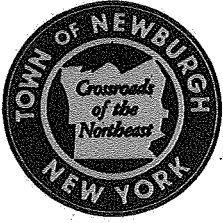


*JOSEPH P. PEDI, Town Clerk
1496 Route 300
Town of Newburgh, New York 12550
Telephone 845-564-4554*

**TOWN BOARD PUBLIC MEETING AGENDA
Monday, March 9, 2020
7:00 p.m.**

1. ROLL CALL
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. MOMENT OF SILENCE
4. CHANGES TO AGENDA
5. POLICE DEPARTMENT:
 - A. Administration of Oath to Two Police Sergeants
 - B. Administration of Oath to Identification Detective
 - C. Administration of Oath to Drug Abuse Resistance Education (DARE) Officer
 - D. Acceptance of Stop DWI Funding
 - E. Approval to Hire Part Time Police Officer
6. APPROVAL OF AUDIT
7. PUBLIC HEARING (7:00 P.M.) – Introductory Local Law No. 4 of 2019:
Tree Preservation and Protection
8. PUBLIC HEARING (7:15 P.M.) – Introductory Local Law No. 1 of 2020:
Salary of Town Clerk
9. DEPARTMENT HEAD REPORTS
10. RECREATION:
 - A. Retirement of Current Commissioner of Parks, Recreation and Conservation
 - B. Start Process to Hire New Commissioner of Parks, Recreation and Conservation
11. ASSESSOR: Tax Certiorari Settlements
 - A. Mid Valley Improvements
 - B. Cross Roads Court Real Estate
12. ENGINEERING: Design Engineering Proposal for Elmhurst Avenue Culvert Replacement
13. ANIMAL CONTROL: T-94 Withdrawal
14. ZONING: B District Amendment to Permit Nursery Schools and Day Care Centers
 - A. Resolution for State Environmental Quality Review (SEQR) Lead Agency Intent
 - B. Resolution for Introduction and Referral
 - C. Resolution to Schedule Public Hearing
15. DATA PROCESSING: Purchase of New Computers
16. ACCOUNTING DEPARTMENT: Approval to Hire Principal Payroll Clerk
17. ANNOUNCEMENTS
18. PUBLIC COMMENTS
19. ADJOURNMENT

GJP: jpp
First Revision – March 5, 2020, 4:35 p.m.



TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550

**DONALD B. CAMPBELL
CHIEF OF POLICE**

**Phone: (845) 564-1100
Fax: (845) 564-1870**

February 24, 2020

To: Newburgh Town Board

From: Chief Donald B. Campbell

Subject: Acceptance of Stop DWI Funding

I am requesting the Newburgh Town Board adopt a Resolution authorizing execution and delivery of an inter-municipal agreement, between the Town of Newburgh and the County of Orange, for Stop DWI Program Services beginning March 13, 2020 and ending on January 1, 2021.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donald B. Campbell".

Donald B. Campbell
Chief of Police

ORANGE COUNTY, NEW YORK



STOP-DWI / Traffic Safety Programs

22 Wells Farm Road
Goshen, New York 10924
845-615-0566

Steven M. Neuhaus
County Executive

Coordinator
Brendan R. Casey
Commissioner
OC Emergency Services

Administrator
John Jones



TO: TOWN OF NEWBURGH

FROM: Brendan R. Casey, Orange County STOP-DWI Coordinator

DATE: February 20, 2020

Enclosed is your Department's contract for the 2020 STOP-DWI (Regular) enforcement patrol year funding **beginning on March 13, 2020 and ending on January 1, 2021**. The contract is for participation for the **full year**. The enclosed contract indicates the Not-to-Exceed total hours and/or dollar amount for the 1st Period beginning on March 13, 2020 and ending on May 26, 2020 in the amount of **\$3020/60**. You will be subsequently notified by letter of the awarded amount of the total dollars/hours for the 2nd and 3rd periods of the year. Please review the attached Schedule A of the contract for enforcement dates and reimbursement requirements.

Please sign and return this contract to the above address at your earliest convenience to insure that your Department can participate in the enforcement period. **A BOARD CERTIFIED RESOLUTION IS REQUIRED FOR THE ACCEPTANCE OF THIS CONTRACT AS WELL AS FOR THE AUTHORIZATION OF A DESIGNATED OFFICIAL TO EXECUTE THE CONTRACT FOR YOUR MUNICIPALITY.**

PLEASE NOT THAT ARTICLE 17. SIGNATURES ALLOWS FOR A MANUALLY SIGNED COPY OF THIS AGREEMENT TO BE DELIVERED VIA FAX (845) 291-2121, EMAIL (csaccone@orangecountygov.com) OR OTHER MEANS OF ELECTRONIC TRANSMISSION.

Also included in the mailing is a completion packet containing:

- Enforcement Patrol Sheet (Copy as needed)
- Patrol Summary Sheet – To be completed at the end of the enforcement period by compiling all Patrol Sheets.
- Final Reimbursement Claim Form – To include participating officers' names, hours and salary/overtime costs per patrol shift. **The maximum reimbursement will be time and one-half based on the participating officer's hourly salary rates and no hourly rate higher than that of your department's highest paid Sergeant will be approved.**

If you have any questions, please do not hesitate to contact me.

Your officers are the front line of defense in keeping our roadways safe from impaired and intoxicated drivers. On behalf of County Executive, Steven Neuhaus and Orange County's STOP-DWI Program, thank you to you and your officers for your commitment to patrolling and protecting the County.



INTER-MUNICIPAL AGREEMENT

THIS INTER-MUNICIPAL AGREEMENT (“IMA”) is entered into this 20th day of February, 2020, by and between the **COUNTY OF ORANGE**, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services (“COUNTY”), and the **TOWN OF NEWBURGH**, a Town of the State of New York, with its principal offices at 300 Gardnertown Road, Newburgh, NY 12550, by and through its Police Department (“MUNICIPALITY”).

ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY is a municipal corporation chartered under the authority of the State of New York. Among other powers and duties, the COUNTY, by and through its Department of Emergency Services, administers the COUNTY’s Special Traffic Options Program for Driving While Intoxicated in accordance with New York State Vehicle and Traffic Law Section 1197 (“STOP DWI Program”). The purpose of the STOP DWI Program is to coordinate and fund Orange County’s town, city, and village efforts to reduce alcohol-related traffic injuries and fatalities. To facilitate this goal the COUNTY and the MUNICIPALITY recognize that police patrol enforcement campaigns are an effective tool towards ensuring safe and sober roadways.

It is the intention of the COUNTY, in order to carry out the goals of the STOP DWI Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable campaign periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York (“State”), and local laws.

ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on February 20, 2020 and end January 11, 2021.

ARTICLE 3. PROCUREMENT OF AGREEMENT

The MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by the MUNICIPALITY to solicit or secure this IMA upon an agreement for, or upon an understanding of, a commission, percentage, a brokerage fee, contingent fee

or any other compensation. The MUNICIPALITY further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this IMA and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY’s right to claim damages or to take any other action provided for by law or pursuant to this IMA.

ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (3) submits such a Disclosure form and (a) discloses his/her interest in this IMA, or (b)

seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this IMA.

ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

ARTICLE 6. BOOKS AND RECORDS

The MUNICIPALITY agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this IMA.

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

ARTICLE 7. RETENTION OF RECORDS

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of expenditures or fees under this IMA as may be required

by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 9. INDEMNIFICATION

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

ARTICLE 10. TERMINATION

The COUNTY may, by written notice to the MUNICIPALITY, effective upon mailing, terminate this IMA in whole or in part at any time (i) for the COUNTY's convenience, (ii) upon the failure of the MUNICIPALITY to comply with any of the terms or conditions of this IMA, or (iii) upon the MUNICIPALITY becoming insolvent or bankrupt.

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

Any rights and remedies of the COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this IMA.

ARTICLE 11. GENERAL RELEASE

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

ARTICLE 12. SET-OFF RIGHTS

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

ARTICLE 13. GOVERNING LAW

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

ARTICLE 14. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this IMA, including Schedule A and each award letter, which supersedes any other understandings or writings between or among the parties.

ARTICLE 15. MODIFICATION

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

ARTICLE 16. SEXUAL HARASSMENT CERTIFICATION

Pursuant to State of New York State Finance Law §139-1, by execution of this Agreement, the VENDOR and the individual signing this Agreement on behalf of the VENDOR certifies, under penalty of perjury, that the VENDOR has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the State of New York Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found on its website at:

<https://www.ny.gov/programs/combating-sexual-harassment-workplace>.

The COUNTY's policy against sexual harassment and other unlawful discrimination and harassment in the workplace can be found on the COUNTY's website at:

<https://www.orangecountygov.com/1137/Human-Resources>.

ARTICLE 17. SIGNATURES

A manually signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal force and effect as delivery of an original signed copy of this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this IMA as of the date set forth above.

COUNTY OF ORANGE

MUNICIPALITY

By: _____
Steven M. Neuhaus
County Executive

By: _____
Name:
Title:

DATE: _____

DATE: _____

SCHEDULE A-1
NEW YORK STATE VEHICLE AND TRAFFIC LAW §1197 FUNDS

ENFORCEMENT CAMPAIGNS/AGREEMENT TO PARTICIPATE.

MUNICIPALITY agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows:

First Enforcement Period – March 13, 2020 through May 26, 2020, which includes St. Patrick’s Day and the Memorial Day holiday weekend.

Second Enforcement Period – July 3, 2020 through September 8, 2020, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns.

Third Enforcement Period –November 6, 2020 through January 1, 2021, which includes Thanksgiving, Christmas, and the New Year’s holidays enforcement campaigns.

Each of the three (3) enforcement campaigns coincides with state and national enforcement campaign efforts.

DATA SUBMITTAL.

MUNICIPALITY agrees to deliver to the COUNTY enforcement activity data in the form provided by the COUNTY, in its sole discretion, and required to be completed by the COUNTY, no later than ten (10) calendar days after the end of each enforcement period. Failure to timely submit the data may result in the MUNICIPALITY receiving the calculated minimum amount of hours/dollars for the next succeeding enforcement period or no award at all.

AWARD OF FUNDS.

Provided that MUNICIPALITY has performed in accordance with the terms of this IMA, the COUNTY, to the extent that funds are appropriated and available, will make up to three (3) awards of funds to support the MUNICIPALITY’s STOP DWI Program enforcement campaigns. Each such award shall be data driven based upon the data submitted by the MUNICIPALITY to the COUNTY for enforcement activities occurring during the preceding enforcement period.

FIRST ENFORCEMENT PERIOD AWARD.

Based on data submittals from the MUNICIPALITY for the prior enforcement period November 27, 2019 through January 1, 2020, which submittals were required to be submitted to the COUNTY pursuant to a separate IMA between MUNICIPALITY and COUNTY, MUNICIPALITY is eligible for an award not to exceed **THREE THOUSAND TWENTY AND 00/100 (\$3020)** covering **60** man-hours for the first enforcement period of 2020. The actual award payment to MUNICIPALITY shall be that amount earned as a result of man-hours expended by the MUNICIPALITY for STOP DWI Program enforcement activities during each preceding enforcement period as supported by the data submitted by the MUNICIPALITY.

WRITTEN NOTIFICATION OF AWARDS FOR THE SECOND AND THIRD ENFORCEMENT PERIODS OF 2020.

COUNTY will notify MUNICIPALITY in writing of its eligibility for awards, if any, for the second and third enforcement period of 2020 by a separate written award letter delivered to MUNICIPALITY prior to the

commencement of such enforcement period. Each award letter shall state a not to exceed dollar value of the funds available to the MUNICIPALITY for reimbursement of man hours expended operating enforcement patrols during the applicable enforcement period and shall be annexed to and made a part of this IMA.



TOWN OF NEWBURGH


5E

1496 Route 300, Newburgh, New York 12550

PERSONNEL DEPT.

PH: 845-566-7785
Fax: 845-564-2170

To: Supervisor Piaquadio ✓
Town Board

From: Charlene M Black, Personnel 

Date: March 2, 2020

Re: Part time Police Officer – Evan Longinott

Please find attached a letter from Chief Campbell requesting the approval to hire Evan Longinott as a part time Police Officer. Approval will be pending the outcome of his physical, drug and alcohol testing, fingerprints and completion of all paperwork. He has been pre-approved by Orange County Human Resources. Thank you in advance for your time in this matter.



TOWN OF NEWBURGH POLICE DEPARTMENT

300 Gardnertown Road, Newburgh, New York 12550

DONALD B. CAMPBELL
CHIEF OF POLICE

Phone: (845) 564-1100
Fax: (845) 564-1870

March 2, 2020

To: Newburgh Town Board

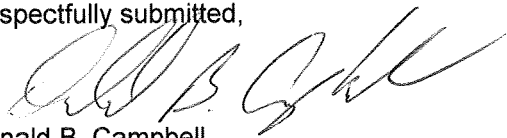
Cc: Charlene Black/Personnel Department

From: Chief Donald B. Campbell

Subject: Part-Time Police Officer Position

I am requesting authorization to hire Evan Longinott as a part-time police officer at a rate of \$25.00 per hour not to exceed an average of 20 hours per week or 1040 hours in any calendar year. I am requesting he receive a start date effective on or after March 16, 2020 pending results of his physical exam, psychological. A full background investigation has been completed. This is a budgeted position that is currently vacant (Fund appropriation # 001-3120-0100-000).

Respectfully submitted,


Donald B. Campbell
Chief of Police

TOWN OF NEWBURGH

EMPLOYMENT REQUEST FORM

To: Personnel Department

NAME OF CANDIDATE: Evan Longinotti

DEPARTMENT: Police Department

TITLE OF POSITION: Police Officer

FULL TIME OR PART TIME: Part time

HOURLY RATE: \$25.00 per hour

IS POSITION FUNDED IN CURRENT BUDGET: YES OR NO

FUND APPROPRIATION NUMBER: 001-3120-0100-000

PROPOSED HIRE DATE: On or After 3/14/2020

NOTE: CANDIDATE CANNOT BEGIN WORK WITHOUT PRE-EMPLOYMENT PHYSICAL AND COMPLETION OF ALL REQUIRED PAPERWORK.

[Signature]
DEPARTMENT HEAD SIGNATURE

3/2/2020
DATE

ORIGINAL APPLICATION SHOULD BE ON FILE IN THE PERSONNEL DEPARTMENT



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider
Donna M. Badura
Amber L. Camio

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: TREE PRESERVATION AND PROTECTION LOCAL LAW
OUR FILE NO. 800.1(B)() (2019)

DATE: March 4, 2020

Enclosed for the Town Board's consideration following the close of the public hearing scheduled for March 9, 2020 on the Introductory Local Law Adding Chapter 172 Entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh are the following draft resolutions:

1. Resolution of SEQR Designation and Determination: Adoption of a Proposed Local Law Adding Chapter 172 Entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh. The circulated Long Form EAF is also enclosed. The proposed Negative Declaration will be forwarded under separate cover.
2. Resolution of Adoption of Local Law No. __ of 2020 Adding Chapter 172 Entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh

Should you have any questions or concerns, please do not hesitate to contact me.

cc: Town Clerk Joseph Pedi (via e-mail)
James Osborne, Town Engineer (via e-mail)
Gerald Canfield, Code Compliance Supervisor (via e-mail)

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of March, 2020 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Councilman

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

James E. Presutti, Councilman

Scott M. Manley, Councilman

RESOLUTION OF SEQR DESIGNATION AND DETERMINATION: ADOPTION OF A PROPOSED LOCAL LAW ADDING CHAPTER 172 ENTITLED "TREE PRESERVATION AND PROTECTION" TO THE CODE OF THE TOWN OF NEWBURGH

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

WHEREAS, the Town Board of the Town of Newburgh has caused to be prepared a local law which will add Chapter 172 entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh which bears on the preservation, protection and restoration of trees on properties which are the subject of development applications; and

WHEREAS, the Town Board of the Town of Newburgh recognizes the importance of sound planning as a means of promoting responsible development and protecting the health, safety and general welfare of the citizens of the Town of Newburgh and otherwise fulfilling the legislative findings and intent set forth in Town Law Section 272-a and has determined that that the proposed Code amendment does not require an amendment to the Town's Comprehensive Plan; and

WHEREAS, the Town Board of the Town of Newburgh has caused an Environmental Assessment Form (the "EAF") to be prepared for the proposed adoption of said local law adding a new Chapter to the Code of the Town of Newburgh (the "Action"); and

WHEREAS, the proposed local law was introduced before the Town Board on the 10th day of June, 2019, and the Town Board conducted a public hearing held on the 9th day of March, 2020 and heard all interested parties on said proposed local law; and

WHEREAS, the Town Board has determined that the Action is a Type 1 Action

under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and Chapter 100 entitled “Environmental Quality Review” of the Town of Newburgh Municipal Code; and

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

WHEREAS, the Town Board has determined that the Action does not involve a federal agency; and

WHEREAS, the Town Board, using all due diligence, has identified no other involved agencies for the Action; and

WHEREAS, the Town Board has identified the following interested agencies for the Action:

Orange County Department of Planning
Town of Newburgh Planning Board
Town of Newburgh Zoning Board of Appeals

and;

WHEREAS, the EAF and other appropriate information were forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board, together with copies of the proposed local law, in accordance with the requirements of the General Municipal Law and the Town of Newburgh Zoning Code and to the Town of Newburgh Zoning Board of Appeals; and

WHEREAS, pursuant to Section 617.6(b)(1) of Part 617, “[w]hen a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund or approve a Type I or Unlisted action that does not involve another agency”; and

WHEREAS, the Action is consistent with the adopted Town of Newburgh Comprehensive Plan Update and is also consistent with the Orange County Comprehensive Plan; and

WHEREAS, the Town Board has also considered the consistency of the amendment with the needs and goals identified by the April, 2009 *Tri-County Affordable Housing Study*, conducted jointly by Orange, Dutchess, and Ulster Counties, and the potential affects of the Action on the Town’s ability to meet goals for providing rental and owner occupied affordable housing; and

WHEREAS, recognizing that the impact that an action may have on population patterns or existing community character, with or without a separate impact on the physical environment is a relevant concern in an environmental analysis since the statute includes these concerns as elements of the environment, the Town Board has considered and analyzed information pertaining to those impacts; and

WHEREAS, the Town Board has undertaken further information gathering and these further analyses in recognition that conclusory statements unsupported by empirical or experimental data, scientific authorities or any explanatory information will not suffice as a reasoned elaboration for its determination of environmental significance or non-significance; and

WHEREAS, the Town Board has (i) thoroughly reviewed the EAF, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, and (ii) thoroughly analyzed the potential relevant areas of environmental concern to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c); and

WHEREAS, the Town Board has not identified relevant areas of environmental concern which would lead to a determination that the adoption of the proposed local law may have a significant adverse effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope, magnitude and the number of people affected.

NOW THEREFORE, BE IT RESOLVED:

1. The Town Board determines that it is the single involved agency for the Action and as it is proposing to directly undertake the Action, does further declare itself the Lead Agency for the purpose of conducting a review of this Action.
2. The Town Board, acting in its capacity as Lead Agency, does hereby further determine that the Action will not have an adverse environmental impact and, accordingly, does issue a negative declaration.
3. The Town Board accordingly determines that an Environmental Impact Statement will not be prepared.
4. The Town Board hereby authorizes the Supervisor to execute and file the relevant section of the Environmental Assessment Form and a Negative Declaration with such further amendment and modification as may be required to elaborate the Lead Agency's determination herein, in accordance with the applicable provisions of law and all other appropriate notices and documents to effectuate these resolutions in accordance with the applicable provisions of law .

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

Elizabeth J. Greene, Councilwoman voting _____

Paul I. Ruggiero, Councilman voting _____

James E. Presutti, Councilman voting _____

Scott M. Manley, Councilman voting _____

Gilbert J. Piaquadio, Supervisor voting _____

The resolution was thereupon declared duly adopted.

