**Owner**"), a _____ Owner, with a principal place of business at _____; and (Choose one as appropriate: - the {School District name), (the "**School District**"), a school district duly established with a principal place of business at _____New York Town/Village/City of, New York, (the "**Town**"), a municipal corporation duly established with a principal place of business at _____New York, and the County of _____, New York, a municipal corporation duly established with a principal place of business at _____New York (the "**County**")). The School District/ Town/ County is herein referred to as the "**Taxing Jurisdiction**." Owner and the Taxing Jurisdiction are collectively referred to in this Agreement as the "**Parties**" and are individually referred to as a "**Party**".

RECITALS

WHEREAS, Owner has submitted a Notice of Intent to the Taxing Jurisdiction that it plans to build and operate a "Solar Energy System" as defined in New York Real Property Tax Law ("RPTL") Section 487 (1)(b) (herein the "Project") with an expected nameplate capacity ("Capacity") of approximately ____ kilowatts/megawatts AC on a parcel of land located within the Town/Village/City at _____ and identified as SBL # _____, as described in Exhibit A (herein the "Property"); and;

WHEREAS, the Taxing Jurisdiction has not opted out of RPTL Section 487; and

WHEREAS, pursuant to RPTL Section 487 (9)(a) the Taxing Jurisdiction has indicated its intent to require a Payment in Lieu of Taxes ("PILOT") Agreement with the Owner, under which the Owner (or any successor owner of the Project) will be required to make annual payments to the Taxing Jurisdiction for each year during the term of this Agreement; and

WHEREAS, the Owner has submitted or will submit to the assessor of the (Town/Village/City) an RP-487 Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems demonstrating its eligibility for a real property tax exemption pursuant to RPTL Section 487; and

WHEREAS, the Parties intend that, during the term of this Agreement, the Project will be placed on exempt portion of the assessment roll and the Owner will not be assessed for any statutory real property taxes for which it might otherwise be

subjected under New York law with respect to the Project.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Representations of the Parties

(a) The Owner hereby represents and covenants that, as of the date of this Agreement:

1. The Owner is duly organized, and validly existing _____ (corporation, limited liability company) duly authorized to do business in the State of New York, has requisite authority to conduct its business as presently conducted or proposed to be conducted under this Agreement, and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement.

2. All necessary action has been taken to authorize the Owner's execution, delivery, and performance of this Agreement and this Agreement constitutes the Owner's legal, valid, and binding obligation enforceable against it in accordance with its terms.

3. None of the execution or delivery of this Agreement, the performance of the obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof will (i) conflict with or violate any provision of the Owner's Certificate of Incorporation, bylaws or other organizational documents or of any restriction or any agreement or instrument to which the Owner is a party and by which it is bound; (ii) conflict with, violate, or result in a breach of any applicable law, rule, regulation, or order of any court or other Taxing Jurisdiction or authority of government or ordinance of the State or any political subdivision thereof; or (iii) conflict with, violate, or result in a breach of or constitute a default under or result in the imposition or creation of any mortgage, pledge, lien, security interest, or other encumbrance under this Agreement or under any term or condition of any mortgage, indenture, or any other agreement or instrument to which it is a party or by which it or any of the Owner's properties or assets are bound. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Owner, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Owner's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

(b) The Taxing Jurisdiction hereby represents and covenants that, as of the date of this Agreement:

1. The Taxing Jurisdiction is duly organized, validly existing, and in good standing under the laws of the State of New York and has full legal right, power, and authority to execute, deliver, and perform all applicable terms and provisions of this Agreement.

2. All necessary action has been taken to authorize each of the Taxing Jurisdiction' execution, delivery, and performance of this Agreement, and this Agreement constitutes

the Taxing Jurisdiction's legal, valid, and binding obligation enforceable against it in accordance with its terms.

3. No governmental approval by or with any government authority is required for the valid execution, delivery, and performance under this Agreement by the Taxing Jurisdiction except such as have been duly or will be obtained or made.

4. There is no action, suit, or proceeding, at law or in equity, or official investigation before or by any government authority pending or, to its knowledge, threatened against the Taxing Jurisdiction, wherein an anticipated decision, ruling, or finding would result in a material adverse effect on the Taxing Jurisdiction's ability to perform its obligations under this Agreement or on the validity or enforceability of this Agreement.

2. Tax Exemption; Payment in Lieu of Real Property Taxes.

(a) Tax-Exempt Status of the Project Facility. Pursuant to RPTL 487 the parties hereto agree that the Project shall be placed by the Taxing Jurisdiction as exempt upon the assessment rolls of the Taxing Jurisdiction. A Real Property Tax Exemption Form (RP 487) has or will be filed with the Assessor responsible for the Taxing Jurisdiction and the Project is eligible for exemption pursuant to RPTL 487 (4).

(b) Owner agrees to make annual payments to the Taxing Jurisdiction in lieu of real property taxes for the Project for a period of fifteen (15) consecutive fiscal tax years. Such 15-year term shall commence on the first taxable status date selected by Owner following commencement of the construction of the Project (the "Commencement Date"), and shall end the fifteenth fiscal year following the Commercial Operations Date. The first annual payment shall be in the amount of $_____ per Megawatt AC of Capacity (the "Annual Payment"). Thereafter Annual Payments will escalate by two percent (2.0%) per year. Based on the Capacity of ____ Megawatts AC, Annual Payments to be made by Owner during the term of this Agreement shall be as listed in Exhibit B. Each Annual Payment will be paid to the Taxing Jurisdiction on the date on which taxes would be due if the Project were not exempt from taxation for each fiscal tax year during the term of this Agreement; and the annual payment amount and payment date will be noted on an annual bill issued by the Taxing Jurisdiction to the Owner, provided that any failure of the Taxing Jurisdiction to issue such a bill shall not relieve Owner of its obligation to make timely payments under this section.

(c) Owner agrees that the payments in lieu of taxes under this Agreement will not be reduced on account of a depreciation factor or reduction in the Taxing Jurisdiction' tax rate, and the Taxing Jurisdiction agree that the payments in lieu of taxes will not be increased on account of an inflation factor or increase in the Taxing Jurisdiction' tax rate, all of which factors have been considered in arriving at the payment amounts reflected in this Agreement.

3. Change in Capacity at Mechanical Completion: Adjustments to Payments. To the extent that the Capacity of the Project is more or less than the _____ Megawatts AC on the date when the Project is mechanically complete and Owner has commenced

production of electricity the payments set forth in Exhibit B will be increased or decreased on a pro rata basis.

4. Change in Capacity After Mechanical Completion: Adjustments to Payments. If after the Completion Date the Capacity is increased or decreased as a result of the replacement or upgrade or partial removal or retirement of existing Project equipment or property or the addition of new Project equipment or property, the Annual Payments set forth in Exhibit B shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.

5. Payment Collection. (Depending on the type of jurisdiction – choose one) Payments for the School District shall be made payable to the _____ School District and mailed to the School District, c/o the Superintendent's Office, _____, New York and are due no later than September 15th of each year. Payments for the Town shall be made payable to the Town of _____ and mailed to the Town of _____, c/o the Town of _____ Supervisor's Office, _____, New York _____ and are due no later than February 15th of each year. Payments for the County shall be made payable to the County Treasurer and mailed to the County of _____, c/o, _____, New York _____ and are due no later than February 15th of each year. All late payments shall accrue interest at the statutory rate for late tax payments under New York Law, Owner shall pay the reasonable attorneys' fees, court and other costs incurred by the Taxing Jurisdiction in the collection of the unpaid amounts. All payments by the Owner hereunder shall be paid in lawful money of the United States of America.

6. Tax Status. Separate Tax Lot. The Taxing Jurisdiction agrees that during the term of this Agreement, the Taxing Jurisdiction will not assess Owner for any real property taxes with respect to the Project to which Owner might otherwise be subject under New York law, and the Taxing Jurisdiction agrees that this Agreement will exclusively govern the payments of all such taxes, provided , however, that this Agreement is not intended to affect, and will not preclude the Taxing Jurisdiction from assessing, any other taxes, fees, charges, rates or assessments which the Owner is obligated to pay, including, but not limited to, special assessments or special district assessments, fees, or charges for services provided by the Taxing Jurisdiction to the Project. Nothing in this Agreement shall limit the right of the Owner to challenge of the assessment of the Project pursuant to the RPTL.