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Town of Newburgh Tree Preservation and Protection Amendments to the Town Code		
Project Location (describe, and attach a general location map): Town of Newburgh		
Brief Description of Proposed Action (include purpose or need): Revisions to the Town of Newburgh Municipal Code with town-wide application to allow property owners to develop property in a reasonable manner while protecting the various benefits to the community which are provided through the protection and maintenance of trees, including, but not limited to the soil erosion and sedimentation, improved air quality, reduced noise pollution, energy conservation through natural insulation and shading, enhanced property values, and the preservation and maintenance of the unique physical, historical and aesthetic character of the Town. . See attached local law. The provisions will apply to: any property being developed which involves an application for site plan approval, any property being developed which involves an application for subdivision approval; and parcel or parcels of land five (5) acres or more in size from which significant trees or protected trees have been removed or otherwise disturbed in violation or in excess of removal and disturbance thresholds within twenty-four (24) months prior to the date on which an application is filed with the Planning Board to develop the parcel or parcels. Development includes any proposed material change in the use or character of land, (such as grading or re-grading, excavation, land clearing, placement or construction of any structure, the replacement or removal of any structure or any site improvements.		
Name of Applicant/Sponsor: Town of Newburgh Town Board	Telephone: 845-564-4552	E-Mail: supervisor@townofnewburgh.org
Address: 1496 Route 300		
City/PO: Newburgh	State: NY	Zip Code: 12550
Project Contact (if not same as sponsor; give name and title/role): Gilbert J. Plaquadro, Supervisor	Telephone: same as above	E-Mail: same as above
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone:	E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Adoption of Local Law providing for Municipal Code Revisions	
b. City, Town or Village Planning Board or Commission <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	* Town Planning Board Review and Report as Interested Agency	
c. City Council, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	*Town ZBA Review and Report as Interested Agency	
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	* County Planning GML Review as Interested Agency	
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> If Yes, complete sections C, F and G. If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
C.2. Adopted land use plans.	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): Remediation Sites:336022 , Remediation Sites:336031 , Remediation Sites:V00312 , Remediation Sites:336002 , Remediation Sites:336057, Remediation Sites:336009 , Remediation Sites:V00118 , Remediation Sites:336059 , Remediation Sites:336088, Remediation Sites:336024, Remediation Sites:546031	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s):	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
If Yes, what is the zoning classification(s) including any applicable overlay district?
Local law will have town-wide application, so all zoning districts and overlay districts of the Town of Newburgh.

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Marlboro Central, Newburgh Central, Valley Central, Walkkill Central

b. What police or other public protection forces serve the project site?
Town of Newburgh Police Department and volunteer Fire Departments

c. Which fire protection and emergency medical services serve the project site?
Coldenham, Cronomer Valley, Dan Leghorn, Goodwill, Middlehope and Winona Lake; Plattekill, Town of Newburgh EMS

d. What parks serve the project site?
Chadwick Lake, Cronomer Hill, Algonquin Park, Monarch Drive Playground

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Town-wide tree preservation and protection regulations

b. a. Total acreage of the site of the proposed action? 30,080+/- acres
b. Total acreage to be physically disturbed? 0 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? NA acres

c. Is the proposed action an expansion of an existing project or use? Yes No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____
ii. Is a cluster/conservation layout proposed? Yes No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? Yes No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
• Total number of phases anticipated _____
• Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
• Anticipated completion date of final phase _____ month _____ year
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No

If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No

If Yes,

i. Total number of structures _____

ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length
_____ square feet

iii. Approximate extent of building space to be heated or cooled: _____

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No

If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)

If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No

If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments? Yes No

If Yes, describe:

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project?

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: NA gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

Yes No
 Yes No
 If Yes:
 • Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:
 • Applicant/sponsor for new district: _____
 • Date application submitted or anticipated: _____
 • What is the receiving water for the wastewater discharge? _____
 v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:
 i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or _____ acres (impervious surface)
 _____ Square feet or _____ acres (parcel size)
 ii. Describe types of new point sources. _____

 iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

 • If to surface waters, identify receiving water bodies or wetlands: _____

 • Will stormwater runoff flow to adjacent properties? Yes No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
 ii. In addition to emissions as calculated in the application, the project will generate:
 • _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 • _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 • _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
 • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade to, an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:		ii. During Operations:	
• Monday - Friday: _____	Consistent with Code	• Monday - Friday: _____	Consistent with Code
• Saturday: _____	Consistent with Code	• Saturday: _____	Consistent with Code
• Sunday: _____	Consistent with Code	• Sunday: _____	Consistent with Code
• Holidays: _____	Consistent with Code	• Holidays: _____	Consistent with Code

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No
 If yes:
 i. Provide details including sources, time of day and duration:

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n.. Will the proposed action have outdoor lighting? Yes No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No
 If Yes:
 i. Product(s) to be stored _____
 ii. Volume(s) _____ per unit time _____ (e.g., month, year)
 iii. Generally describe proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No
 If Yes:
 i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: _____ tons per _____ (unit of time)
 • Operation : _____ tons per _____ (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: _____

 • Operation: _____

 iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: _____

 • Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

Urban Industrial Commercial Residential (suburban) Rural (non-farm)

Forest Agriculture Aquatic Other (specify): _____

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____	30,080	30,080	0

c. Is the project site presently used by members of the community for public recreation? Yes No
 i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
 If Yes,
 i. Identify Facilities:
 Multiple facilities with the Town of Newburgh

e. Does the project site contain an existing dam? Yes No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection:
 The Town does contain dams. Including Chadwick Lake dam

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
 If Yes:
 i. Has the facility been formally closed? Yes No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes - Spills Incidents database Provide DEC ID number(s): _____
 Yes - Environmental Site Remediation database Provide DEC ID number(s): 336022 , 336031 , V00312 ...
 Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
 If yes, provide DEC ID number(s): 336022 , 336019 , 336037 , 336031 , V00312 ...
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ varies throughout feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Mardin-Erie	_____	50 %
Pittsfield-Farmington	_____	20 %
Naassau Bath	_____	30 %

d. What is the average depth to the water table on the project site? Average: _____ varies feet

e. Drainage status of project site soils:

<input checked="" type="checkbox"/> Well Drained:	_____	80 % of site
<input checked="" type="checkbox"/> Moderately Well Drained:	_____	10 % of site
<input type="checkbox"/> Poorly Drained	_____	10 % of site

f. Approximate proportion of proposed action site with slopes:

<input type="checkbox"/> 0-10%:	_____	75 % of site
<input type="checkbox"/> 10-15%:	_____	10 % of site
<input checked="" type="checkbox"/> 15% or greater:	_____	15 % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

• Streams:	Name	862-136, 862-222, 862-211, 862-223, 862-205, 86...	Classification	C, A, B, AA
• Lakes or Ponds:	Name	862-227, 862-223, 862-218, 862-224, 862-230, 86...	Classification	C, A, B
• Wetlands:	Name	Federal Waters, Federal Waters, Federal Waters,...	Approximate Size	NYS Wetland (in a...
• Wetland No. (if regulated by DEC)	NB-26, NB-29, WD-47, NB-27,...			

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____
 Name - Pollutants - Uses: Orange Lake - Nutrients - Recreation, Name - Pollutants - Uses: Hudson River (Class B) - Priority Organ...

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100 year Floodplain? Yes No

k. Is the project site in the 500 year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:

i. Name of aquifer: _____ New York and New England Rock Aquifer

m. Identify the predominant wildlife species that occupy or use the project site: _____

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 Red Maple-Hardwood Swamp, Freshwater Intertidal Mudflats, Freshwater Tidal Marsh
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: 1460.0, 6.65, 2.74 acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? Yes No
 Upland Sandpiper, Indiana Bat, Bald Eagle, Atlantic Sturgeon, Peregrine Falcon, Shortnose Sturgeon

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? Yes No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____
 No anticipated impact

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
 If Yes, provide county plus district name/number: ORAN001, ULST002, ULST001

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: Chadwick Lake Reservoir, /
 ii. Basis for designation: Development threat to public health, Protect water supply
 iii. Designating agency and date: Agency: Newburgh, Town of, Agency: Shawangunk, Town of, Date: 5-21-87, Date: 10-1-89

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
<i>ii.</i> Name: <u>Belknap Stone House, Gardner, Silas, House, Orange Mill Historic District, East End Historic District, Maple Lawn, Po...</u>	
<i>iii.</i> Brief description of attributes on which listing is based: _____	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Describe possible resource(s): _____	
<i>ii.</i> Basis for identification: _____	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Identify resource: _____	
<i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____	
<i>iii.</i> Distance between project and resource: _____ miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Identify the name of the river and its designation: _____	
<i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	
	<input type="checkbox"/> Yes <input type="checkbox"/> No

F. Additional Information


Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

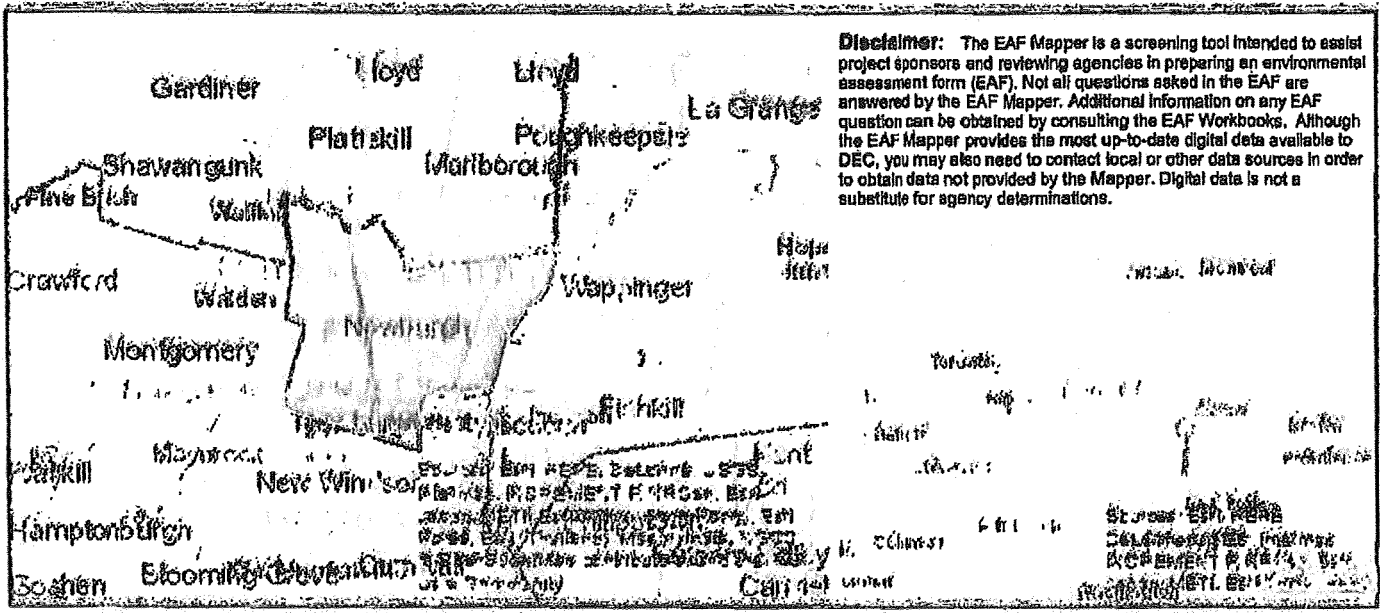
G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Town of Newburgh Town Board Date June 10, 2019

Signature  Title Town Supervisor

EAF Mapper Summary Report



- B.1.i [Coastal or Waterfront Area] Yes
- B.1.ii [Local Waterfront Revitalization Area] Yes
- C.2.b. [Special Planning District] Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
- C.2.b. [Special Planning District - Name] Remediation Sites:336022 , Remediation Sites:336031 , Remediation Sites:V00312 , Remediation Sites:336002 , Remediation Sites:336057, Remediation Sites:336009 , Remediation Sites:V00118 , Remediation Sites:336059 , Remediation Sites:336086, Remediation Sites:336024, Remediation Sites:546031
- E.1.h [DEC Spills or Remediation Site - Potential Contamination History] Yes - Digital mapping data for Spills Incidents are not available for this location. Refer to EAF Workbook.
- E.1.h.i [DEC Spills or Remediation Site - Listed] Yes
- E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database] Yes
- E.1.h.i [DEC Spills or Remediation Site - DEC ID Number] 336022 , 336031 , V00312 , 336002 , 336057, 336009 , V00118 , 336059 , 336086, 336024, 546031
- E.1.h.iii [Within 2,000' of DEC Remediation Site] Yes
- E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID] 336022 , 336019 , 336037 , 336031 , V00312 , B00136 , 336002 , 336057, 336009 , 336063 , C336085, V00118 , 336059 , 336086, 336024, 546031
- E.2.g [Unique Geologic Features] No
- E.2.h.i [Surface Water Features] Yes
- E.2.h.ii [Surface Water Features] Yes
- E.2.h.iii [Surface Water Features] Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.

E.2.h.iv [Surface Water Features - Stream Name]	002-100, 002-222, 002-211, 002-220, 002-200, 002-220, 002-210, 002-210, 862-229, 855.5-145, 862-226, 862-225, 862-224, 862-360, 862-231, 862-215, 862-227, 862-228, 862-221, 862-359, 862-232, 862-206, 855.5-134, 862-207, 862-208, 858-1, 862-364, 862-371, 858-2, 862-370, 862-374, 862-358
E.2.h.iv [Surface Water Features - Stream Classification]	C, A, B, AA
E.2.h.iv [Surface Water Features - Lake/Pond Name]	862-227, 862-223, 862-218, 862-224, 862-230, 862-232, 862-215, 862-358, 862-359, 862-360, 862-374
E.2.h.iv [Surface Water Features - Lake/Pond Classification]	C, A, B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland
E.2.h.iv [Surface Water Features - Wetlands Size]	NYS Wetland (in acres):20.4, NYS Wetland (in acres):54.4, NYS Wetland (in acres):91.9, NYS Wetland (in acres):55.4, NYS Wetland (in acres):25.1, NYS Wetland (in acres):28.1, NYS Wetland (in acres):294.0, NYS Wetland (in acres):35.5, NYS Wetland (in acres):18.3, NYS Wetland (in acres):26.6, NYS Wetland (in acres):70.9, NYS Wetland (in acres):15.0, NYS Wetland (in acres):15.2, NYS Wetland (in acres):19.2, NYS Wetland (in acres):22.7, NYS Wetland (in acres):66.1, NYS Wetland (in acres):1368.4, NYS Wetland (in acres):23.9, NYS Wetland (in acres):15.5, NYS Wetland (in acres):21.0, NYS Wetland (in acres):13.7, NYS Wetland (in acres):38.1, NYS Wetland (in acres):29.6, NYS Wetland (in acres):71.7, NYS Wetland (in acres):84.1, NYS Wetland (in acres):17.2, NYS Wetland (in acres):38.3, NYS Wetland (in acres):242.3, NYS Wetland (in acres):85.5, NYS Wetland (in acres):12.2, NYS Wetland (in acres):99.7, NYS Wetland (in acres):111.7
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	NB-26, NB-29, WD-47, NB-27, NB-25, NB-24, NB-21, NB-20, NB-22, NB-28, NB-23, NB-19, NB-12, NB-13, NB-11, NB-14, NB-15, NB-32, NB-5, NB-16, NB-35, NB-18, NB-9, NB-17, NB-7, NB-34, NB-10, NB-30, WD-50, NB-31, NB-4, NB-33
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Orange Lake – Nutrients – Recreation, Name - Pollutants - Uses:Hudson River (Class B) – Priority Organics – Fish Consumption, Name - Pollutants - Uses:Hudson River (Class A) – Priority Organics – Fish Consumption
E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	Yes
E.2.n.i [Natural Communities - Name]	Red Maple-Hardwood Swamp, Freshwater Intertidal Mudflats, Freshwater Tidal Marsh
E.2.n.i [Natural Communities - Acres]	1460.0, 6.65, 2.74
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Upland Sandpiper, Indiana Bat, Bald Eagle, Atlantic Sturgeon, Peregrine Falcon, Shortnose Sturgeon
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ORAN001, ULST002, ULST001
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	Yes

E.3.d.i [Critical Environmental Area - Name]	Shawangunk Lake Reservoir, Yonkers Public Water Supply
E.3.d.ii [Critical Environmental Area - Reason]	Development threat to public health, Protect water supply
E.3.d.iii [Critical Environmental Area - Date and Agency]	Agency:Newburgh, Town of, Agency:Shawangunk, Date:5-21-87, Date:10-1-89
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	Belknap Stone House, Gardner, Silas, House, Orange Mill Historic District, East End Historic District, Maple Lawn, Powelton Club, Bloomer-Dailey House and Balmville Tree, Echo Lawn Estate, Balmville Cemetery, Cosman Family Cemetery, Mill House, Chapel Hill Bible Church
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only (If applicable)

Project : _____
 Date : _____

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

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

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land			
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO

YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO

YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)
 If "Yes", answer questions a - h. If "No", move on to Section 5.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding
 The proposed action may result in development on lands subject to flooding.
 (See Part 1. E.2)
 If "Yes", answer questions a - g. If "No", move on to Section 6.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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6. Impacts on Air The proposed action may include a state regulated air emission source. <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.f., D.2.h, D.2.g) If "Yes", answer questions a - f. If "No", move on to Section 7.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES If "Yes", answer questions a - j. If "No", move on to Section 8.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources
 The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)
 NO YES
If "Yes", answer questions a - g. If "No", go to Section 10.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/4 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources
 The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)
 NO YES
If "Yes", answer questions a - e. If "No", go to Section 11.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation			
The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If "Yes", answer questions a - e. If "No", go to Section 12.</i>		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2e, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas			
The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d.) <i>If "Yes", answer questions a - c. If "No", go to Section 13.</i>		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation
 The proposed action may result in a change to existing transportation systems. NO YES
 (See Part 1. D.2.j)
If "Yes", answer questions a - g. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy
 The proposed action may cause an increase in the use of any form of energy. NO YES
 (See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light
 The proposed action may result in an increase in noise, odors, or outdoor lighting. NO YES
 (See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health			
The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - m. If "No", go to Section 17.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____			

17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans.
(See Part 1. C.1, C.2. and C.3.)

NO

YES

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character.
(See Part 1. C.2, C.3, D.2, E.3)

NO

YES

If "Yes", answer questions a - g. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

PRINT FULL FORM

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of March, 2020 at 7:00 P.M., Prevailing Time.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

James E. Presutti, Councilman

Scott M. Manley, Councilman

RESOLUTION OF ADOPTION OF LOCAL LAW NO. 1 OF 2020 ADDING CHAPTER 172 ENTITLED "TREE PRESERVATION AND PROTECTION" TO CODE OF THE TOWN OF NEWBURGH

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

WHEREAS, a Local Law Adding Chapter 172 entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh was first introduced before the Town Board of the Town of Newburgh in the County of Orange and State of New York on the 10th day of June, 2019; and

WHEREAS, pursuant to resolution of the Town Board, copies of the aforesaid local law were forwarded to the Orange County Department of Planning and the Town of Newburgh Planning Board for their reports in accordance with the provisions of the New York State General Municipal Law and the Town of Newburgh Zoning Code respectively, and to the Town of Newburgh Zoning Board of Appeals; and

WHEREAS, the Town Board of the Town of Newburgh by motion adopted on the 27th day of January, 2019 ordered a public hearing to be held on the 9th day of March, 2020 at 7:00 o'clock p.m., prevailing time, to hear all interested parties on said proposed local law entitled "Local Law Adding Chapter 172 entitled 'Tree Preservation and Protection' to the Code of the Town of Newburgh"; and

WHEREAS, a notice of public hearing was mailed to the clerks of the municipalities and counties with boundaries within 500 feet of the properties affected by the local law at least ten days prior to the date of the public hearing; and

WHEREAS, a notice of said Public Hearing was duly advertised on the ___th day of February, 2020 in The Mid-Hudson Times and on the ___th day of February, 2020 in the Orange County Post and posted on the Town Clerk's sign board on the ___rd day of February, 2020; and

WHEREAS, the Local Law in final form was placed upon the desks or tables of the members of the Town Board 26th day of February, 2020; and

WHEREAS, the Public Hearing was duly held on the 9th day of March, 2020 at 7:00 o'clock p.m., at Town Hall, 1496 Route 300, Newburgh, New York and all parties in attendance were permitted to speak on behalf or in opposition of the proposed Local Law or any part thereof;

and

WHEREAS, the Town Board of the Town of Newburgh, acting as lead agency, has duly considered the adoption of said Local Law adding Chapter 172 entitled "Tree Preservation and Protection" to the Code of the Town of Newburgh as a Type I Action under the State Environmental Quality Review Act and has duly issued a negative declaration; and

WHEREAS, the Town Board of the Town of Newburgh has duly considered the reports and responses it has received from the Orange County Planning Department and the Town of Newburgh Planning Board; and

WHEREAS, due to the change in calendar year and the adoption of intervening local laws, said Local Law shall be designated as Town of Newburgh Local Law No. 1 of the Year 2020 upon filing; and

WHEREAS, the Town Board of the Town of Newburgh, after due deliberation finds it in the best interest of the Town to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Town Board of the Town of Newburgh hereby adopts said Local Law No. 1 of Year 2018 entitled "A Local Law Adding Chapter 172 entitled 'Tree Preservation and Protection' to the Code of the Town of Newburgh."
2. The Town Clerk is hereby directed to enter this resolution and said Local Law in the minutes of this meeting and the Local Law Book of the Town of Newburgh and to give due notice of the adoption of said Local Law to the Secretary of State and to the public.
3. A report of final action in the matter of the adoption of said Local Law amending the Zoning Code of the Town of Newburgh shall be delivered to the Orange County Planning Department in accordance with the requirements of the General Municipal Law.