7. No Assignments Without Prior Notice; Binding Effect.

(a) This Agreement may not be assigned by Owner without the prior written consent of the Taxing Jurisdiction and such consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner; provided, however, that Owner may, with advance written notice to the Taxing Jurisdiction and without prior consent, assign its payment obligations under this Agreement to an affiliate of Owner or to any party who has provided or is providing financing to Owner for the

construction, operation and/or maintenance of the Project, or to any party that has an investment grade credit rating according to S&P or Moody's. If Owner is permitted to otherwise assign this Agreement with the advance written consent of the Taxing Jurisdiction, the Owner shall be released from all obligations under this Agreement upon assumption hereof in writing by the assignee, provided that Owner shall, as a condition of such assignment and to the reasonable satisfaction of the Taxing Jurisdiction, cure any defaults and satisfy all liabilities arising under this Agreement prior to the date of such assignment. A Notice of this Agreement may be recorded by Owner and the Taxing Jurisdiction shall cooperate in the execution of required Assignments with the Owner and its successors.

(b) Binding Effect. This PILOT Agreement shall inure to the benefit of, and shall be binding upon, the Taxing Jurisdiction, the Owner and their approved respective successors and assigns.

8. Statement of Good Faith. The Parties agree that the payment obligations established by this Agreement have been negotiated in good faith in recognition of and with due consideration of the full and fair taxable value of the Project.

9. Additional Documentation and Actions. Subject to applicable laws and regulations, each Party will, from time to time hereafter, execute and deliver or cause to be executed and delivered, such reasonable additional instruments and documents as the other Party reasonably requests for the purpose of implementing or effectuating the provisions of this Agreement. Owner shall pay all reasonable attorneys' and consulting fees incurred by the Taxing Jurisdiction to review and negotiate any such instruments or documents.

10. Notices. All notices, consents, requests, or other communications provided for or permitted to be given hereunder by a Party must be in writing and will be deemed to have been properly given or served upon the personal delivery thereof, via courier delivery service, by hand, or by certified mail, return receipt requested. Such notices shall be addressed or delivered to the Parties at their respective addresses shown below.

If to Owner:

With a copy to:

If to the Taxing Jurisdiction:

Attn: Superintendent
Mayor
Town Supervisor
County

With a copy to:

Any such addresses for the giving of notices may be changed by either Party by giving written notice as provided above to the other Party. Notice given by counsel to a Party shall be effective as notice from such Party.

11. Applicable Law. This Agreement will be made and interpreted in accordance with the laws of the State of New York. Owner and the Taxing Jurisdiction each consent to the jurisdiction of the New York courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.

12. Termination Rights of the Owner

Owner may terminate this Agreement at any time by Notice to the Taxing Jurisdiction. Upon receipt of the Notice of Termination, the Project shall be placed on the taxable portion of the tax roll effective on the next taxable status date of the Taxing Jurisdiction. Owner shall be liable for all PILOT payments due in the year of termination, except that if Owner is required to pay any part-year real property taxes, the PILOT payment for that year shall be reduced pro rata so that the Owner is not required to pay both PILOT payments and real property taxes for any period of time.

13. Termination Rights of Taxing Jurisdiction. Notwithstanding anything to the contrary in this Agreement, the Taxing Jurisdiction may terminate this Agreement on thirty (30) days written notice to Owner if:

a. Owner fails to make timely payments required under this Agreement, unless such payment is received by the Taxing Jurisdiction within the 30-day notice period with interest as stated in this Agreement

b. Owner has filed, or has had filed against it, a petition in Bankruptcy, or is otherwise insolvent;

14. Remedies; Waiver And Notice. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to Party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) No Waiver. In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

15. Entire Agreement. The Parties agree that this is the entire, fully integrated Agreement between them with respect to payments in lieu of taxes for the Project, and that

16. Amendments. This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

17. No Third Party Beneficiaries. The Parties state that there are there are no third party beneficiaries to this Agreement.

18. Severability. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

19. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Executed by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

By: _____
Name:
Title:

Date: _____

TAXING JURISDICTION OF

_____

_____

Superintendent/Supervisor/County Official

_____

Date

EXHIBIT A

Description of Land

EXHIBIT B

Year	Payment Amount

Bond No. [redacted]

[redacted]

Solar Facility Decommissioning Bond

KNOW ALL MEN BY THESE PRESENTS: That [redacted] (hereinafter called the Principal), and [redacted] (hereinafter called the Surety), a corporation duly organized under the laws of the [redacted], are held and firmly bound unto Town of [redacted] Planning Department (hereinafter called the Obligee), in the full and just sum of [redacted], the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has issued the Principal a special use permit related to [redacted] and as a requirement of such permit the Principal is obligated to remove the Solar Facility equipment from property located at [redacted] upon discontinuance of service.

WHEREAS, the Obligee has agreed to accept this bond as security for performance of Principal's obligations under said permit during the time period this bond remains in effect.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall perform its obligations under said permit as stipulated above, then this obligation shall be void, otherwise to remain in full force and effect, unless otherwise cancelled as hereinafter provided.

PROVIDED HOWEVER, that this bond is executed subject to the following express provisions and conditions:

1. In the event of default by the Principal, Obligee shall deliver to Surety a written statement of the details of such default within 30 days after the Obligee shall learn of the same, such notice to be delivered by certified mail to address of said Surety as stated herein.

2. This bond may be terminated or canceled by surety by giving not less than sixty (60) days written notice to the Obligee, stating therein the effective date of such termination or cancellation. Such notice shall not limit or terminate any obligations resulting from default by the Principal that may have accrued under this bond as a result of default by Principal prior to the effective date of such termination.

3. Neither cancellation nor termination of this bond by Surety, nor inability of Principal to file a replacement bond or replacement security for its obligations, shall constitute a loss to the Obligee recoverable under this bond.

4. No claim, action, suit or proceeding shall be instituted against this bond unless same be brought or instituted and process served one year after termination or cancellation of this bond.

5. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Obligee named herein or the heirs, executors, administrators or successors of the Obligee.

6. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.

7. If any conflict or inconsistency exists between the Surety's obligations as described in this bond and as may be described in any underlying agreement, permit, document or contract to which this bond is related, then the terms of this bond shall prevail in all respects.

8. It is expressly understood and agreed that this bond does not cover or guarantee rent or lease payments of any kind.

9. This bond shall not bind the Surety unless the bond is accepted by the Obligee. If the Obligee objects to any language contained herein, within 30 days of the date this bond is signed and sealed by the Surety, Obligee shall return this bond, certified mail or express currier, to the Surety at its address at:

[redacted]

Failure to return the bond as described above shall constitute Obligee's acceptance of the terms and conditions herein.

IN WITNESS WHEREOF, the above bounded Principal and Surety have hereunto signed and sealed this bond effective this day of , 20 .

[redacted]

By: _____

[redacted]

By: _____

[redacted]

8

10 December 2019

Gilbert Piquadio
Supervisor to the Town of Newburgh
1496 Route 300
Newburgh, New York 12550

Jeffrey Lease
597 Grand Avenue
Newburgh, New York 12550

Dear Gilbert Piquadio,

It has come to my attention that the Town is considering exercising Home Rule in order to fully tax a Solar Farm. I think this may be wrong-headed for a number of reasons.

Adopting Home Rule forces a town to tax all new solar equipment, both residential and commercial, equally. Under the change a town prevents an IDA from granting a 10-year tax exemption. To adopt this change seems to me to be absolutely backward thinking. The effect would be to de-incentivize residents and businesses from investing in solar because it increases their real property tax. Allow me to make a few points in favor of leaving the law as it is.

1. The taxable value is on equipment, not a structure. The taxation of equipment has already been successfully challenged in a recent court case with Cornell University. This is shaky ground to be sure; what other equipment do we tax, air conditioning systems and garage-door openers? The State is looking very carefully at this aspect as they fund, promote and push for their 50% renewable Green Initiative of 2030.

2. The Town of Newburgh does not presently have a Zoning Law that allows for any other future development. The current code has placed Solar Farms in a zone in which there are no available properties. I have argued this point before the Town Board in 2018 and the Zoning Board in 2019. There is now and for the foreseeable future only one Solar Farm project in the Town of Newburgh.

3. The County Assessor's Office has uniformly taxed these projects based on NYSERD's recommendation of $10,000 aggregate tax per 1 MW. Typical 4MW arrays would therefore be fully taxed at $40,000/year. Assuming Town taxes at one-third of total tax the annual Town portion of a fully taxed array would be $13,200.

IDA PILOT abatements vary in length but typically are 10-year arrangements that begin at 50% of full tax the first year and increase 5% per annum until they reach 100% tax by the end of year 10. Calculating forward the total aggregate tax loss for a 4MW system to the Town would therefore be $36,300.