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

Elizabeth J. Greene, Councilwoman voting _____

Paul I. Ruggiero, Councilman voting _____

James E. Presutti, Councilman voting _____

Scott M. Manley, Councilman voting _____

Gilbert J. Piaquadio, Supervisor voting _____

The resolution was thereupon declared duly adopted.

INTRODUCTORY LOCAL LAW NO. __ OF 2019

**A LOCAL LAW ADDING CHAPTER 172
ENTITLED
“TREE PRESERVATION AND PROTECTION”
TO THE CODE OF THE TOWN OF NEWBURGH**

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Adding Chapter 172 Entitled ‘Tree Preservation and Protection’ to the Code of the Town of Newburgh”.

SECTION 2 – TREE PRESERVATION AND PROTECTION

A new Chapter 172 entitled “Tree Preservation and Protection” is hereby added to the Town of Newburgh Municipal Code to read as follows:

“Chapter 172

TREE PRESERVATION AND PROTECTION

§172-1 Findings and Purpose.

A. The Town Board of the Town of Newburgh finds that trees are unique, intrinsically significant and valuable assets in and to the Town. Due to their size, species, historic association and ecology, they contribute significantly the health and general welfare of the citizens of a community. While allowing for reasonable improvement of land within the Town, it is the policy of the Town to enhance the tree population and to maintain and protect, to the greatest extent feasible, existing trees within the Town. The planting of additional trees and the preservation of existing trees in the Town provides the following benefits to the Town and its residents:

1. Trees enhance the unique physical, historical and aesthetic character of the Town.
2. Trees aid in controlling storm water run-off, stabilizing soil by preventing erosion, and sedimentation and replenishing ground water supplies.
3. Trees enhance air quality by removing carbon dioxide, generating oxygen and filtering air pollutants.
4. Trees reduce noise through buffering and screening.

5. Trees reduce energy consumption by providing shade and a windbreak effect.
6. Trees enhance the habitat and food source for birds and other wildlife, which in turn control insect populations and maintain the balance of natural ecosystems.
7. Trees enhance property values and create a desirable residential and commercial environment.

B. The Town Board recognizes that a certain amount of trees will be lost as an inevitable consequence of development within the Town. The Town Board has determined it to be in the best interest of the Town to protect and enhance the existing tree population to the greatest extent feasible and to replace trees which are lost due to development activities.

C. The Town Board has determined that the adoption and implementation of a tree preservation local law will recognize and allow a property owner to develop his or her property in a reasonable manner while protecting the various benefits to the community which are provided through the protection and maintenance of trees within the Town, including, but not limited to the soil erosion and sedimentation, improved air quality, reduced noise pollution, energy conservation through natural insulation and shading, enhanced property values, and the preservation and maintenance of the unique physical, historical and aesthetic character of the Town.

§172-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTHORIZED OFFICIAL - The Town Code Compliance Supervisor or other person designated by the Town Board to administer and maintain the provisions of this chapter

BUILDABLE AREA – That portion of a lot remaining after minimum required yards under Chapter 185, Zoning, have been provided, after limitations of any pertinent environmental regulations have been applied, but excluding those portions which may be required to meet maximum lot building coverage and lot surface coverage requirements..

BUILDING AREA - The area of a property on which there is proposed the construction of physical improvements including, but not limited to, the building, deck, accessory buildings or structures, porch, patio, driveway, septic field road right of way and any utility corridor.

CANOPY COVER TREE – A tree which at maturity will achieve a canopy spread of forty or more feet in diameter.

CLEAR CUTTING OR WHOLESALE TREE CUTTING - The removal of substantially all trees from a property or area of property, whether by cutting or other means.

CRITICAL ROOT ZONE - The circular area measured outward from the tree trunk one (1) foot of radius for each one (1) inch of diameter of the tree measured four and one-half (4 ½) feet above the existing grade at the base of the tree.

DBH – Diameter of a tree at 54 inches above the existing ground level at the base of the tree.

DEVELOPMENT - Any proposed material change in the use or character of land, including but not limited to grading or re-grading, excavation, land clearing, placement or construction of any structure, the replacement or removal of any structure or any site improvements such as building additions, decks, fences and the like.

DEVELOPMENT ACTIVITY – The implementation of development.

DISTURB - Any act which causes or may reasonable be expected to cause a tree to die, including damage to the trees root system or trunk, compaction of ground within the root system of a tree, a change in the natural grade above the root system of a tree, and trenching within the critical root zone.

DISTURBANCE ZONE - Any area which would be physically altered from its natural state, including but not limited to all areas of grading, utility installation, building pads, driveways, parking areas or other structures.

DRIP LINE - An imaginary vertical line from the outermost branch tips of a tree down to the ground.

NATURAL PRESERVE - Publicly owned lands designated as park or open space or private properties approved by the Town which are set aside to preserve their natural characteristics and qualities and protected by easement or other permanent agreement acceptable to the Town.

PROTECTED TREE - Any tree having a size (circumference, height and spread) equal to or greater than fifty percent (50%) of the size identified on the New York Big Tree Champions List for such tree species.

SAMPLING PLOT – A plot of land one quarter (1/4) acre in size to exhibit a representation of the entire parcel. A “sampling plot” shall be clearly marked in the field and its location shown of the presentation plans.

SIGNIFICANT TREE - Any healthy tree measuring eight (8) inches or larger in diameter at DBH and that develops a canopy that is not invasive for deciduous trees and measuring four (4) inches or larger in diameter at DBH for all other trees.

SPECIMEN TREE – Any tree with a trunk diameter that equals or exceeds twenty (20) inches at DBH with a sound trunk showing no extensive decay or hollow, with less than 20 percent radial

trunk dieback and no major insect or pathological problem of such species as achieves a canopy spread of forty or more feet in diameter upon maturity

TOPPING – The removal of a tree’s leafy crown, creating stubs of the larger vertical leader stems.

TREE INCHES - The diameter of a Significant Tree measured in inches.

TREE PROFESSIONAL - A person who is a licensed or certified Arborist, Horticulturalist, Certified Nursery Landscape Professional, Landscape Architect, Forester, or restoration ecologist and who has a minimum of two (2) years practice in the fields of arboriculture, horticulture or restoration ecology.

§172-3 Scope.

- A. The Town strongly encourages the preservation of trees on all properties within the Town.
- B. The provisions of this chapter shall apply to the following properties:
 - 1. Any property being developed which involves an application for site plan approval where trees would be removed in the buildable areas and driveways.
 - 2. Any property being developed which involves an application for subdivision approval where trees would be removed in the buildable areas, driveways and streets;
 - 3. Any parcel or parcels of land of five (5) acres or more in size on which the owner or his agent removes or otherwise disturbs Significant Trees or Protected Trees in violation of the provisions of Section 172-4.A or in excess of the removal and disturbance thresholds set forth in Section 172-4.B and C hereof within 24 months prior to the date on which such owner or other applicant files an application to the Planning Board to develop the parcel or parcels, whether or not the applicant has obtained a clearing and grading permit to perform such work.
 - a. The owner shall be required to comply with the reforestation and restitution provisions of this Chapter as if an application identified in Subsections 172- 3B.1 or 172-3B.2 above had been submitted to the Town at the time such action was taken.

- b. Clearing and grading permits and approvals issued following the date of this Chapter's enactment shall contain a notice that submission of a subsequent application for site plan or subdivision approval for the parcels within the specified 24 month period will subject the property to this Chapter's requirements.
 - c. Parcels on which disturbance has been undertaken pursuant to a permit or final approval duly issued or granted prior to the effective date of this Chapter shall be exempt from the prior 24 month requirement with respect to the permitted activities.
- C. The provisions of this chapter shall not apply to trees located on a parcel on which a tree farm, nursery, or greenhouse is operated provided such exemption shall only apply to trees which are considered inventory for said operation and held out for sale in the regular course of business for said operation
- D. The provisions of this Chapter shall not apply to activities necessary to farm operations within Agricultural Districts to the extent the provisions unreasonably restrict farm operations.

§172-4 Tree removal/disturbance thresholds and restrictions.

- A. No person shall, prior to the issuance of a clearing and grading permit, a stormwater management plan approval or site plan, special permit or subdivision approval, conduct clear cutting or wholesale tree cutting activities on any property within the Town, unless such activity is exempt under the provisions of the applicable Chapter. A violation of this provision shall constitute sufficient grounds for the Town to refuse to grant a clearing and grading permit, stormwater approval or other development permit or approval. This provision shall not be construed to permit clear cutting or wholesale tree cutting following issuance of the applicable permit or approval except in compliance with all applicable provisions of law and permit conditions.
- B. No person causing or performing development activities in residential zoning districts (RR, AR, R-1, R-2 and R-3 under Chapter 185, Zoning) shall remove or disturb more than fifty percent (50%) of the total inches in diameter of Significant Trees, nor more than fifty percent (50%) of the total inches in diameter of Specimen Trees. Any removal or disturbance beyond these thresholds shall require reforestation or restitution as hereinafter provided.
- C. No person causing or performing development activities non-residential zoning districts (B, IB and I under Chapter 185, Zoning) shall remove or disturb more than seventy-five percent (75%) of the total inches in diameter of Significant Trees. Any removal or

disturbance beyond this threshold shall require reforestation or restitution as hereinafter provided.

- E. No person shall remove or disturb any Specimen Tree unless such tree is located within the Buildable Area on lots less than 5 acres in size or unless such tree is located within the Building Area and minimum required parking area(s) on lots 5 or more acres in size, or in rights of way in which driveways or streets are being constructed. Every effort shall be made to avoid damage to or removal of such tree or trees. The owner and applicant shall have provided the Town with evidence to establish that it is not feasible to relocate the Building Area, parking area, driveways, stormwater control facilities and other improvements based upon the physical characteristics or condition of the lot or that such relocation creates undue hardship and financial expense.
- F. A topping shall be considered a removal if performed on a Specimen Tree without prior approval of the Authorized Official or his designee. This form of pruning is not an industry accepted practice and therefore should not be used except in extraordinary circumstances.

§172-5 Tree Survey/Preservation Plan.

- A. A tree survey and tree preservation plan shall be submitted with all clearing and grading permit, stormwater management, site plan and subdivision applications. The tree survey and tree preservation plan shall be prepared and signed by a registered surveyor or Tree Professional not more than two (2) years prior to submission of the complete application and shall provide the following information:
 - 1. Location, diameter and species of all Significant Trees on the site, and an identification of all Specimen Trees and Protected Trees.
 - 2. Identification of which Significant Trees and Specimen Trees are (i) to be protected, preserved or undisturbed, (ii) to be removed or disturbed, and (iii) exempt from the calculation.
 - 3. Identification of all trees which are dead, diseased or have been damaged.
 - 4. Areas proposed to be designated as Natural Preserves where all natural vegetation, including significant trees, will be protected and preserved.
 - 5. Proposed no disturbance zones, as identified by cross-hatching or gray-colored shading on the plan.
 - 6. Location and dimensions of Building Areas and construction zone for each lot and proposed street layout and grading contours of the site.

7. A ¼ acre plot showing an area left undisturbed with a sampling of the trees representative of the total undisturbed area.
8. Proposed locations and details of tree protection fencing to be installed for all trees to be preserved. No excavation or other activity shall occur within the Critical Root Zone or within the Drip Line, whichever is greater, of any tree that is to be preserved.
9. Calculation of removed or disturbed Significant Tree and Specimen Tree inches on the site divided by the total Significant Tree and Specimen Tree inches on the site (excluding dead and diseased beyond remediation trees, and invasive species, at the discretion of the Planning Board).

§172-6 Reforestation/Restitution Requirement.

- A. If the amount of Significant Tree or Protected Tree inches to be removed or disturbed exceeds the specified thresholds in §172-4 , the owner or applicant shall provide a reforestation plan, or a calculation of restitution, or a combination thereof. The reforestation plan shall comply with the restitution schedule set forth in Table 1. Tree selection for the reforestation plan shall be of varieties which create a diversified canopy of both deciduous and coniferous species. Trees under power and other overhead utility lines shall be of varieties which at mature height will not encroach on a 10 foot clearance space for the lines.
- B. If a proposed development exceeds the allowable removal/disturbance threshold specified in Subsections 172-4B or 172-4C, as applicable, the owner or developer shall, at the owner's or developer's election, either:
 1. reforest appropriate areas within the site (or, upon approval of the Authorized Official, outside the site if appropriate locations within the site are not available) in accordance with the approved reforestation plan; or
 2. pay restitution in accordance with the provisions hereof; or
 3. provide a combination thereof.
 4. For each one (1.0) tree inch that is removed or disturbed beyond the threshold, owner or applicant shall replant one and one-quarter (1.25) inches of new trees or provide the Town with one hundred twenty five dollars (\$125.00) for tree restitution at other locations. Notwithstanding the foregoing, for each one (1) tree

inch of a tree that is described in Subsection 172-4D, applicant shall replant two (2) inches of new trees of the same type and species or provide the Town with two hundred fifty dollars (\$250.00) for tree restitution at other locations. Payment for restitution shall be made to the Town in cash prior to the signing of plans or the issuance of the permit, as the case may be.

- C. Any elective payment for tree restitution shall be placed in a designated Tree Restoration Fund of the Town established by the Town Board and shall be used for reforestation projects in the Town.

§172-7. Reforestation Plan.

- A. A reforestation plan shall be prepared and signed by a Certified Arborist or Certified Nursery Landscape Professional and shall comply with the following criteria:
 - 1. The plan shall indicate the location and diameter or height of all trees to be planted.
 - 2. No more than ten percent (10%) of the trees to be planted may be from any one plant family, unless recommended by the Tree Professional or Forester. Trees shall be selected so as to create a diversified canopy of both deciduous and coniferous species.
 - 3. Planting shall be of similar vegetation as found on the site, with a preference for plantings designated as native to the site.
 - 4. The minimum planting size for deciduous trees shall be two and one half (2 ½) inches in diameter, and the minimum planting size for coniferous trees shall be eight (8) feet in height, except that up to fifteen (15) percent of the required tree inches may be of ornamental species of a lesser size, provided the required number of replacement inches is maintained.
- B. Installation of trees shall follow generally accepted professional standards.
- C. Planting schedules shall be approved by the Authorized Official.

§172-8 Review of Tree Preservation Plans and Reforestation Plans.

- A. The tree preservation plan and any related reforestation plan or calculation of restitution shall be reviewed and evaluated by the Authorized Official. The Authorized Official may make recommendations for adjustment of locations of

structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts.

- B. A tree preservation plan and reforestation plan, including the designation of any Natural Preserves, shall be considered for approval or denial by the Planning Board as part of the review of applications subject to its jurisdiction.
- C. A tree preservation plan and reforestation plan may be amended after it has been approved. The Authorized Official shall have authority to approve amendments, except that a change resulting in removal of more than five percent (5%) of the Significant Tree inches that were shown as preserved on a Planning Board approved tree preservation plan shall require further review by the Planning Board if the plan was submitted in connection with an application to that Board. As part of any amendment to a tree preservation plan, the required reforestation and/or restitution shall be increased or reduced as appropriate. Requests for amendments shall be submitted prior to removal of any trees shown as preserved on an approved plan.
- D. The findings and provisions contained in § 104-2G of the Code are hereby extended to include the review of plans required under this Chapter and associated inspections. Accordingly, the reasonable and necessary expenses of services performed by competent professionals engaged by the Town in connection with the review of tree preservation plans and reforestation plans and related inspections and the review of proposed instruments protecting natural preserves shall be reimbursed by applicants in accordance with the procedures in § 104-2G . The initial deposits required to fund escrow accounts shall be established by the Town Board by resolution, and the Town Board may increase or decrease said amounts by resolution from time to time.

§172-9 Performance Guarantee.

- A. Tree Guarantee. Replacement trees must be planted within twenty-four (24) months of the issuance of a permit or approval, as the case may be, unless such time is extended. The owner or applicant shall guarantee all trees planted pursuant to the Reforestation Plan for a period of one (1) year from the date of planting. If a tree planted pursuant to Reforestation Plan dies within one (1) year from the date of planting, the owner shall remove the tree and plant a replacement tree, which shall likewise be guaranteed for a period of one (1) year from the date of its planting.
- B. Following approval of the Tree Preservation Plan, but prior to signature of approved plans or issuance of a permit, as the case may be, the owner or applicant shall provide a performance security in the form of a bond or letter of credit acceptable to the Town as to form or cash to guarantee performance in accordance with the tree preservation plan and the reforestation plan, if applicable. The guarantee amount may be included

as part of required security for public improvements, provided the period of such security to extends through the replacement period(s).

- C. The amount of the performance security shall be calculated as follows: Twenty-five (25) percent of the total Significant Tree and Protected Tree inches shown as preserved that are located within fifteen (15) feet of a disturbance zone multiplied by one hundred twenty five dollars (\$125.00) per inch, plus one hundred percent of the total tree inches required by the reforestation plan, if applicable, multiplied by one hundred twenty five dollars (\$125.00) per inch. The minimum performance security shall be one thousand dollars (\$1,000.00). The amount of the performance security shall be maintained at the calculated level until such time as (i) all trees on the site (preserved trees and new reforestation trees) have survived a winter season, which is defined as the period 31 October through 30 April for the purpose of this Section, and (ii) the Town has inspected the site and authorized a reduction or release.

§172-10. Tree Protection during development.

- A. Tree protection fencing shall be installed prior to commencement of development activities and shall remain in place until after the certificate of occupancy is issued for the building on the site. Tree protection fencing shall be installed and maintained in accordance with the "Tree Protection Detail" attached hereto as Appendix A-1. In addition to the tree protection fencing, a protective sedimentation fence shall be installed at the drip line of all Significant Trees or Protected Trees which are located down grade of any clearing, excavation and/or construction activity. The protective sedimentation fencing shall be installed and maintained in accordance with the "Protective Sedimentation Fence Detail" attached hereto as Appendix A-2 and Appendix A-3. No attachments, fences or wires other than those approved for bracing, guying or wrapping shall be attached to trees within the area for tree preservation. Approved bracing, guying and wrapping methods are depicted on the "Deciduous Tree Bracing, Burying & Wrapping Detail" attached hereto as Appendix A-4 and the "Evergreen Tree Bracing, Burying Wrapping Detail" attached hereto as Appendix A-5.
- B. No development activity shall occur within the area encompassed by the drip line or critical root zone, whichever is greater, of any tree that is to be preserved. No excess soil, additional fill, liquids, or construction debris shall be placed within the area encompassed by the drip line or critical root zone, whichever is greater, of any tree that is to be preserved.

§172-11. Inspections and final approval.

- A. Prior to removal of any trees and prior to issuance of any permit or prior to commencement of any development activities if no permit is required, all sites shall be staked and fenced for tree preservation pursuant to the approved tree preservation plan. A copy of the approved tree preservation plan and reforestation plan, if any, shall be submitted to the Authorized Official prior to the issuance of a permit or commencement of work. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any development activities, the owner or applicant shall contact the Authorized Official to schedule an inspection of the staking and fence installation on the site. No permits shall be issued nor shall any operations commence, without first receiving authorization by the Authorized Official. In lieu of performing such inspection, the Authorized Official may accept a certification by a Tree Professional that the requirements have been met.