4. Towns that opt for Home Rule for the purpose of taxation do so at their peril in that they must tax all solar units uniformly across a township. Some towns that have invoked Home Rule are not taxing new residential applications to avoid public resistance. These townships and their assessors want to have it both ways. It will not last.

If the Newburgh Mall or Matrix wanted a rooftop solar array would you want to discourage them by increasing taxes? It would highlight an uneven enforcement of taxation. By opting for Home Rule you may be addressing a problem you don't have and creating a problem you don't need. The tax loss to the Town is so minimal and the repercussion so dramatic I don't see this as much of a decision.

5. Most importantly, promoting local renewable energy is the right thing to do.

It has become a moral imperative for some and essential business practice for others. I personally welcome this long awaited shift in public consciousness. All along the Solar Farm approval process I have been met with Town residents who enthusiastically endorse this type of development. Additionally, we know the margins are thin on these projects and without incentives; this type of development would not get built at all.

I am convinced that by ensuring the future viability of renewable energy in the Town we are in-fact ensuring the long-term health of our residents.

Respectfully yours,

Jeffrey Lease

Gmail by Google

Gil Piaquadio <supervisor@townofnewburgh.org>

Solar and Wind Assessment

1 message

Mark Taylor <MTaylor@riderweiner.com> Mon, Sep 30, 2019 at 11:19 AM
To: "supervisor@townofnewburgh.org" <supervisor@townofnewburgh.org>
Cc: "councilmanmanley@townofnewburgh.org" <councilmanmanley@townofnewburgh.org>

Gil,

Going back in the discussion that we've had going on since 2017 on the solar/wind exemption, just a reminder that in order to opt out, we'll need a local law.

Best,

Mark

From: Mark Taylor
Sent: Monday, July 09, 2018 5:14 PM
To: 'supervisor@townofnewburgh.org' <supervisor@townofnewburgh.org>
Subject: FW: 10/30/17 Assessment Community Weekly

Just a reminder regarding the opt out option on the solar/wind property tax exemption.

Mark

From: Mark Taylor
Sent: Tuesday, December 05, 2017 10:59 AM
To: Gil Piaquadio <supervisor@townofnewburgh.org>
Subject: FW: 10/30/17 Assessment Community Weekly

Staying in?

From: Molly Carhart [mailto:assessor@townofnewburgh.org]
Sent: Monday, October 30, 2017 5:23 PM
To: Gil Piaquadio <supervisor@townofnewburgh.org>; Mark Taylor <MTaylor@riderweiner.com>
Subject: Fwd: 10/30/17 Assessment Community Weekly

Since we're on the topic anyway, the good Governor also expanded the solar/wind exemption. This is the one that's automatically granted unless the municipality/taxing authority opts out. It's worth looking at.

Thanks,

Molly

Having trouble viewing this email? View it as a Webpage.

Assessment Community Weekly

Action on property tax legislation

Governor Cuomo signed six property tax-related pieces of legislation last week. See our current status page, 2017 RPT Related Bills of Interest - Passed Both Houses, early and often to stay up to date. The signed bills include:

- Chapter 336, which expands the RPTL 487 exemption for solar and wind energy systems to include micro-hydroelectric energy systems, fuel cell electric generating systems, micro-combined heat and power generating systems, and electric energy storage systems. These changes take effect on January 1, 2018. Any county, city, town, village, or school district that wishes to opt-out of the exemption for these newly added energy systems must pass a local law (or, in the case of a school district, a resolution). As we read the law, if a municipality has already opted out of the exemption for solar and wind energy systems, that local law or resolution does not apply to these newly added systems—a separate local law or resolution is required.
- Chapter 376, which amends RPTL Section 458 to allow school districts to adopt the eligible funds veterans' exemption.

New judicial case

New on the Judicial cases webpage: Matter of 24-60 47th St. LLC v City of New York.

Archive of past Assessment Community Weekly posts. (Use Internet Explorer or an RSS reader.) Before searching, select "All" under the Search box.
Questions, comments or suggestions? Email geoffrey.gloak@tax.ny.gov.

Contact us **Recent additions** **Online services**

--

Molly A. Carhart

9A

TOWN OF NEWBURGH RECREATION DEPARTMENT

311 ROUTE 32, NEWBURGH, NY 12550

Robert J. Petrillo
Commissioner of Parks, Recreation & Conservation

845-564-7815
FAX: 845-564-7827

February 18, 2020

TO: Gil Piaquadio, Supervisor
Town Board Members

FROM: Robert J. Petrillo, Commissioner

RE: Trolley and Stage Request

We are submitting for your approval the attached letter from Matt Veronesi, Director of Parks, Recreation, Building and Grounds of New Windsor requesting the use of the trolley and one truck with driver for their Memorial Day Parade on Monday, May 17th and the mobile stage for their Community Day celebration to be held on Saturday, August 22nd.