- B. Upon completion of the preliminary site grading operations, the owner or applicant shall contact Authorized Official on the approved tree preservation plan. In the event one or more Significant Trees or Protected Trees which were shown as protected on the tree preservation plan have not been protected, no additional permits shall be issued until either a reforestation plan or amended reforestation plan has been submitted and approved or restitution paid to the Town in accordance with the requirements of Section 172-6. In lieu of performing such inspection, the Authorized Official may accept a certification by a Tree Professional that the requirements have been met.

- C. Prior to issuance of a certificate of occupancy, the owner or applicant (or builder if different from the owner or developer) shall contact the Authorized Official to schedule a final tree preservation inspection to verify the preservation of trees and the planting of any reforestation trees, as shown on the approved tree preservation plan. This required inspection shall be made at least five (5) working days before the certificate of occupancy is requested. Prior to issuance of a certificate of occupancy, in the event one or more Significant Trees or Protected Trees which were shown as protected on the tree preservation plan have not been protected, restitution shall be paid to the Town in accordance with the requirements of Section 172- 6. In lieu of performing such inspection, the Authorized Official may accept a certification by a Tree Professional that the requirements have been met.

- D. In addition to the above scheduled inspections, the Authorized Official or his designated representative shall periodically visit development sites prior to completion to monitor compliance with the tree preservation plan and reforestation plan approved for a project.

- E. Prior to issuance of a certificate of occupancy for a completed structure by the Code Compliance Department, the owner or applicant shall submit a statement certified by a Tree Professional, that the Property is in compliance with the approved Tree Preservation Plan and, if applicable, the Reforestation Plan. Notwithstanding the foregoing, in the event a delayed planting schedule has been approved as part of the Reforestation Plan due to weather conditions which would impair the health of the trees, the certificate of occupancy may be issued provided a performance security in the form of a bond or letter of credit acceptable to the Town as to form, or cash in an amount equal to one and one-half times the projected cost of the planting, including materials, labor and equipment, has been delivered to the Town. Any tree damaged during or as a result of construction shall be repaired to the satisfaction of the Authorized Official or his designee and in accordance with accepted ANSI A300 or International Society of Arboriculture practices. Observed tree damage must be repaired prior to issuance of a certificate of occupancy
- F. Within three years of the issuance of the Certificate of Occupancy, the Authorized Official or his designee shall perform a site inspection to verify the health of trees which were retained to meet the requirements of this Chapter and which may have suffered damage due to insufficient protective measures during development.
- G. Each required tree that is determined by the Authorized Official or his designee to be diseased or injured to the extent it is irreparably damaged shall be approved for removal. The burden of proof of the extent of the disease or injury shall rest with the owner or applicant, who must provide documentation from a Tree Professional.
- H. The owner of a property or properties subject to this Chapter shall be responsible for the maintenance of all required trees. No department or agent of the Town is in any way responsible for the maintenance of required trees on private property.

§172-12. Enforcement of Tree Preservation and Reforestation Plan.

- A A stop work order may be issued in the following circumstances:
 - 1. Tree removal has been undertaken in violation of this Chapter; or
 - 2. The required protective fencing has been damaged, destroyed, removed or otherwise rendered ineffective for the purpose for which it was required; or
 - 3. The person performing tree removal has failed to post the appropriate performance guarantee required by Section 172-9; or

4. The necessary precautions as specified in the tree preservation plan were not undertaken before development activity or tree removal commenced, and/or disturbance to Significant Trees or Protected Trees has occurred or is likely to occur during development activity.
- B. The Stop Work Order shall be in effect until such time as the owner or permittee complies with the appropriate regulations or, in the case of existing or likely disturbance to significant trees, takes corrective action acceptable to the Town to mitigate any damage to such significant trees. The fee for inspections required for issuance of an order to remove a Stop Work Order shall be in the amount of Seventy Five Dollars (\$75.00) per inspection. Notwithstanding the payment of the aforesaid fee, the removal of one or more Significant Trees, when the requirements of this Chapter have not been met is a violation of the provisions of this Chapter.

§ 172-13 Appeals.

A. The Zoning Board of Appeals, as established by Chapter 185 of the Town of Newburgh Code, shall hear and decide appeals. The procedures set forth in Section 185-55 shall be followed.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made in the enforcement or administration of this chapter or when it is alleged that failure to grant a variance will result in exceptional hardship to the applicant or results inconsistent with the purposes of this chapter. Appeals shall be filed with the Zoning Board of Appeals within 30 days of the date of the requirement, decision or determination.

C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and whether unnecessary hardships or results inconsistent with the general purpose of this chapter or certain provisions thereof will result from the enforcement of those standards.

E. Upon consideration of the factors of Subsection D above and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of appeals as it deems necessary to further the purpose of this chapter.

F. The authorized official shall maintain the records of all appeal actions, including technical information.

G. Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief.

H. Variances shall only be issued upon receiving written justification of:

- (1) A showing of good and sufficient cause;
- (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) A determination that the granting of a variance will not result in unnecessary destruction of vegetation, additional threats to property, the environment or public safety, or extraordinary public expense or create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

§172-14 Penalties for offenses.

Any person who shall violate any provision of this chapter shall be guilty of a violation as defined in Article 10 of the New York State Penal Law, and shall, upon conviction, be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment, for the first offense. Any subsequent offense within a period of three (3) years shall be punishable by a fine of not more than \$500 or imprisonment for a period of not more than 30 days, or both. Each week's violation shall constitute a separate and distinct offense.

§172-15 Civil Proceedings.

- A. Compliance with this Chapter may be compelled and violations restrained by order or by injunction of a court of competent jurisdiction.
- B. Any person who violates any provision of this Chapter shall also be subject to a civil penalty of not less than \$250 dollars for the first violation and not more than \$500 for each subsequent violation, to be recovered by the town in a civil action. Each week's continued violation shall be for this purpose a separate and distinct violation for which civil penalties may be imposed. In the event the penalty sought is within the monetary jurisdiction of the Town Justice Court, as established in Article 18 of the Uniform Justice Court Act, such action to recover such penalty may, as determined by the attorney representing the town, be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act. In the event the town takes legal action to enforce this Chapter, the

violator may be responsible for any and all necessary costs relative thereto, including attorneys' fees."

SECTION 3 - SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 4 - CONFLICT WITH OTHER LAWS

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public shall apply.

SECTION 5 - EFFECTIVE DATE.

This Law shall become effective upon filing with the New York State Secretary of State.

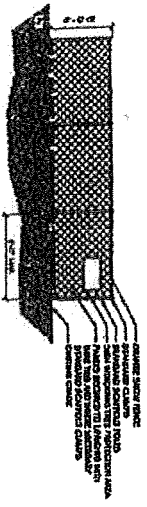
SECTION 6 - AUTHORITY.

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

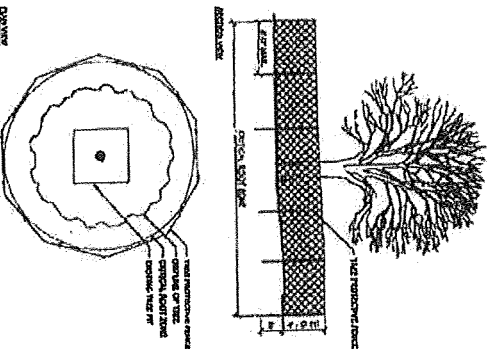
Appendix A-1

Tree Protection Detail

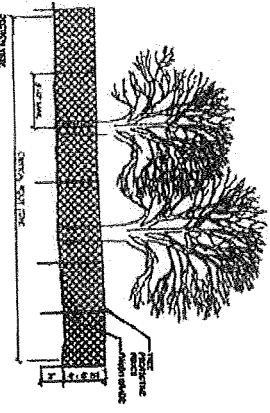
1 TREE PROTECTIVE FENCE
SCALE 1/4" = 1'-0"



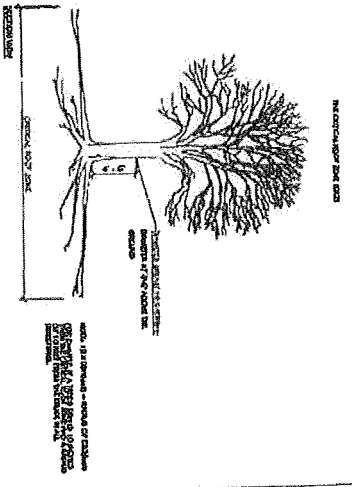
3 TREE PROTECTIVE FENCE AT CRITICAL ROOT ZONE
SCALE 1/8" = 1'-0"



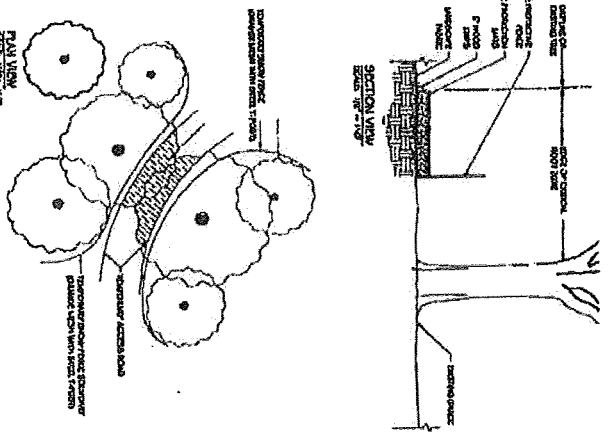
5 TREE PROTECTIVE FENCE FOR GROVES
SCALE 1/4" = 1'-0"



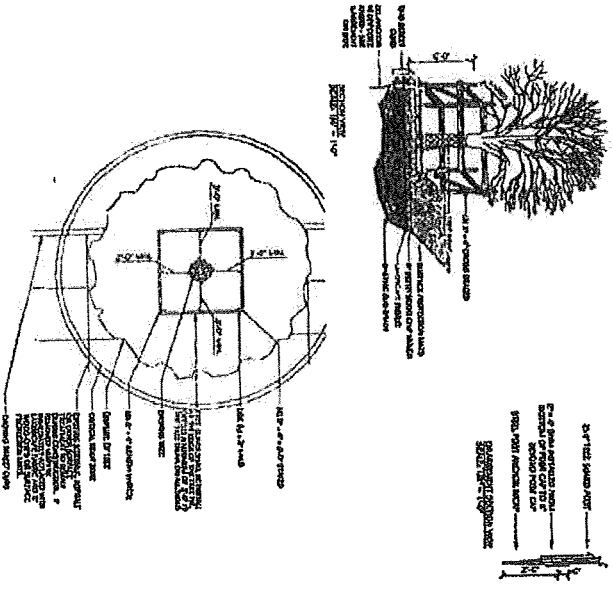
6 CALCULATING CRITICAL ROOT ZONE
SCALE 1/4" = 1'-0"



2 TREE PROTECTIVE FENCE WITH GROUND PROTECTION
SCALE AS SHOWN

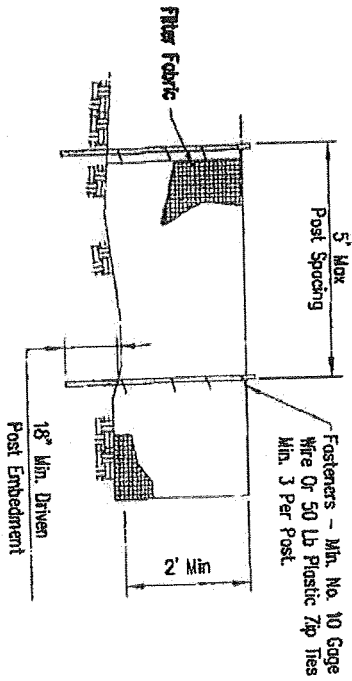


4 TREE GUARD WITH CRITICAL ROOT ZONE GROUND PROTECTION
SCALE AS SHOWN

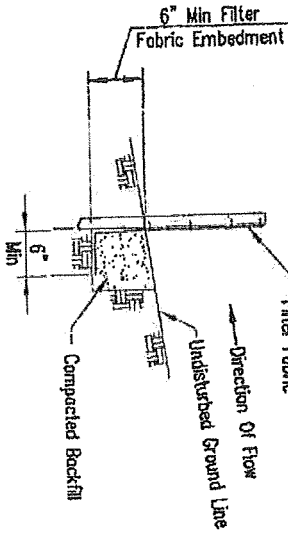


Appendix A-2

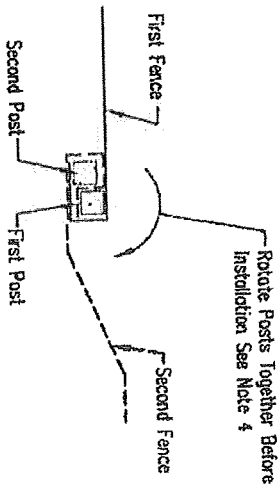
**Protective Sedimentation Fence Detail
Part 1**



ELEVATION



FABRIC ANCHOR DETAIL



SPLICE DETAIL - PLAN VIEW

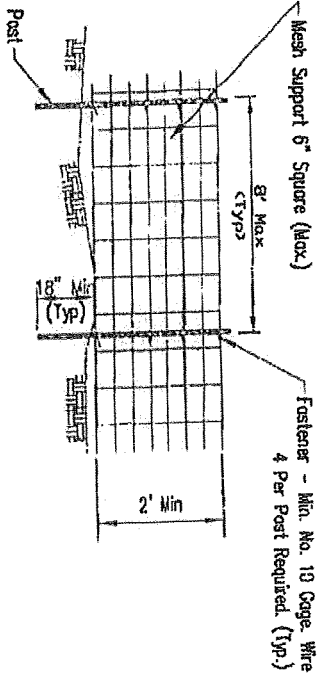
- NOTES:
1. Temporary silt fence shall be installed prior to any grading work in the area to be protected. Fence shall be maintained throughout the construction period and removed in conjunction with the final grading and site stabilization.
 2. Filter fabric shall meet the requirements of material specification 592 (Geotextile Table 1 or 2, Class I with equivalent opening size of at least 30 for nonwoven and 50 for woven).
 3. Fence posts shall be either wood post with a minimum cross-sectional area of 1.5" X 1.5" or a standard steel post.
 4. When splices are necessary make splice at post according to splice detail. Place the end post of the second fence inside the end post of the first fence. Rotate both posts together at least 180 degrees to create a tight seal with the fabric material. Cut the fabric near the bottom of the posts to accommodate the 6 inch flap. Then drive both posts and bury the flap. Compact backfill well.

SILT FENCE

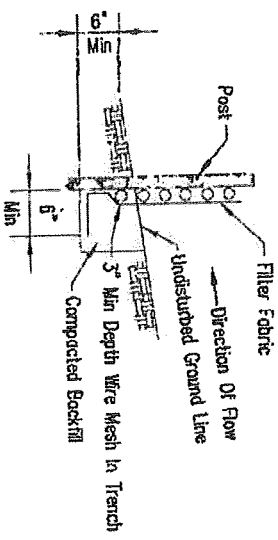
USDA United States Department of Agriculture
 Natural Resources Conservation Service

Form No. 11-ENG-49
 October 1964
 1 of 1

Scale	AS/AS
Drawn by	
Checked by	
Approved by	



ELEVATION




FABRIC ANCHOR DETAIL

- NOTES:
1. Wires of mesh support shall be minimum gage no. 12.
 2. Temporary sediment fence shall be installed prior to any grading work in the area to be protected. They shall be maintained throughout the construction period and removed in conjunction with the final grading and site stabilization.
 3. Filter fabric shall meet the requirements of material specification S92 Geotextile Table 1 or 2, Class 1 with equivalent opening size of at least 30 for nonwoven and 50 for woven.
 4. Fence posts shall be either wood post with a minimum cross-sectional area of 3.0 sq. in. or a standard steel post.

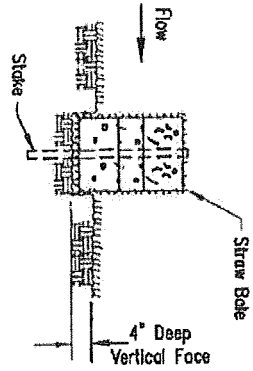
Drawn	11/2/74
Checked	
Reviewed	
Approved	

SILT FENCE WITH WIRE SUPPORT

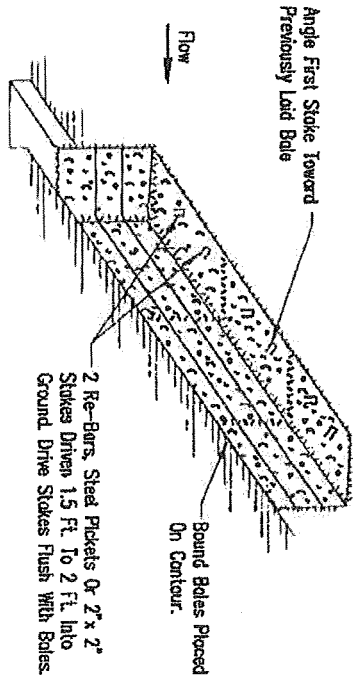

 United States Department of Agriculture
 Natural Resources Conservation Service

11-ENG-50
 1 of 1

Appendix A-3
Protective Sedimentation Fence Detail
Part 2



BEDDING DETAIL



ANCHORING DETAIL

- NOTES:**
1. Bales shall be placed at the top of slope or on the contour and in a row with ends tightly abutting the adjacent bales.
 2. Each bale shall be embedded in the soil a minimum of 4", and placed so that bindings are horizontal.
 3. Bales shall be securely anchored in place by either two stakes or re-bars driven through the bale. The first stake in each bale shall be driven toward the previously laid bale at an angle to force the bales together. Stakes shall be driven flush with the bale.
 4. Inspection shall be frequent and repair replacement shall be made promptly as needed.
 5. Bales shall be removed when they have served their usefulness so as not to block or impede storm flow or drainage.

**STRAW BALE BARRIER
SEDIMENT CONTROL**

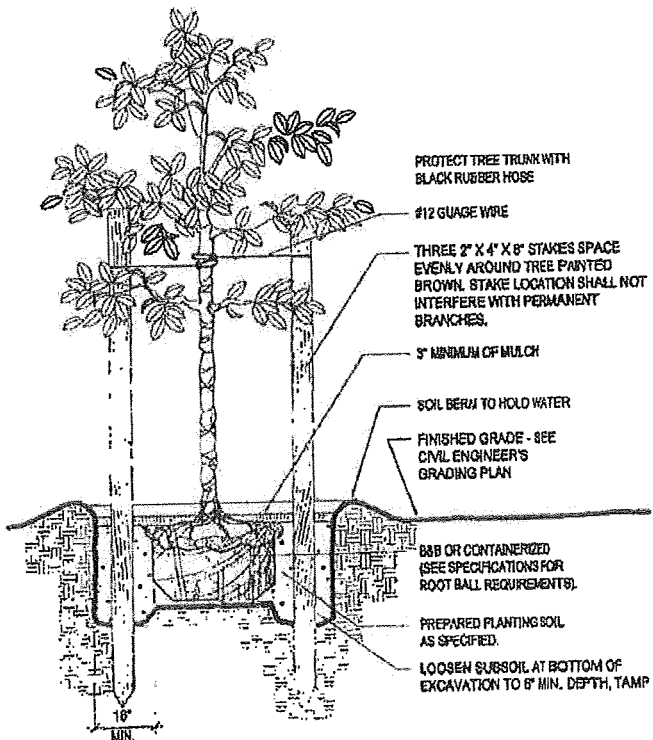
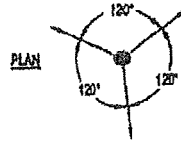
USDA United States Department of Agriculture
Natural Resources Conservation Service

Form No. NC-108
11-ENG-51
October 1987

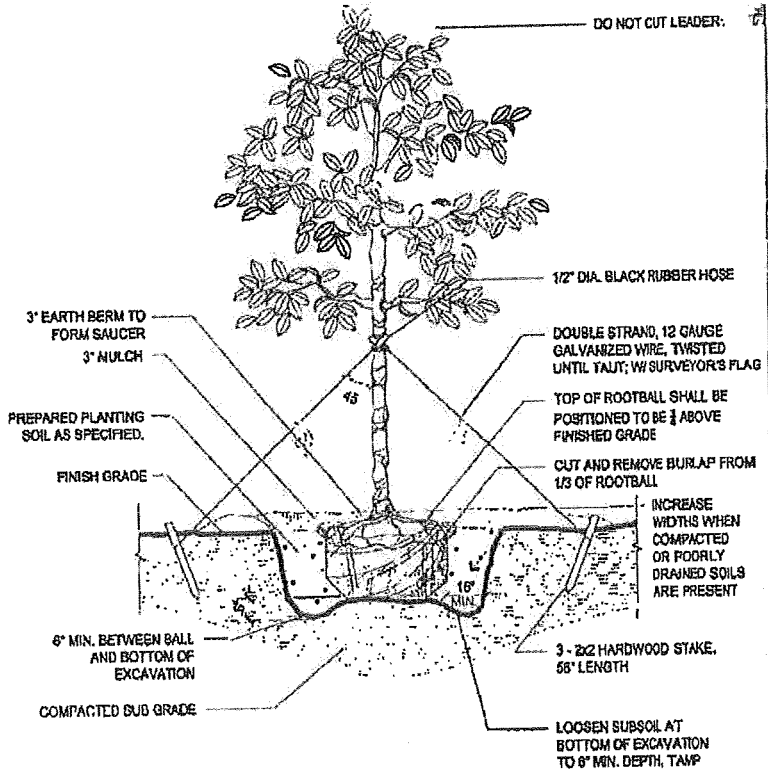
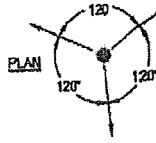
Designed	11/87
Drawn	11/87
Checked	
Approved	

Appendix A-4

Deciduous Tree Bracing, Burying & Wrapping Detail



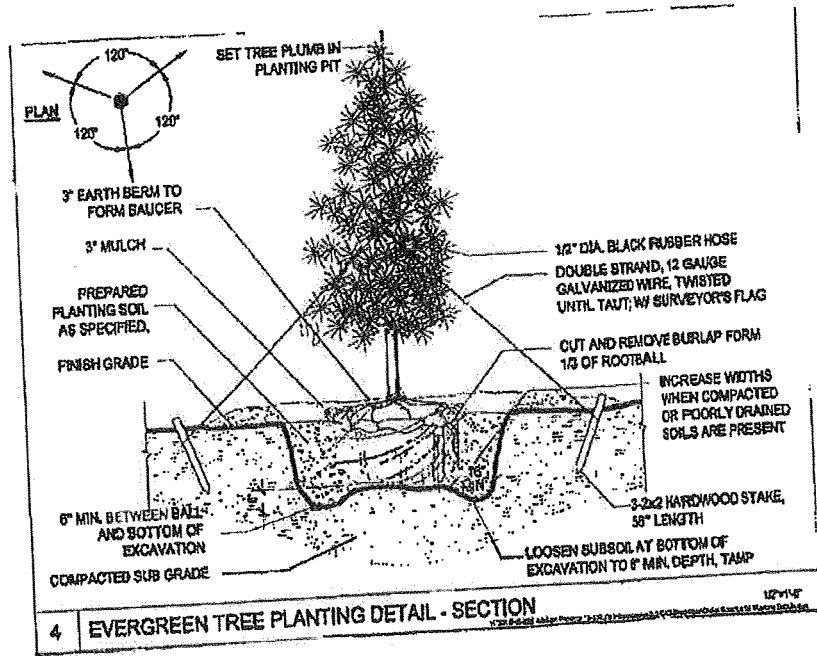
2 SMALL TREE <3" CAL. PLANTING DETAIL - SECTION



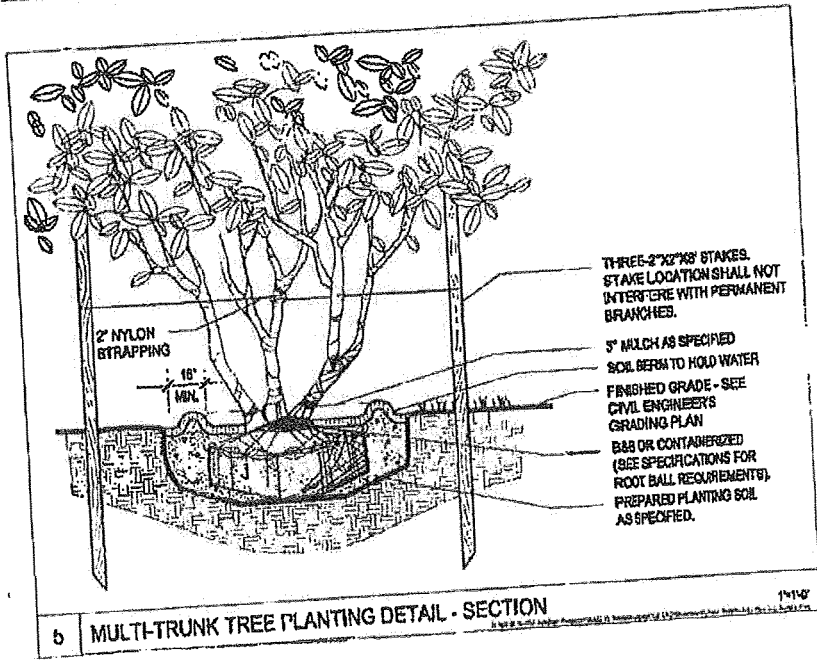
1 LARGE TREE 3" ≥ CAL. PLANTING DETAIL - SECTION 12"=1'

Appendix A-5

Evergreen Tree Bracing, Burying & Wrapping Detail



4 EVERGREEN TREE PLANTING DETAIL - SECTION



5 MULTI-TRUNK TREE PLANTING DETAIL - SECTION

Table 1
Restitution Schedule

8"-12"	2 trees at 2"-2.5" cal. min.
12"-16"	3 trees at 2"-2.5" cal. min.
16"-24"	4 trees at 2"-2.5" cal. min.
14"-36"	5 trees at 2"-2.5" cal. min.
Over 36"	8 trees at 2"-2.5" cal. min.



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

MEMORANDUM

P: 845.562.9100
F: 845.562.9126
655 Little Britain Road
New Windsor, NY 12553
P.O. Box 2280
Newburgh, NY 12550

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: LOCAL LAW INCREASING THE SALARY OF THE TOWN
CLERK FOR THE 2020 FISCAL YEAR
OUR FILE NO. 800.1(B)() (2020)

DATE: MARCH 4, 2020

ATTORNEYS
David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider
Donna M. Badura
Amber L. Camio

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL
Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL
Craig F. Simon
Irene V. Villacci

Attached is a revised version of the draft Resolution of Adoption for the above referenced Local Law. The draft has been revised to leave the Local Law number blank, as, given the referendum period, the Local Law is likely to be filed with the Secretary of State later than other local laws the Board enacts.

MCT:sel
Enc.
cc: Joseph P. Pedi, Town Clerk
Ronald Clum, Town Accountant
Charlene Black, Personnel Director

TOWN OF NEWBURGH
INTRIODUCTORY LOCAL LAW NO. __ OF THE YEAR 2020

**A LOCAL LAW INCREASING THE SALARY
OF TOWN CLERK FOR 2020 FISCAL YEAR**

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

Section 1. Legislative Intent and Authority.

The purpose of this Local Law is to increase the salary of the Town Clerk for the 2020 fiscal year. It is adopted pursuant to New York State Town Law §27 and Municipal Home Rule Law §10. In particular, Town Law §27 authorizes the Town Board to increase the salary of certain elected officials of the Town, including the Town Clerk, to an amount in excess of the amount specified in the notice of public hearing on the preliminary budget for not more than one fiscal year by adoption of a Local Law pursuant to the Municipal Home Rule Law.

Section 2. Increase in Salary.

The salary of the Town Clerk is hereby increased from \$55,603, the amount which was specified in the notice of hearing on the preliminary budget of the Town for the year 2020, to \$70,603, the increase to be distributed and paid evenly over the remainder of fiscal year following the effective date of this local law.

Section 3. Repealer; Supersession – All local laws and ordinances or parts of local laws or ordinances in conflict with any part of this Local law are hereby repealed.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date.

This Local Law shall be subject to permissive referendum and shall not become operative or effective unless and until 45 days have elapsed after its adoption and no petition protesting against this Local Law has been filed with the Town Clerk or, if such a petition is filed, a proposition for the approval of this Local Law has been submitted and received the affirmative

vote of a majority of the voters voting thereon. If no petition is timely filed or if a petition is filed and this Local Law is approved, it shall take effect upon filing in the office of the New York Secretary of State.

February 25, 2020

10A G.1
F-11

To: Charlene Black, Town Of Newburgh Personnel

From: Robert Petrillo, Commissioner of Parks

Re: Retirement

This letter is to inform you that I have filed my papers with NYSRS and will retire from my current position of Commissioner of Parks, Recreation and Conservation on March 27, 2020.

Sincerely, Robert Petrillo

A handwritten signature in cursive script, appearing to read "Bob", written in black ink.

6.1

Retirement Online



[NYSLRS Website](#) • [Account Homepage](#)

Yo

Notification Details

Description 30448: Retirement Notice

R11568452 has applied for retirement. Please go to the following link to upload the "Statements of Accrued Payments and Leave Credits" form (RS6221)

R. Petruillo

Upload Document

Close

Need a motion to start the process to hire a new Commissioner of Parks, Recreation and Conservation to replace Robert Petrillo who is retiring.



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

Attorney-Client privileged
MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: SETTLEMENT OF TAX CERTIORARI (2017, 2018, 2019);
MID-VALLEY IMPROVEMENTS OWNER, LLC (ROUTE 32)
OUR FILE NO. 800.24

DATE: FEBRUARY 28, 2020

P: 845.562.9100
F: 845.562.9126
655 Little Britain Road
New Windsor, NY 12553
P.O. Box 2280
Newburgh, NY 12550

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(1942-2018)

OF COUNSEL
Craig F. Simon
Irene V. Villacci

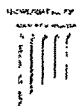
Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy regarding the above referenced proposed settlement, a proposed Stipulation of Settlement and Judicial Order and charts showing the claimed refund liability and the approximate refunds that will be due from the taxing jurisdictions under the proposed settlement of the above referenced real property tax assessment appeal. Also enclosed is a map showing the location of the tax parcel which is the subject of the proceedings.

The settlement provides for a discontinuance with no reduction for 2017 and a reduction in the assessed value for 2018 by \$427,325 from \$10,287,325 to \$9,860,000, a reduction in the 2019 assessed value \$1,834,825 from \$10,287,325 to \$8,452,500, and a 2020 assessed value of \$7,728,000. The Stipulation and Order specifies that the provisions of RPTL Section 727 apply, holding the Assessed Value at \$7,728,000 for the 2021, 2022 and 2023 assessment rolls, subject to the statutory exceptions. The Attorneys for the Newburgh Enlarged City School District will also be signatories to the Stipulation of Settlement.

The charts indicate that the refund liability for the Town (including Highway but not including special districts and the Fire District) for the reduction in 2018 Assessed Value would be approximately \$6,355.10 and \$27,793.19 for 2019, or approximately \$34,148.29 in total versus claimed liability for 2017, 2018 and 2019 of \$227,926.10. There will likely be no additional refund liability for the taxing jurisdictions arising from the stipulated 2020 assessed value, as the assessed value will be modified before the taxable status date or before property tax bills based on it are issued, assuming there is not significant delay in the Judicial Order being signed by the Judge and entered,

Also attached is a proposed resolution which would authorize the Settlement.

cc: Joseph P. Pedi, Town Clerk
Lori Coady, Assessor (via e-mail)
Deborah Smith, Receiver of Taxes (via e-mail)
Ronald Clum, Town Accountant (via e-mail)
Cathy L. Drobny, Esq. (via e-mail)



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

February 24, 2020

VIA E-MAIL - mtaylor@riderweiner.com

Mark C. Taylor, Esq.
Rider, Weiner & Frankel, P.C.
P.O. Box 2280
Newburgh, New York 12550

PLEASE REPLY TO:

Latham

RE: Mid-Valley Improvements Owner, LLC v. Town of Newburgh
Index Nos. EF002076-2017, EF006839-2018 & EF005197-2019
Our File No. 5018. 146

Dear Mark:

Attached please find the proposed Stipulation of Settlement and Judicial Order relative to the above-referenced proceedings.

There are currently three (3) years pending for this property which is located at 39 N. Plank Road. It is a 244,378 sq. ft. regional shopping center anchored by Price Chopper, Dollar Tree and Planet Fitness. The FMV of the property is \$29,870,282 in 2017, \$30,256,838 in 2018, and \$31,948,214 in 2019. There have been several Court conferences and trial-ready appraisals were scheduled to exchanged. The petitioner supplied the leases, income and expense statements and rent rolls for all years. After reviewing the discovery documents, taking into account the vacancies, and the cost of an appraisal and a trial, this settlement was negotiated. As part of the settlement, the 2017 proceeding is being discontinued. We feel that this is a fair settlement.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board Meeting for approval. Please advise me once the Resolution passes and I will sign the original Stipulation of Settlement and forward it to the petitioner's attorney for submission to the Judge.

I have also attached for your review are copies of the refund liability charts which show the potential liability versus the proposed settlement refund liability.

Please do not hesitate to contact me if you have 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

cc: Lori Coady, Assessor
Gilbert Piaquadio, Supervisor

STATE OF NEW YORK
SUPREME COURT COUNTY OF ORANGE

In the Matter of the Application for a Review Under
Article 7 of the Real Property Tax Law of a Tax
Assessment by

MID-VALLEY IMPROVEMENTS OWNER LLC,

Petitioner(s),

-against-

THE ASSESSOR(S) FOR THE TOWN OF NEWBURGH, THE
BOARD OF ASSESSMENT REVIEW FOR THE TOWN OF
NEWBURGH, AND THE TOWN OF NEWBURGH IN THE
COUNTY OF ORANGE, NEW YORK,

Respondents.

**STIPULATION OF
SETTLEMENT AND
JUDICIAL ORDER**

Index Nos.
EF002076-2017
EF006839-2018
EF005197-2019

WHEREAS Petitioner Mid-Valley Improvements Owner LLC (hereinafter, the "Petitioner"), having duly and timely commenced the above-captioned proceedings pursuant to Article 7 of the Real Property Tax Law by and through its attorneys, Speno MacLeod, PLLC (Kevin R. MacLeod, Esq. and Rebecca M. Speno, Esq., of counsel) against the Assessor for the Town of Newburgh, the Board of Assessment Review for the Town of Newburgh, the Town of Newburgh (collectively, the "Respondents" or "Town"), County of Orange, to review the assessment on real property owned by the Petitioner that was, for the assessment roll years at issue, identified by the Assessor on said assessment rolls as tax identification number 75.00-1-11 and located at 39 N. Plank Road, respectively, in the Town of Newburgh (the "Subject"); and

WHEREAS the Town Respondents appeared in these proceedings by and through their attorneys E. Stewart Jones Hacker Murphy LLP (Cathy L. Drobny, Esq., of counsel); and, the Intervenor-Respondent School District appeared in these proceedings by and through their attorneys Shaw Perelson, May & Lambert, LLP (Marc

E. Sharff, Esq., of counsel); however, the County of Orange did not intervene or appear in these proceedings;

WHEREAS, Petitioner, Respondents and Intervenor-Respondent are collectively referred to herein as the "Parties"; and

WHEREAS, the Parties have entered into extensive settlement negotiations and have agreed that settlement is in the best interests of the Parties, so as to avoid the cost of further litigation, among other things; and

NOW, THEREFORE IT IS HEREBY STIPULATED AND AGREED that the Parties propose to settle these proceedings upon the terms and conditions set forth in this Stipulation of Settlement and Judicial Order ("Order"):

1. These proceedings shall be consolidated under Index No. EF005197-2019 so as to allow the parties to utilize fully and take advantage of the County's electronic filing system (NYSCEF).

2. The Subject is located in the Town of Newburgh, Newburgh Enlarged City School District and County of Orange taxing and assessing jurisdictions and their special and other districts (e.g., fire and library districts). There is no village applicable to the Subject.

3. The original assessments on the Subject for the years at issue, and the reduced assessments for the years at issue shall be as follows:

Year	Equ Rate	Original Assessment	Original FMV	Reduced Assessment	Reduced FMV
2017/18	34.4%	\$10,287,325	\$29,905,014	NA	NA
2018/19	34.0%	\$10,287,325	\$30,256,838	\$9,860,000	\$29,000,000
2019/20	32.2%	\$10,287,325	\$31,948,214	\$8,452,500	\$26,250,000
2020/21	TBD	NA	NA	\$7,728,000	NA

4. The Assessor and all other relevant officers and authorities of the relevant taxing jurisdictions are hereby authorized to make and correct these assessments as outlined above on the appropriate books and records of each such jurisdiction.

5. Real Property Tax Law Section 727 shall apply to this settlement to "freeze" the property's assessment at \$7,728,000 on the 2021, 2022 and 2023 assessment rolls, regardless of revaluation, reassessment or update.

6. Full refunds from the Town, County and School District (including any overpayments for library taxes, fire district taxes and any other ad valorem levies) shall be paid to the Petitioner as a result of the reduced assessment set forth herein for the years at issue. Refund payments shall be paid within 60 days of the affected taxing jurisdictions receiving a Demand for such refunds. Service of the Demand on the School shall be sufficient for any library refunds and service on the Town and/or County shall be sufficient for any Town or County special district refunds (including fire districts, etc.). Refund checks shall be made payable to MID-VALLEY IMPROVEMENTS OWNER LLC and mailed to Speno MacLeod, PLLC, PO Box 152, Baldwinsville, New York 13027. Interest on said refunds shall be waived if all refunds are received within 60 days of service of the Demand therefore. Any property tax delinquencies (including any interest and penalties accrued thereupon) for any of the years pending shall be recalculated based upon the reduced assessments above for such years.

7. These proceedings shall be discontinued with prejudice upon entry of this Order. Petitioner shall have the right to seek specific enforcement of the terms of this Order and to otherwise enforce this Order by whatever means provided by law.

8. This Order shall be considered the Parties' entire understanding and agreement between and among them. There shall be no modification of this Order except by a subsequent writing signed by the authorized representatives of the Parties herein, and "So Ordered" by the Court.

9. The Parties authorize their attorneys to execute this Order and to seek the Court's approval and entry of the same, and each signatory below affirms that they have the proper authority to so execute this Order.

10. If any provision of this Order shall be determined to be invalid, illegal, null or void, or unenforceable to any extent, the remainder of this Order shall remain in effect to the fullest extent of the law.

11. This Court shall retain jurisdiction over this matter for the purposes of enforcing the terms of this Order.

12. Electronic signatures and electronically-transmitted images of original signatures shall be deemed original signatures for the purposes of expediting the filing of this Order.

13. An executed copy of this Order, shall be entered and docketed in the appropriate County Clerk's Office by Petitioner, then filed with the Assessor's permanent records.