Thank you for your consideration.

Regards,

Robert J. Petrillo
Commissioner

Matt Veronesi
Director of Parks and Recreation

244 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
845-565-7750

February 7, 2020

Town of Newburgh Recreation Department
Attention: Rob Petrillo
Commissioner
311 Route 32
Newburgh, NY 12550

Dear Mr. Petrillo:

As per your request this in an official letter requesting the use of the Town of Newburgh's trolley cars for our Memorial Day Parade on May 17th, 2020 to transport the veterans on the parade route, and for your portable trailer stage for our Town of New Windsor Community Day which will be Saturday August 22nd, 2020. We plan on using it as a second stage in the kid's area.

We would greatly appreciate your assistance on both of these if possible. And if you guys ever need anything please don't hesitate to reach out. Thanks so much.

Sincerely,

Matt Veronesi
Director of Parks & Recreation
(845)565-7750
mveronesi@newwindsor-ny.gov

Thanks Rob!

9B

TOWN OF NEWBURGH RECREATION DEPARTMENT

311 ROUTE 32, NEWBURGH, NY 12550

Robert J. Petrillo
Commissioner of Parks, Recreation & Conservation

845-564-7815
FAX: 845-564-7827

February 6, 2020

TO: Gil Piaquadio, Supervisor
Town Board Members

FROM: Robert J. Petrillo, Commissioner

RE: Chadwick Lake Park Guard Variance Request

The Town policy requires a duty-free half hour lunch for those working six or more consecutive hours. At this time, I'm asking for a variance to this policy for the Chadwick Lake Park guards.

We will shortly begin the season for peak attendance at the Park as well as extended hours. To ensure the guard house is not unattended or the Park unsupervised we are requesting approval to waive the required duty-free lunch for the guards during the months of April, May, June, July and August.

Thank you for your consideration.

Regards,

Robert J. Petrillo
Commissioner

Newburgh Town Code

56-7 Any animal (s) having been placed in the custody of the Town of Newburgh Animal Control department for any reason other than Article 7 of the Agriculture & Markets law shall be held for a period of 14 days. In the event that said animal (s) are not able to be properly housed at the Town Shelter, provisions will be made at the cost of the owner to secure the animal (s) in an adequate facility for the holding period. If said animal (s) is not redeemed by the legal owner or a duly appointed representative after such time, said animal (s) will be irrevocably relinquished to the Town of Newburgh.

without the permission of the landowner and any species of owned animal presenting a potential traffic hazard while wandering in or near public roadways

OWNER, OTHER SPECIES OF OWNED ANIMAL

Any species of animal as defined within this chapter harbored within the Town of Sand Lake is considered owned by the head of household of the property where the animal resides and shall be responsible for any acts of violation of this chapter of the law of the Town of Sand Lake

SEIZE or SEIZURE

Refers to the Animal Control Officer taking possession of a dog or other owned animal as defined within this section for the purposes of protecting the public, protecting or providing care for that animal and all seizures described within Article 7 of the Agriculture and Markets Law

PROHIBITED ACTS OF OTHER SPECIES OF OWNED ANIMALS

No person shall own or harbor any species of owned animal, described in this chapter, to run at large

No person shall own or harbor any species of owned animal described in this chapter to cause damage of private property other than on the property of the animal owner

SEIZURES

Any police officer or peace officer may seize any animal pursuant to Article 26 Agriculture and Markets Law

The Animal Control Officer may seize any other species of owned animals as described in this chapter if running at large when it is off the property of its owner while not under the control of the owner and on private lands without the permission of the landowner and any species of owned animal presenting a potential traffic hazard while wandering in or near public roadways. The Animal Control Officer may arrange for care or shelter with an appropriate entity, kennel, stable, farm or veterinary until an owner is located or for FIVE days from the date of seizure. If no owner comes forward within a five-day period the owner will relinquish ownership and the animal may be adopted out or euthanized. If the owner is located after the five-day period the owner will be responsible for all charges associated with the seizure, boarding, veterinary care and disposition of that animals

PENALTIES

Penalties for offenses: Any person convicted of a violation of this chapter shall be liable for a penalty of not less than $25 or more than $50 for a first violations occurring within the past five years; of not less than $50 or more than $100 for a second violation occurring within the past five years; and of not less than $100 or more than $500 where the person is found to have committed two or more violations within the past five years

ARTICLE 25-B
ABANDONED ANIMALS

331 - Abandonment of certain animals.
332 - Disposition.