[signatures on the following page]

DATED: 2/18/2020

SPENO MACLEOD, PLLC

By: 

Kevin R. MacLeod, Esq.
Rebecca M. Speno, Esq.
Attorneys for Petitioner
PO Box 152
Baldwinsville, New York 13027
315.876.5297

DATED: _____

SHAW, PERELSON, MAY & LAMBERT, LLP

By: _____

Marc E. Sharf, Esq.
Attorneys for the School District
21 Van Wagner Road
Poughkeepsie, New York 12603
845.486.4200

DATED: _____

E STEWART JONES HACKER MURPHY
LLP

By: _____

Cathy L. Drobny, Esq
Attorney for Respondents
7 Airport Park Boulevard
Latham, New York 12110
518.213.0116

SO ORDERED AND ENTERED THIS _____ DAY OF _____, 2020

By: _____

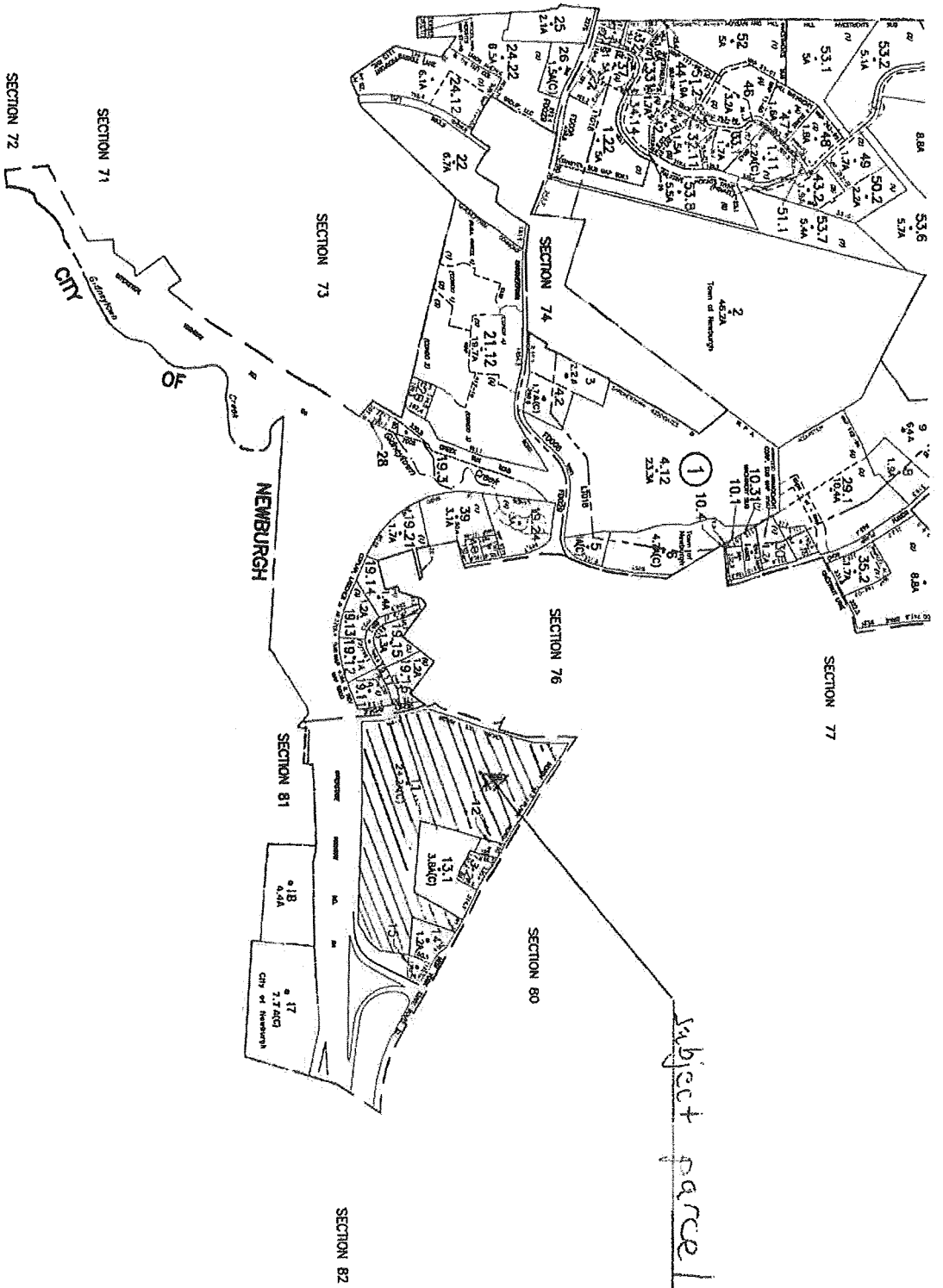
Hon. Catherine M. Bartlett, J.S.C.

Mid-Valley Improvements v. Newburgh

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference	Tax Rate		Refund Liability
								County	Town	
2017	75-1-11	\$ 10,287,325	\$ 5,166,000	34.44%	\$ 29,870,282	\$ 15,000,000	\$ 5,121,325	County	11.1261	\$ 56,980.37
								Town	9.2118	\$ 47,176.62
								Highway	5.2743	\$ 27,011.40
								Fire-GW	6.0405	\$ 30,935.36
								Sp.Dist	4.6515	\$ 23,821.84
								Library	3.472455	\$ 17,783.57
							Newburgh	School	75.922863	\$ 388,825.66
2018	75-1-11	\$ 10,287,325	\$ 5,166,000	34.00%	\$ 30,256,838	\$ 15,194,118	\$ 5,121,325	County	11.0305	\$ 56,490.78
								Town	9.4132	\$ 48,208.06
								Highway	5.4584	\$ 27,954.24
								Fire-GW	5.6580	\$ 28,976.46
								Sp.Dist	4.3375	\$ 22,213.75
								Library	3.410414	\$ 17,465.84
							Newburgh	School	73.757176	\$ 377,734.47
2019	75-1-11	\$ 10,287,325	\$ 5,166,000	32.20%	\$ 31,948,214	\$ 16,043,478	\$ 5,121,325	County	11.5799	\$ 59,304.43
								Town	9.6560	\$ 49,451.51
								Highway	5.4916	\$ 28,124.27
								Fire-GW	5.7833	\$ 29,618.16
								Sp.Dist	4.3442	\$ 22,248.06
								Library	3.438755	\$ 17,610.98
							Newburgh	School	72.719540	\$ 372,420.40
								COUNTY		\$ 172,775.58
								TOWN		\$ 144,836.19
								HIGHWAY		\$ 83,089.91
								FIRE-GW		\$ 89,529.98
								SP. DIST.		\$ 68,283.65
								LIBRARY		\$ 52,860.39
								SCHOOL		\$ 1,138,980.52

Mid-Valley Improvements v. Newburgh - Settlement

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference	Tax Rate		Refund Liability
								County	Town	
2017	75-1-11	\$ 10,287,325	\$ 10,287,325	34.44%	\$ 29,870,282	\$ 23,531,090	\$ -	County	11.1261	\$ -
								Town	9.2118	\$ -
								Highway	5.2743	\$ -
								Fire-GW	6.0405	\$ -
								Sp. Dist	4.6515	\$ -
								Library	3.472455	\$ -
2018	75-1-11	\$ 10,287,325	\$ 9,860,000	34.00%	\$ 30,256,838	\$ 24,182,681	\$ 427,325	School	75.922863	\$ -
								County	11.0305	\$ 4,713.61
								Town	9.4132	\$ 4,022.50
								Highway	5.4584	\$ 2,332.51
								Fire-GW	5.6580	\$ 2,417.80
								Sp. Dist	4.3375	\$ 1,853.52
2019	75-1-11	\$ 10,287,325	\$ 8,452,500	32.20%	\$ 31,948,214	\$ 24,182,681	\$ 1,834,825	School	73.757176	\$ 31,518.29
								County	11.5799	\$ 21,247.09
								Town	9.6560	\$ 17,717.07
								Highway	5.4916	\$ 10,076.12
								Fire-GW	5.7833	\$ 10,611.34
								Sp. Dist	4.3442	\$ 7,970.85
							Newburgh	Library	3.410414	\$ 1,457.36
								School	72.719540	\$ 133,427.63
								COUNTY		\$ 25,960.70
								TOWN		\$ 21,739.57
								HIGHWAY		\$ 12,408.64
								FIRE-OL		\$ 13,029.15
								SP. DIST		\$ 9,824.37
								LIBRARY		\$ 7,766.87
								SCHOOL		\$ 164,945.92



subject parcel

ADJ. NO.	31	FIELD PLAN BOOK NO.	75
ADJ. NO.	32	FIELD PLAN LOT NO.	69
ADJ. NO.	33	STATE HIGHWAYS	N.Y. STATE HIGHWAY NO. 17
ADJ. NO.	34	COUNTY HIGHWAYS	COUNTY ROAD NO. 4
ADJ. NO.	35	TOWN ROADS	TOWN ROAD NO. 1

ORANGE COUNTY - NEW YORK



ADJOINING REFERENCE

TOWN OF NEWBURGH
334600
Scale 1" = 490' Section No. 75
TAX YEAR 2019

CODIC	SPECIAL DISTRICT
10000	CHRONWICK VALLEY FIRE DISTRICT
10020	CHRONWICK VALLEY FIRE DISTRICT
10030	CHRONWICK VALLEY FIRE DISTRICT
10040	CHRONWICK VALLEY FIRE DISTRICT
10050	CHRONWICK VALLEY FIRE DISTRICT
10060	CHRONWICK VALLEY FIRE DISTRICT
10070	CHRONWICK VALLEY FIRE DISTRICT
10080	CHRONWICK VALLEY FIRE DISTRICT
10090	CHRONWICK VALLEY FIRE DISTRICT
10100	CHRONWICK VALLEY FIRE DISTRICT
10110	CHRONWICK VALLEY FIRE DISTRICT
10120	CHRONWICK VALLEY FIRE DISTRICT
10130	CHRONWICK VALLEY FIRE DISTRICT
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10150	CHRONWICK VALLEY FIRE DISTRICT
10160	CHRONWICK VALLEY FIRE DISTRICT
10170	CHRONWICK VALLEY FIRE DISTRICT
10180	CHRONWICK VALLEY FIRE DISTRICT
10190	CHRONWICK VALLEY FIRE DISTRICT
10200	CHRONWICK VALLEY FIRE DISTRICT
10210	CHRONWICK VALLEY FIRE DISTRICT
10220	CHRONWICK VALLEY FIRE DISTRICT
10230	CHRONWICK VALLEY FIRE DISTRICT
10240	CHRONWICK VALLEY FIRE DISTRICT
10250	CHRONWICK VALLEY FIRE DISTRICT
10260	CHRONWICK VALLEY FIRE DISTRICT
10270	CHRONWICK VALLEY FIRE DISTRICT
10280	CHRONWICK VALLEY FIRE DISTRICT
10290	CHRONWICK VALLEY FIRE DISTRICT
10300	CHRONWICK VALLEY FIRE DISTRICT
10310	CHRONWICK VALLEY FIRE DISTRICT
10320	CHRONWICK VALLEY FIRE DISTRICT
10330	CHRONWICK VALLEY FIRE DISTRICT
10340	CHRONWICK VALLEY FIRE DISTRICT
10350	CHRONWICK VALLEY FIRE DISTRICT
10360	CHRONWICK VALLEY FIRE DISTRICT
10370	CHRONWICK VALLEY FIRE DISTRICT
10380	CHRONWICK VALLEY FIRE DISTRICT
10390	CHRONWICK VALLEY FIRE DISTRICT
10400	CHRONWICK VALLEY FIRE DISTRICT
10410	CHRONWICK VALLEY FIRE DISTRICT
10420	CHRONWICK VALLEY FIRE DISTRICT
10430	CHRONWICK VALLEY FIRE DISTRICT
10440	CHRONWICK VALLEY FIRE DISTRICT
10450	CHRONWICK VALLEY FIRE DISTRICT
10460	CHRONWICK VALLEY FIRE DISTRICT
10470	CHRONWICK VALLEY FIRE DISTRICT
10480	CHRONWICK VALLEY FIRE DISTRICT
10490	CHRONWICK VALLEY FIRE DISTRICT
10500	CHRONWICK VALLEY FIRE DISTRICT

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Commercial

Property Info

Owner/Sales

Inventory

Improvements

Tax Info

Report

Comparables

Com. Sites

< 1 >

Municipality of Newburgh				
SWIS:	334600	Tax ID:	75-1-11	
Tax Map ID / Property Data				
Status:	Active	Roll Section:	Taxable	
Address:	39 N Plank Rd			
Property Class:	451 - Reg shop ctr	Site Property Class:	451 - Reg shop ctr	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zoning Code:	-	Bldg. Style:	Not Applicable	
Neighborhood:	40416 -	School District:	Newburg	
Property Description:	Legal description not given for property			
Total Acreage/Size:	24.20	Equalization Rate:	---	
Land Assessment:	2019 - \$1,564,000	Total Assessment:	2019 - \$10,287,325	
Full Market Value:	2019 - \$31,948,200			
Deed Book:	13936	Deed Page:	1412	
Grid East:	620961	Grid North:	979224	
Bank Code:	C060328			
Special Districts for 2019				
Description	Units	Percent	Type	Value
FD029-Goodwill fire	0	0%		0
LT004-Consol It	0	0%		0
WD001-Consol wtr 1	0	0%		0
WD002-Consol wtr 2	0	0%		0

Photographs

(Click on photo to enlarge it.)

Photo

Photo 1 of 12

← →

Pictometry Connect

Documents

No documents found for this parcel

Maps

View Tax Map

Pin Property on GIS Map

View in Google Maps

View in Bing Maps

Map Disclaimer

Land Types	
Type	Size
Primary	24.20 acres



Image Mate Online

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Help Log In

Commercial

- Property Info
- Owner/Sales
- Inventory
- Improvements
- Tax Info
- Report
- Comparables

Com. Sites

< 1 >

Municipality of Newburgh				
SWIS:	334600	Tax ID:	75-1-11	
Ownership Information				
Name		Address		
Owner LLC Mid-Valley Improvements		565 Taxter Rd Fl 4 Elmsford NY 10523		
Sale Information				
Sale Date	Price	Property Class	Sale Type	Prior Owner
8/17/2015	\$31,610,000	451 - Reg shop ctr	Land & Building	Mid-Valley Redux LLC
	Value Usable	Arms Length	Deed Book	Deed Page
	No	Yes	13936	1412
Additional Parcels Involved in Sale		75-1-13.1 in Newburgh		
Sale Date	Price	Property Class	Sale Type	Prior Owner
8/11/2004	\$27,826,165	451 - Reg shop ctr	Land & Building	MidValley Assoc LLC
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	11608	712
Additional Parcels Involved in Sale		75-1-13.1 in Newburgh		
Sale Date	Price	Property Class	Sale Type	Prior Owner

Photographs

(Click on photo to enlarge it.)

Photo

Photo 1 of 12

← →

Pictometry Connect

Documents

No documents found for this parcel

Maps

- View Tax Map
- Pin Property on GIS Map
- View in Google Maps
- View in Bing Maps

Map Disclaimer

4/2/1999	\$17,250,000	451 - Reg shop ctr	Land & Building	Mid, Valley Discount
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	5026	319
Additional Parcels Involved in Sale		75-1-13.1 in Newburgh		
Historic Deed Information				



Image Mate Online

Navigation GIS Map Tax Maps | DTF Links Help Log In

Tax Links
Property Info

Tax Bill Information

Municipality of Newburgh

SWIS:	334600	Tax ID:	75-1-11
-------	--------	---------	---------

Tax Summary						
Taxes reflect exemptions, but may not include recent changes in assessment.						
Tax Year	Tax Type	Original Bill	Total Assessed Value	Full Market Value	Uniform %	Roll Section
2020	County	\$379,139.36	\$10,287,325.00	\$31,948,200.00	32.2	1
Display Details for Taxes Levied in 2020						
2019	School	\$783,465.13	\$10,287,325.00	\$31,948,200.00	32.2	1
2019	County	\$369,290.27	\$10,287,325.00	\$30,256,800.00	34	1
Display Details for Taxes Levied in 2019						
Display Historical Tax Information						

Taxable Values			
2019			
County Taxable	\$10,287,325	Exemptions	\$0
Muni. Taxable	\$10,287,325	Exemptions	\$0
School Taxable	\$10,287,325	Exemptions	\$0

Exemptions for 2019	
<i>No Details Available</i>	

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of March, 2020 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piauquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

James E. Presutti, Councilman

Scott M. Manley, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
SBL #75-1- 11
MID-VALLEY IMPROVEMENTS OWNER,
LLC (39 N. PLANK ROAD/NYS ROUTE
332)
INDEX NUMBERS 2017-EF002076; 2018-
EF006839 and 2019-EF005197

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

WHEREAS, Mid-Valley Improvements Owner, LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of a shopping center and related improvements located on a parcel of land on North Plank Road/NYS Route 32 (Section 75-Block 1-Lot 11) on the tax assessment roll for the tax years 2017, 2018 and 2019; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation of Settlement and Judicial Order annexed hereto and recommended that the Town Board authorize the settlement; and

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes and directs E. Stewart Jones Hacker Murphy, LLP to execute and deliver the Stipulation of Settlement on behalf of the Town; and

BE IT FURTHER RESOLVED, that E. Stewart Jones Hacker & Murphy, LLP, the Supervisor, the Attorney for the Town, the Town's Assessor and other officers of the Town are hereby authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the settlement; and

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

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

Elizabeth J. Greene, Councilwoman voting _____

Paul I. Ruggiero, Councilman voting _____

James E. Presutti, Councilman voting _____

Scott M. Manley, Councilman voting _____

Gilbert J. Piaquadio, Supervisor voting _____

The resolution was thereupon declared duly adopted.



Rider Weiner & Frankel P.C.
ATTORNEYS & COUNSELORS AT LAW

Attorney-Client privileged
MEMORANDUM

TO: HON. GILBERT J. PIAQUADIO, SUPERVISOR
TOWN BOARD MEMBERS

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: SETTLEMENT OF TAX CERTIORARI (2017, 2018, 2019);
CROSS ROADS COURT REAL ESTATE, LLC (1 Crossroads
Court)
OUR FILE NO. 800.24

DATE: FEBRUARY 28, 2020

P: 845.562.9100
F: 845.562.9126

655 Little Britain Road
New Windsor, NY 12553

P.O. Box 2280
Newburgh, NY 12550

Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy regarding the above referenced proposed settlement, a proposed Stipulation and Order of Settlement and a chart showing the claimed refund liability for the above referenced real property tax assessment appeal. Also enclosed is a map showing the location of the tax parcel which is the subject of the proceedings.

ATTORNEYS

David L. Rider
Charles E. Frankel
Michael J. Matsler
Mark C. Taylor
Deborah Weisman-Estis
M. Justin Rider
Donna M. Badura
Amber L. Camio

M. J. Rider
(1906-1968)
Elliott M. Weiner
(1915-1990)

COUNSEL

Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simon
Irene V. Villacci

The settlement provides for a discontinuance with no reduction in assessed value for 2017, 2018 and 2019. The settlement further provides for a correction to the 2020 assessed value from \$5,338,200 to \$4,991,000. The Stipulation and Order specifies that the provisions of RPTL Section 727 apply, holding the Assessed Value at \$4,991,000 for the 2021, 2022 and 2023 assessment rolls, subject to the statutory exceptions. The Attorneys for the Newburgh Enlarged City School District will also be signatories to the Stipulation of Settlement.

The charts indicate that there will likely be no refund liability for the Town and other taxing jurisdictions versus claimed liability for 2017, 2018 and 2019 of approximately \$52,849.31 for the Town, including Highway without consideration of special district refunds. This assumes there will be no significant delay in the Order of Settlement being signed by the Judge and entered before property tax bills based on it are issued ,

Also attached is a proposed resolution which would authorize the Settlement.

cc: Joseph P. Pedi, Town Clerk
Lori Coady, Assessor (via e-mail)
Deborah Smith, Receiver of Taxes (via e-mail)
Ronald Clum, Town Accountant (via e-mail)
Cathy L. Drobny, Esq. (via e-mail)



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) 584-8866

www.joneshacker.com

February 20, 2020

VIA E-MAIL - mtaylor@riderweiner.com

Mark C. Taylor, Esq.
Rider, Weiner & Frankel, P.C.
P.O. Box 2280
Newburgh, New York 12550

PLEASE REPLY TO:
Latham

Re: Cross Roads Court Real Estate, LLC v. Town of Newburgh
Index Nos. EF005562-2017, EF007128-2018 & EF005999-2019
Our File No. 5018.0147

Dear Mr. Taylor:

Attached please find the proposed Stipulation & Order of Settlement relative to the above-referenced proceedings. There are currently three (3) years pending.

The subject property is the Hampton Inn & Suites located at 1 Crossroads Court, tax map #95-1-45.12. It is a +/- 99,030 sq. ft. hotel with 136 rooms, indoor pool, bistro, bar and meeting rooms. The FMV of the subject property was \$15,500,000 in 2017, \$15,700,588 in 2018 and \$16,578,261 in 2019. After review of the discovery documents provided, including the STAR Reports¹ and income and expense statements, this settlement was negotiated. The proposed settlement discontinues the 2017, 2018 and 2019 proceedings and reduces the assessment in 2020 to an FMV of \$15,500,000. The 2020 assessed value as reduced will be held for 2021, 2022 and 2023, pursuant to the statute and subject to the usual exceptions. We believe that this is a good settlement with no refund liability for the taxing jurisdictions.

We recommend that the Town Board authorize us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board meeting for approval. Once the Resolution passes, please let me know and I will sign and forward the Order to the School District's attorney for execution and return to petitioner's attorney for execution and submission to the Court.

Also attached for your review are copies of the refund liability charts, which show the potential liability versus the proposed settlement refund liability.

¹The STAR program is used by the global hotel industry as a vital revenue management tool. The report benchmarks a hotel's performance against its competitive aggregate and local market. The STAR program tracks and delivers monthly, weekly and daily data.

Mark C. Taylor, Esq.
Rider, Weiner & Frankel, P.C.
February 20, 2020
Page 2

Please do not hesitate to contact me if you have 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

cc: Lori Coady, Assessor
Gilbert Piaquadio, Supervisor

**STATE OF NEW YORK
SUPREME COURT**

COUNTY OF ORANGE

In the Matter of the Application of

CROSS ROADS COURT REAL ESTATE, LLC,

Petitioner,

-against-

**BOARD OF ASSESSMENT REVIEW AND ASSESSOR
OF THE TOWN OF NEWBURGH AND THE TOWN OF
NEWBURGH,**

Respondents.

For the review of the assessment for the years 2107, 2018 and 2019
of certain real property in the said **TOWN OF NEWBURGH.**

**STIPULATION & ORDER
OF SETTLEMENT**

Index Nos.:

EF005562-2017,
EF007128-2018 and
EF-005999-2019

Assigned Judge:

Hon. Catherine M. Bartlett, J.S.C.

The above named Petitioner having duly brought this Real Property Tax Law ("RPTL") Article 7 proceeding to review the tax assessments made against premises owned by the Petitioner Cross Roads Court Real Estate, LLC located at 1 Crossroads Court (SBL No. 95-1-45.12) in the Town of Newburgh, County of Orange, State of New York (the "Parcel"), for the years 2017, 2018 and 2019 and being the real property mentioned and more fully described in the petition made and filed herein, and issue having been duly joined herein, and the Petitioner having appeared by Goldman Attorneys PLLC, Erika C. Browne, Esq., the Respondents Town of Newburgh having appeared by E. Stewart Jones Hacker Murphy LLP, Cathy L. Drobny, Esq., Respondent-Intervenor Newburgh Enlarged Town School District having appeared by Shaw, Perelson, May & Lambert, LLP, Elizabeth Ledkovsky, Esq., and the parties having entered into and consent to this Stipulation & Order of Settlement;

NOW, on motion of Goldman Attorneys PLLC, attorneys for Petitioner, it is hereby,

1. ORDERED, ADJUDGED and DECREED, that the Petitioner will discontinue the 2017, 2018 and 2019 proceedings, and it is further,

STIPULATION

The Attorneys for the respective Parties do hereby consent to this Stipulation & Order of Settlement.

Dated: _____, 2020

GOLDMAN ATTORNEYS, PLLC

Erika C. Browne, Esq.
Attorneys for Petitioner
Cross Roads Court Real Estate, LLC
255 Washington Avenue Extension, Suite 108
Albany, New York 12205
(518) 431-0941

Dated: _____, 2020

E. STEWART JONES HACKER MURPHY LLP

Cathy L. Drobny, Esq.
Attorneys for Respondent
Town of Newburgh
7 Airport Park Boulevard
Latham, New York 12110
(518) 274-5820

Dated: _____, 2020

SHAW, PERELSON, MAY & LAMBERT, LLP

Elizabeth Ledkovsky, Esq.
Attorneys for Respondent-Intervenor
Newburgh Enlarged City School District
115 Stevens Avenue
Valhalla, New York 10595
(914) 741-9870

2. ORDERED, ADJUDGED and DECREED, that the 2020 assessment of the Parcel shall be corrected from an assessed value of \$5,338,200 to an assessed value of \$4,991,000, and it is further

3. ORDERED, ADJUDGED and DECREED, that RPTL §727 shall apply to the corrected 2020 assessment of the Parcel in the amount of \$4,991,000 for the 2021, 2022 and 2023 assessment rolls; and it is further,

4. The parties specifically acknowledge that the assessed value of the Parcel set forth in Paragraph 2 was specifically negotiated for the Petitioner's discontinuance of the proceedings identified in Paragraph 1.

Dated: _____, 2020
Goshen, New York

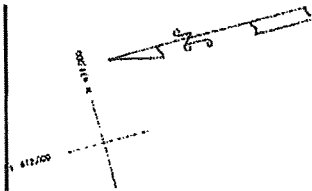
Hon. Catherine M. Bartlett
Justice, Supreme Court

Cross Roads Court Real Estate v. Newburgh

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference	Tax Rate		Refund Liability
								County	Town	
2017	95-1-45.12	\$ 5,338,200	\$ 4,132,800	34.44%	\$ 15,500,000	\$ 12,000,000	\$ 1,205,400	County	11.1261	\$ 13,411.40
								Town	9.2118	\$ 11,103.90
								Highway	5.2743	\$ 6,357.64
								Fire-OL	3.9272	\$ 4,733.85
								Spec. Dist	4.2714	\$ 5,148.75
								Library	3.472455	\$ 4,185.70
							Newburgh	School	75.922863	\$ 91,517.42
2018	95-1-45.12	\$ 5,338,200	\$ 4,132,800	34.00%	\$ 15,700,588	\$ 12,155,294	\$ 1,205,400	County	11.0305	\$ 13,296.16
								Town	9.4132	\$ 11,346.67
								Highway	5.4584	\$ 6,579.56
								Fire-OL	3.9814	\$ 4,799.18
								Spec. Dist	4.3375	\$ 5,228.42
								Library	3.472455	\$ 4,185.70
							Newburgh	School	75.922863	\$ 91,517.42
2019	95-1-45.12	\$ 5,338,200	\$ 4,132,800	32.20%	\$ 16,578,261	\$ 12,834,783	\$ 1,205,400	County	11.1261	\$ 13,411.40
								Town	9.2118	\$ 11,103.90
								Highway	5.2743	\$ 6,357.64
								Fire-OL	3.9272	\$ 4,733.85
								Spec. Dist	-	\$ -
								Library	3.472455	\$ 4,185.70
							Newburgh	School	75.922863	\$ 91,517.42
								Total		\$ 136,953.11

Cross Roads Court Real Estate v. Newburgh Settlement

Year	Parcel Number	Assessed Value	Settled Assessed Value	Eq. Rate	FMV	Settled FMV	Difference	Tax Rate	Refund Liability
2017	95-1-45.12	\$ 5,338,200	\$ 5,338,200	34.44%	\$ 15,500,000	\$ 15,500,000	\$ -	County Town Highway Fire-OL Spec. Dist Library School	\$ 11,1261 \$ 9,2118 \$ 5,2743 \$ 3,9272 \$ 4,2714 \$ 3,472455 \$ 75,922863
2018	95-1-45.12	\$ 5,338,200	\$ 5,338,200	34.00%	\$ 15,700,588	\$ 15,700,588	\$ -	County Town Highway Fire-OL Spec. Dist Library School	\$ 11,0305 \$ 9,4132 \$ 5,4584 \$ 3,9814 \$ 4,3375 \$ 3,472455 \$ 75,922863
2019	95-1-45.12	\$ 5,338,200	\$ 5,338,200	32.20%	\$ 16,578,261	\$ 16,578,261	\$ -	County Town Highway Fire-OL Spec. Dist Library School	\$ 11,1261 \$ 9,2118 \$ 5,2743 \$ 3,9272 \$ - \$ 3,472455 \$ 75,922863
2020	95-1-45.12	\$ 4,991,000	\$ 4,991,000	32.20%	\$ 15,500,000	\$ 15,500,000	\$ -	County Town Highway Fire-OL Spec. Dist Library School	\$ - \$ - \$ - \$ - \$ - \$ - \$ -
Total									\$ -

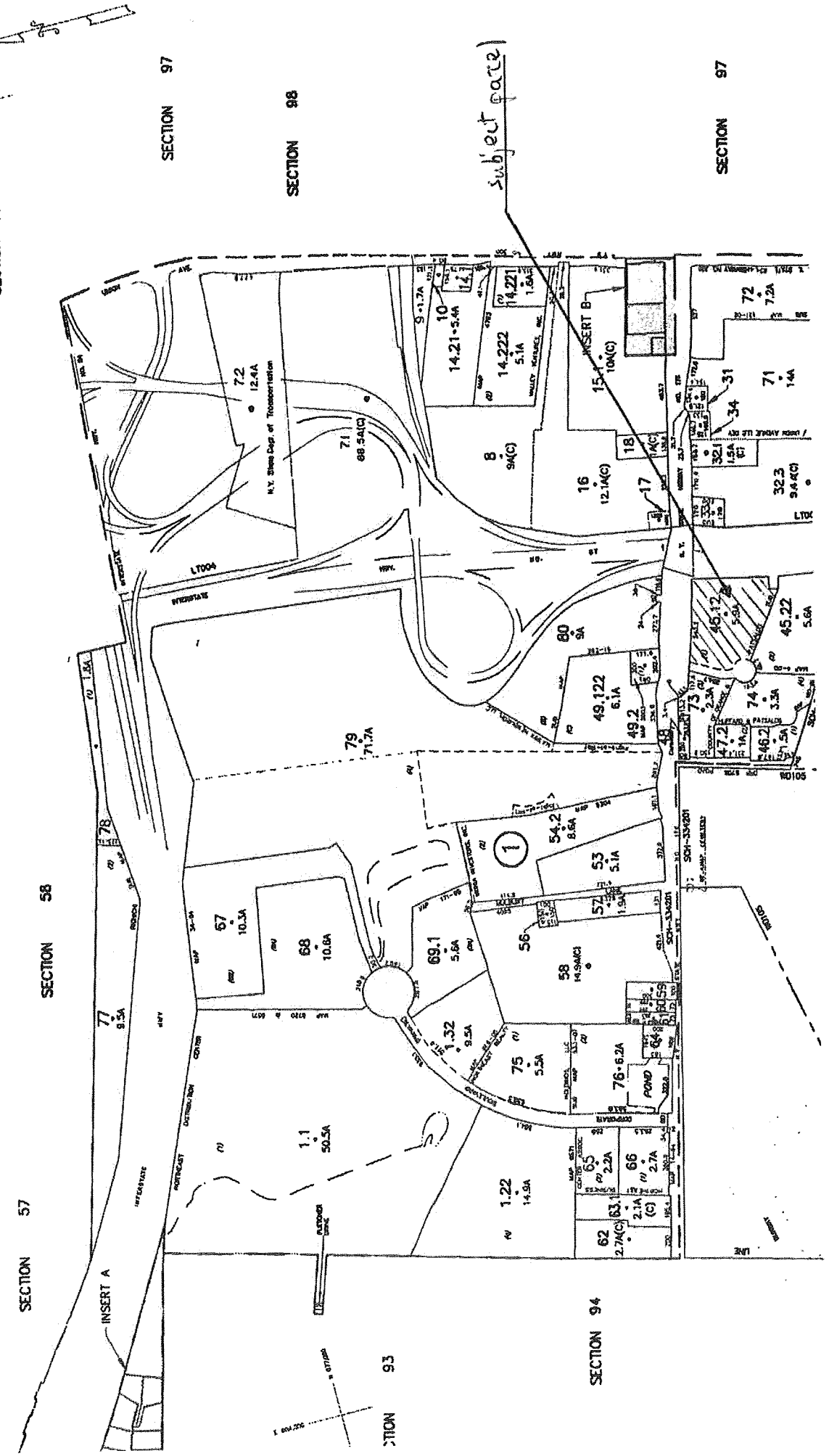


SECTION 60

SECTION 97

SECTION 98

SECTION 97



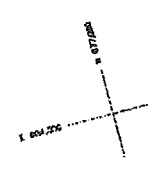
subject parcel

SECTION 57

SECTION 58

SECTION 94

STATION 93

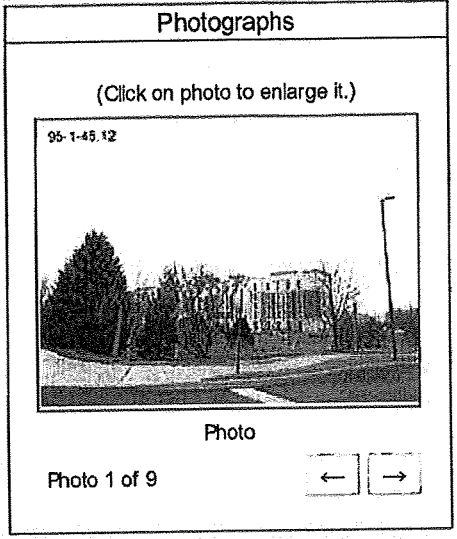




Navigation GIS Map Tax Maps | DTF Links Help Log In

- Commercial
- Property Info
- Owner/Sales
- Inventory
- Improvements
- Tax Info
- Report
- Comparables

Municipality of Newburgh				
SWIS:	334600	Tax ID:	95-1-45.12	
Tax Map ID / Property Data				
Status:	Active	Roll Section:	Wholly Exem	
Address:	1 Crossroads Ct			
Property Class:	414 - Hotel	Site Property Class:	414 - Hotel	
Ownership Code:				
Site:	Com 1	In Ag. District:	No	
Zonning Code:	-	Bldg. Style:	Not Applicable	
Neighborhood:	41126 -	School District:	Newburg	
Property Description:	Lt1 Patsalos Sub Map 4-00			
Total Acreage/Size:	5.90	Equalization Rate:	---	
Land Assessment:	2019 - \$230,100	Total Assessment:	2019 - \$5,338,200	
Full Market Value:	2019 - \$16,578,300			
Deed Book:	13824	Deed Page:	258	
Grid East:	607940	Grid North:	973512	
Bank Code:	N/A			
Special Districts for 2019				
Description	Units	Percent	Type	Value
FD030-Orange lk fire	0	0%		0
LT004-Consol lt	0	0%		0
WD001-Consol wtr 1	0	0%		0
WD002-Consol wtr 2	0	0%		0



Pictometry Connect

Documents

No documents found for this parcel

- Maps**
- [View Tax Map](#)
 - [Pin Property on GIS Map](#)
 - [View in Google Maps](#)
 - [View in Bing Maps](#)
- Map Disclaimer

Land Types	
Type	Size
Primary	5.90 acres



Image Mate Online

Navigation GIS Map Tax Maps | DTF Links

Help Log In

Commercial

- Property Info
- Owner/Sales
- Inventory
- Improvements
- Tax Info
- Report
- Comparables

Municipality of Newburgh

SWIS:	334600	Tax ID:	95-1-45.12
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Ownership Information

Name	Address
LLC Crossroads Court Real Estate	P.O. Box 10804 Newburgh NY 12552

Sale Information

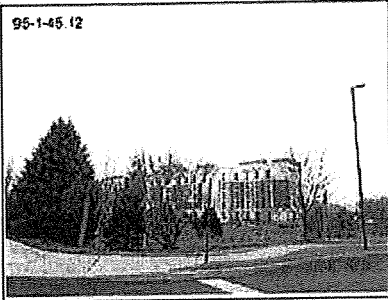
Sale Date	Price	Property Class	Sale Type	Prior Owner
11/24/2014	\$0	330 - Vacant comm	Land Only	Milano, Martin J
	Value Usable	Arms Length	Deed Book	Deed Page
	No	No	13824	258

Historic Deed Information

Photographs

(Click on photo to enlarge it.)

95-1-45.12



Photo

Photo 1 of 9

← →

Pictometry Connect

Documents

No documents found for this parcel

Maps

- View Tax Map
- Pin Property on GIS Map
- View in Google Maps
- View in Bing Maps

Map Disclaimer

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of March, 2020 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

James E. Presutti, Councilman

Scott M. Manley, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
SBL #95-1- 45.12
CROSS ROADS COURT REAL ESTATE
LLC (1 CROSSROADS COURT)
INDEX NUMBERS 2017-EF005562; 2018-
EF007128 and 2019-EF005999

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

WHEREAS, Cross Roads Court Real Estate, LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of a hotel and related improvements located on a parcel of land at 1 Crossroads Court (Section 95-Block 1-Lot 45.12) on the tax assessment roll for the tax years 2017, 2018 and 2019; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation & Order of Settlement annexed hereto and recommended that the Town Board authorize the settlement; and

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

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes and directs E. Stewart Jones Hacker Murphy, LLP to execute and deliver the Stipulation and Order of Settlement on behalf of the Town; and

BE IT FURTHER RESOLVED, that E. Stewart Jones Hacker & Murphy, LLP, the Supervisor, the Attorney for the Town, the Town's Assessor and other officers of the Town are hereby authorized to take such actions and to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the settlement; and

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

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

Elizabeth J. Greene, Councilwoman voting _____

Paul I. Ruggiero, Councilman voting _____

James E. Presutti, Councilman voting _____

Scott M. Manley, Councilman voting _____

Gilbert J. Piaquadio, Supervisor voting _____

The resolution was thereupon declared duly adopted.

TOWN OF NEWBURGH
TOWN ENGINEER

MEMORANDUM

TO: Gilbert Piaquadio, Town Supervisor & Town Board
FROM: James W. Osborne, Town Engineer
DATE: March 2, 2020
RE: H \ Elmhurst Avenue Culvert Replacement

Attached for the Town Board's review are two proposals to complete the engineering design of a replacement culvert for the existing deteriorating culvert on Elmhurst Avenue. Proposals were solicited from Clark Patterson Lee (CPL) and Maser Consulting (MC). Utilizing the common design engineering tasks as shown on the attached table, the design engineering costs from each firm are as follows:

Clarke Paterson Lee	(\$ 39,000)	(1), (4)
Maser Consulting	(\$ 59,700) (\$ 44,700 + \$ 15,000)	(2), (3)

- (1) CPL includes application for the necessary permits in Task 4 – Final Plans, Specifications, and Estimates.
- (2) MC has a separate task for Permitting at an estimated cost of \$ 15,000.
- (3) MC has included additional environmental studies in support of the regulatory approval. CPL will address the specific comments from federal and state agencies as received as additional services.
- (4) CPL has included two additional tasks for Bidding Services (\$ 3,600) and Construction Engineering (\$ 9, 200) not included in this comparison.

Based on a review of these proposals, it is my recommendation that Clark Patterson Lee be awarded the design engineering work for this project. Funds are available for this work in the 2020 Highway Department Budget under Appropriation No. 9902 – 0900 (Interfund Transfers).