§ 331. Abandonment of certain animals. An animal is deemed to be abandoned when it is placed in the custody of a veterinarian, veterinary hospital, boarding kennel owner or operator, stable owner or operator, or any other person for treatment, board, or care and:

1. Having been placed in such custody for a specified period of time the animal is not removed at the end of such specified period and a notice to remove the animal within ten days thereafter has been given to the person who placed the animal in such custody, by means of registered letter mailed to the last known address of such person, or:

2. Having been placed in such custody for an unspecified period of time the animal is not removed within twenty days after notice to remove the animal has been given to the person who placed the animal in such custody, by means of a registered letter mailed to the last known address of such person.

3. The giving of notice as prescribed in this section shall be deemed a waiver of any lien on the animal for the treatment, board or care of the animal but shall not relieve the owner of the animal removed of his contractual liability for such treatment, board or care furnished.

S 332. Disposition. Any person having in his or her care, custody, or control any abandoned animal, as defined in section three hundred thirty-one of this article, may deliver such animal to any duly incorporated society for the prevention of cruelty to animals or any duly incorporated humane society having facilities for the care and eventual disposition of such animals, or, in the case of dogs, cats and other small animals, to any pound maintained by or under contract or agreement with any county, city, town, or village within which such animal was abandoned. The person with whom the animal was abandoned shall, however, on the day of divesting himself or herself of possession thereof, notify the person who had placed such animal in his or her custody of the name and address of the animal society or pound to which the animal has been delivered, such notice to be by registered letter mailed to the last known address of the person intended to be so notified. If an animal is not claimed by its owner within five days after being so delivered to such duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or pound, such animal may at any time thereafter be placed for adoption in a suitable home or euthanized in accordance with the provisions of section three hundred seventy-four of this chapter. In no event, however, shall the use of a decompression chamber or decompression device of any kind be used for the purpose of destroying or disposing of such animal.

TOWN OF NEWBURGH ANIMAL CONTROL & SHELTER

645 GIDNEY AVE. NEWBURGH, NY 12550

Privately Owned Surrender Form

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A MISDEMEANOR UNDER NYS PENAL LAW.

I _____ residing at _____ being legal owner of Dog/Cat (Name)_____ described as breed _____ male _____ female_____neutered/spayed _____ color/ distinct markings _____ ; relinquish said animal to the Town of Newburgh Animal Control Department for adoption to a new owner or to be euthanized as the Town of Newburgh Animal Control Department to adoption to a new owner or to be euthanized as the Town of Newburgh Animal Control deems fit. In consideration of the Town of Newburgh taking ownership of, and relieving me of the responsibility (except as provided below) to care for, the animal(s) identified above, I understand and agree that: (1) I am completely and irrevocably relinquishing to the Town of Newburgh ownership of said animal(s); (2) said animal(s) will not be returned to me: (3) I have no right to request or demand the return of said animal(s); (4) I have no right to control or influence the adopting or euthanizing of said animal(s); and (5) I hereby release the Town of Newburgh, its officers, employees and agents from all claims of any kind relating or referring to my surrender of said animal(s). **I AM TAKING FULL RESPONSIBILITY FOR THE FINANCIAL BURDEN OF PREPARING MY DOG/CAT FOR ADOPTION_____.**

Name:_____ Date:_____

Address:_____

Phone Number: Home:_____ Cell:_____

Reason for surrendering dog/cat:_____

Veterinary Name:_____ Phone#:_____

Has this dog/ cat ever bitten?_____ With-in last 10 days?_____

Up To Date on Vaccinations?_____

Dog/Cat Lived: Inside: _____ Outside: _____ Both: _____

Housebroken: Yes:_____ No: _____

PROOF OF IDENTITY REQUIRED AND A COPY MUST BE MADE AND ATTACHED TO THIS FORM FOR ANIMAL CONTROL.

SIGNATURE OF OWNER:_____

SIGNATURE OF ACO:_____