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

JWO/mcd

Attachment

cc: Mark Hall, Highway Superintendent
Ronald Clum, Town Accountant

TOWN OF NEWBURGH
ELMHURST AVENUE
CULVERT REPLACEMENT

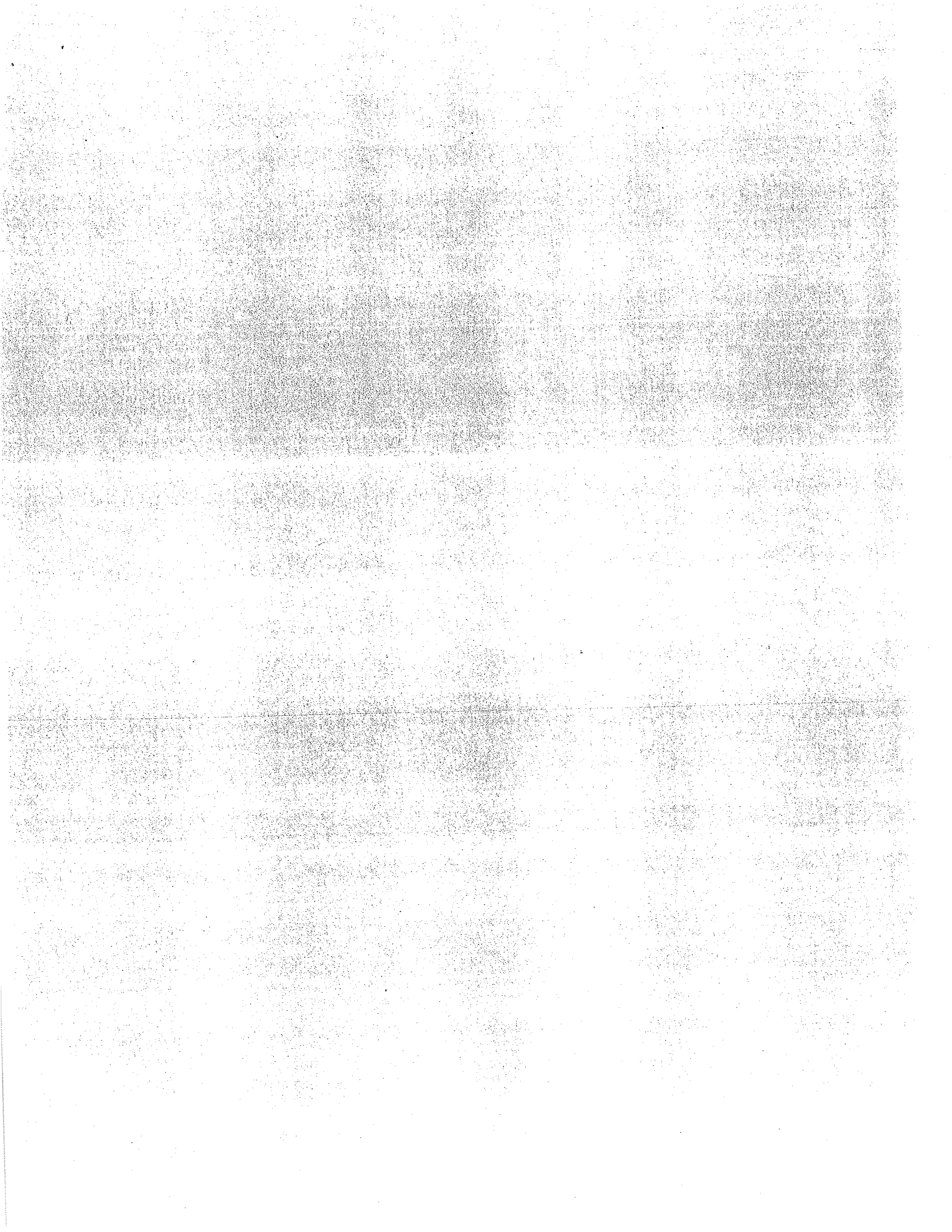
CLARK, PATTERSON LEE PROPOSAL

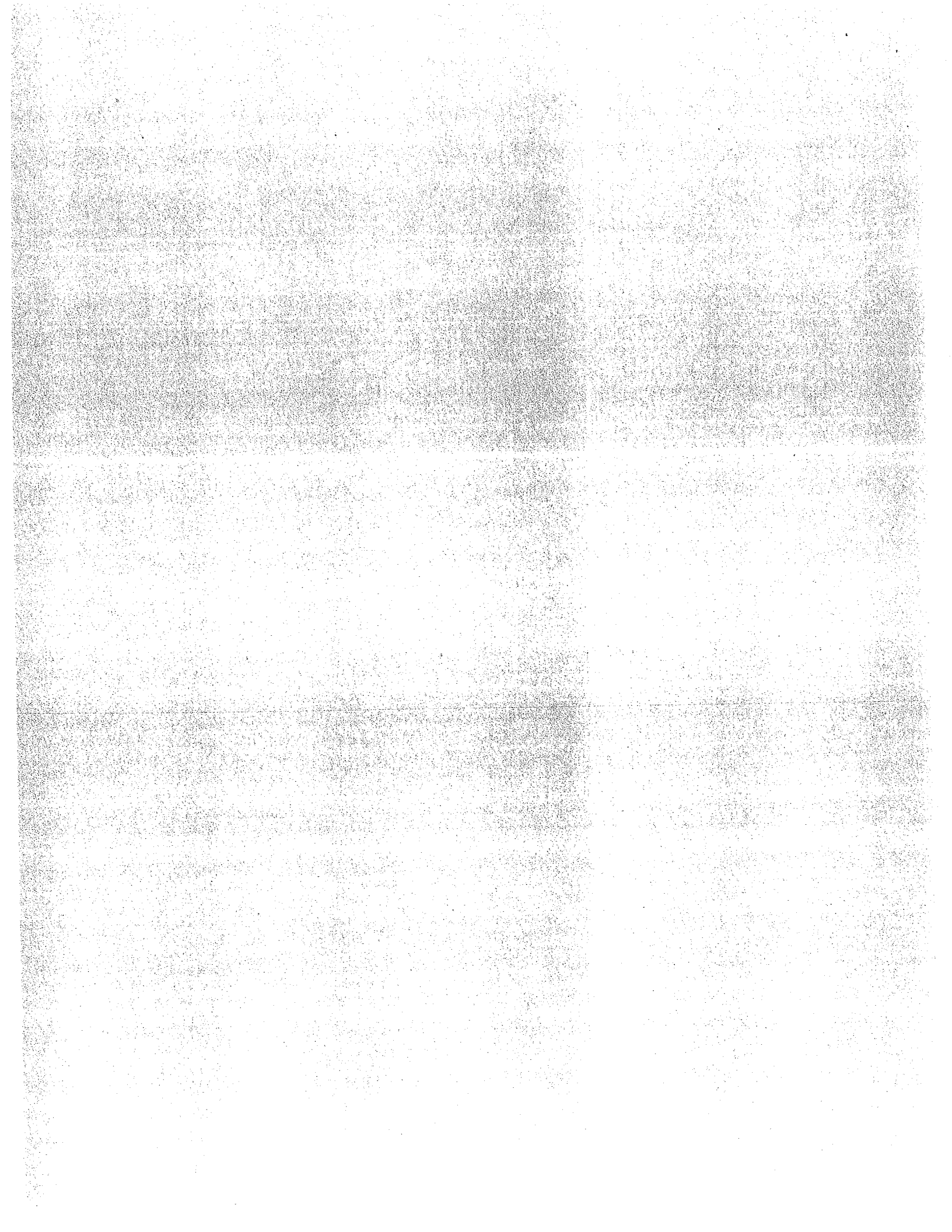
TASK	
1 Survey	\$ 12,000
2 Geotechnical	\$ 8,500
3 Preliminary Engineering	\$ 5,000
4 Final Design	\$ 7,500
5 Design Report	\$ 6,000
6 Bidding Services	\$ 3,600
7 Construction Engineer & Administration	\$ 9,200
	Sub-total for Engineering \$ 39,000
	Sub-total for Environmental NI
	Design Total \$ 39,000
	Construction \$ 12,800
	Total \$ 51,800

MASER CONSULTING ENGINEERS PROPOSAL

TASK	
1.0 Survey	\$ 8,500
2.0 Geotechnical	\$ 11,000
3.1 Wetlands Delineation	\$ 4,500
3.2 ACOE Inspection*	\$ 1,000
3.3 Bog Turtle Assessment	\$ 3,500
3.4 USFWS*	\$ 2,700
4.0 Permitting	\$ 15,000
5.0 Utility Coordination	\$ 2,600
6.0 Design Engineering	\$ 22,800
7.0 Engineer's Report	\$ 2,400
8.0 Meetings	HRLY
9.0 Revisions	HRLY
10.0 Construction Services	N.I.
	Sub-total for Engineering \$ 44,700
	Sub-total for Environmental \$ 29,300
	Design Total \$ 74,000
	Construction NI
	Total NA

*If required.







ARCHITECTURE
ENGINEERING
PLANNING
CPLteam.com

February 25, 2019

Mr. James Osborne, P.E.
Town of Newburgh
Engineering Department
1496 Route 300
Newburgh, New York 12550

RE: Proposal for Professional Engineering Services – Elmhurst Avenue Culvert

Dear Mr. Osborne:

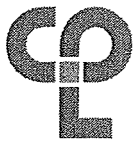
CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C. (CPL) is pleased to present our proposal for the above referenced project. CPL has been serving public and private clients since 1975, providing design services of exceptional quality and value. We have honed our ability to meet the increasingly complex demands facing local governments and municipalities, and we know how to guide communities as they plan, review, design, bid and manage a wide variety of projects. We have a staff of over 400 dedicated professionals, and maintain offices in New York, Georgia, North Carolina and South Carolina offering expertise in architecture, engineering, planning and construction.

Per your request, we are pleased to provide the following services based on Maser Consulting's Feasibility Study Report for Elmhurst Ave. Culvert Replacement in the Town of Newburgh, Orange County, New York, dated June 21, 2019. As we understand it, the Town's preferred option is Alternative 2 – Three-Sided Concrete Rigid Frame Type Structure. This alternative proposes to replace the existing structure with a three-sided rigid frame (precast concrete culvert). For this alternative, the vertical profile and the structure's hydraulic opening will remain approximately the same. Cast-in-place concrete footings, headwalls and wingwalls would be provided for this alternative to allow for the widening of the roadway cross section.

SCOPE OF SERVICES

Phase 1 Survey and Site Evaluation

- a. Review existing inspection and historical records, including the latest S.C.D.P.W. Inspection report, regarding the condition of the subject structure.
- b. Perform necessary topographic survey as needed to develop C.A.D.D. generated base mapping for the structure rehabilitation/replacement. As a minimum, all surveys shall extend 250' beyond the structure for each approach and 100' upstream and downstream of the structure. Additional stream survey may be necessary for the development of the overall hydraulic assessment. All surveys shall extend 25' beyond the apparent right of way lines.
- c. Establish benchmarks and a construction baseline. Establish baseline ties.
- d. Note all utilities on base mapping.
- e. Develop a subsurface exploration program, if necessary. Coordinate and observe all subsurface explorations for the subject projects. All soil boring and testing costs are to be included.
- f. For all structures, perform a detailed on-site inspection of the structure so that the proposed work can be accurately defined on the contract plans.



Phase 2 Geotechnical Investigation

Geotechnical services are proposed to be provided by a QC/QA Laboratories, Inc., our Geotechnical sub-contractor as described in their attached scope of services. While CPL is not proposing any markup on their services, we have included some time for coordination of services and incorporation of the report findings into the other tasks as appropriate.

Phase 3 Structure Justification Report, Preliminary Engineering and Estimate

- b. Prepare preliminary plans consisting of a General Plan, Typical Approach Section, Typical Structure Section, Structure Elevation and Maintenance and Protection of Traffic. The purpose of this submission is to define the size, type and location of the structure.
- b. Prepare a construction estimate. The estimate must be of sufficient detail so that all major pay items (using N.Y.S.D.O.T. standard specification pay items) are identified.
- c. Submit two (2) copies of the preliminary plans and estimate to Town of Newburgh for review.
- d. On replacement structures, provide overall hydraulic evaluation and assessment when structure opening is changed from that of existing. Perform a hydraulic analysis, if deemed necessary.
- e. Meet with Town of Newburgh representatives to discuss any comments developed during the review of the preliminary plans and estimate.

Phase 4 Final Plans, Specifications and Estimates

- a. Prepare final plans for the proposed work. All work shall be in accordance with current and applicable standards including but not limited to A.A.S.H.T.O. and N.Y.S.D.O.T. standards. Plans shall be dimensioned using the English system of units. Plans are to have sufficient detail to accurately describe all work to be performed in accordance with the latest NYSDOT practices. Plans shall include as a minimum, but not be limited to the following:
 - * General Plans
 - * Survey Baseline, Baseline Ties and Benchmarks
 - * Maintenance and Protection of Traffic
 - * Construction Signs
 - * General Plan
 - * Typical Sections
 - * Miscellaneous Details
 - * Soil Erosion, Sediment, Water Pollution Control, Wetland Protection and storm water pollution prevention plans
 - * Profile
 - * Structure Plan, Typical Section and Elevation
 - * Framing Plan and Superstructure Details
 - * Miscellaneous Structural Details
 - * Railing Details
 - * Reinforcing Bar Lists.
- b. Prepare all specifications and special specifications regarding the proposed work. All specifications and special specifications shall be in the N.Y.S.D.O.T. format.
- c. Prepare a Final Engineer's Estimate.
- d. Submit two (2) copies of the final plans, specifications and estimates (PS&E) (using N.Y.S.D.O.T. standard specification pay items) to Town of Newburgh for review.
- e. Assist the Town with acquiring all required permits including but not limited to; N.Y.S.D.E.C.,



- A.P.A., A.C.O.E., S.H.P.O. and S.P.D.E.S.
- f. Notify and file required documents for the location and relocation of all utilities.
 - g. Meet with Town representatives to discuss any comments developed during the review.

Phase 5 Design Approval Request Memo

Finalize project approvals in the form of a Design Approval Request Memo, which shall summarize the following:

- a. Preparation of a Structure Justification Report of the project and its anticipated costs and a SEQRA review/unlisted type 1 or type 2 action anticipated. SHPO would be addressed in the SEQRA process.
- b. Design alternative description.
- c. Design standards and exceptions.
- d. Traffic control plans.
- e. Environmental determinations.
- f. Procedural process.

Phase 6 Preparation of Bid Documents and Bidder Review

- a. Incorporate final comments regarding the final PS&E. Prepare plans, specifications and bid documents as necessary for bidding.
- b. Assist the Town of Newburgh with bid advertisement as required. Advertisement to be placed by the Town of Newburgh.
- c. Provide bidding documents to prospective bidders as required. Bid documents are to be made available only from the consultant's office.
- d. Provide the Town electronic bid documents in pdf format.
- e. Coordinate the entire project bidding procedure.
- f. Interpret plans and specification inquires by prospective bidders. Prepare and issue contract addenda if necessary.
- g. Attend bid opening. Analyze and tabulate bids. Review bidder references and make an overall written recommendation to the Town with respect to the award of the contract.

Phase 7 Construction Administration

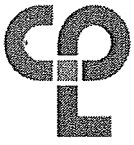
- a. Prepare contracts, schedule, coordinate and attend preconstruction/construction progress meetings.
- b. Issue a conformed set of contract documents which incorporate all changes prior to the start of the construction work.
- c. Take digital preconstruction photos.
- d. Review and approve all contractor submittals as necessary.
- e. Assist the contractor with contacting and coordinating all utility locations and relocations.
- f. Perform on-site construction inspections to determine conformance with the contract documents and to ensure quality workmanship. Such observations include but are not limited to the following (full-time inspections services are not required):
 - * Pile and Sheet Pile Driving
 - * In-place Reinforcing Bar Inspection
 - * Substructure Concrete Pours
 - * Setting of Superstructure
 - * Deck Slab and Approach Slab Pours



- * Asphalt Paving
- * Compaction Operations
- * Development of Punch List Items
- * Final Inspection
- g. Maintain and provide the Town of Newburgh with a copy of written field inspection reports for all consultant field visits and/or inspections.
- h. Maintain and provide the Town with a copy of written copy of preconstruction and progress meeting minutes.
- i. Digitally photograph (in .jpeg format) the entire construction progress and provide the Town of Newburgh with digital diary of the project on a CD.
- j. Review and approve as required contractors Storm Water Pollution Prevention Plan (S.W.P.P.).
- k. Maintain the project within budget.
- l. Review, verify and approve contractor's monthly estimates and forward to Town of Newburgh for payment.
- m. Review, recommend and prepare contractor change order and time extension requests.
- n. Provide Town of Newburgh with a copy of a load rating calculation for each project.
- o. Prepare record plans and specifications. Submit one (1) full size and one (1) half size (11 "x 17") copies to Town of Newburgh.
- p. Submit record drawings in digital format on a CD/Thumb Drive which are in .pdf format and are Windows compatible.
- q. Submit record specifications in both hard and digital format (.pdf) on a CD/Thumb Drive.
- r. Coordinate and submit to the Town all required contractor and consultant project close-out documents, including but not limited to shop drawings and material/field testing reports.
- s. Furnish the Town of Newburgh. with a final 11" x 14" glossy project photo, matted and framed to a standard size of 14" x 18". The final framed photo is to include the following information
 - * Project Name (e.g.: Replacement/Rehabilitation of CR XX (Local Road Name) over XXXXX Creek)
 - * Project Location (i.e.: Town, County, State)
 - * Structure Identification Number (i.e.: B.I.N. &/or L.I.N.)
 - * Consultant Name
 - * Contractor Name
 - * Owner Name
 - * Year of Project Completion

FEE PROPOSAL

Phase 1 - Survey and Site Evaluation - Estimated Hourly	\$12,000
Phase 2 - Geotechnical Investigation - Lump Sum	\$8,500
Phase 3 - Preliminary Engineering and Estimate – Lump Sum	\$5,000
Phase 4 - Final Plans, Specifications and Estimates – Lump Sum	\$7,500
Phase 5 - Design Approval Request Memo – Lump Sum	\$6,000
Phase 6 - Preparation of Bid Documents and Bidder Review – Lump Sum	\$3,600
Phase 7 - Construction Administration – Estimated Hourly	<u>\$9,200</u>
TOTAL	\$51,800



Very truly yours,
CPL

A handwritten signature in black ink, appearing to read 'Timothy J. Moot'.

Timothy J. Moot, PG
Principal

Phone: 845.220.7145 **E-Mail:** tmoot@CPLteam.com



February 24, 2020

Mr. Tim Moot, PG
CPL
50 Front Street, Suite 202
Newburgh, NY 12550

Re: Proposal for Subsurface Exploration & Geotechnical Evaluation
Elmhurst Avenue Culvert Replacement
Newburgh, NY

Dear Mr. Moot,

As requested, QC/QA Laboratories, Inc. (QCQA Labs) is pleased to provide you with this proposal for a subsurface exploration and geotechnical evaluation for the above referenced project. We understand the project will consist of replacing an existing culvert.

SCOPE OF SERVICES

Subsurface Exploration

QCQA Labs will perform two (2) test borings at the culvert location. The borings will be advanced to a depth of up to 75 feet. Split-spoon sampling with standard penetration testing will be performed in the borings continuously to a depth of 12 feet, and at 5 feet intervals thereafter.

Upon completion of drilling, the bore holes will be backfilled with spoils from drilling. Borings in pavement will be patched at the surface with cold-patch asphalt. The soil samples recovered from the test borings will be visually classified in accordance with ASTM D2488.

QCQA Labs will mark the test boring locations in the field and will notify Dig Safely New York prior to starting work. QCQA Labs will not be responsible for locating or marking private underground utilities.

We anticipate a road closure will be required while the borings are being drilled due to the relatively narrow road width at the culvert. We understand the road closure (signs, barricades, etc.) will be provided by others.

Geotechnical Evaluation & Report

A geotechnical evaluation will be performed and a geotechnical report will be prepared for the project. The geotechnical report will be prepared by Quality Geo Engineering, P.C. The report

will be prepared and signed by a New York registered Professional Engineer. The report will include the following items.

- Presentation and evaluation of subsurface conditions;
- A site map showing the approximate location of the project;
- A test boring location plan showing the approximate test boring locations;
- Typed test boring logs;
- Recommendations for culvert foundations;
- Estimated total and differential foundation settlement;
- Seismic site class and spectral response accelerations;
- Recommendations for site preparation;
- Recommendations for fill/backfill materials & construction testing.

COST

We estimate the cost for our services will be **\$7,650.00**. This cost is broken down on the attached cost estimate. We will not exceed this cost without prior approval from the Client.

ACCEPTANCE

If this proposal is acceptable, please sign below as your formal acceptance and authorization to proceed and return one (1) copy to our office. This proposal and the Attached Terms and Conditions shall constitute our agreement for these services.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions or wish to discuss this proposal, please do not hesitate to contact me.

Sincerely,
QC/QA Laboratories, Inc.
Service-Disabled Veteran-Owned Business



Tod M. Kobik, P.E.
Vice President

Encl.: Cost Estimate
Standard Terms and Conditions

The scope of services and contractual conditions described in this proposal and its attachments are accepted and QC/QA Laboratories, Inc. is authorized to proceed.

Proposal Accepted By: _____ Date: _____

COST ESTIMATE

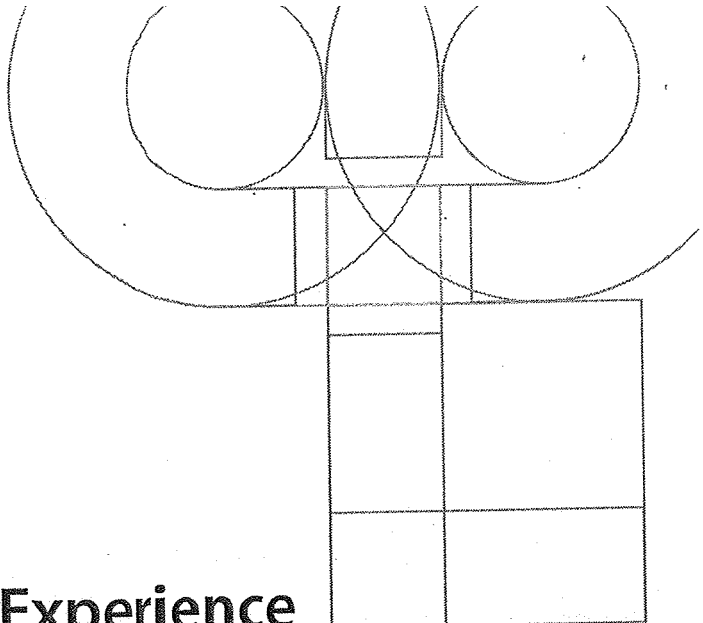
**SUBSURFACE EXPLORATION AND GEOTECHNICAL EVALUATION
ELMHURST AVENUE CULVERT REPLACEMENT
NEWBURGH, NEW YORK
FEBRUARY 24, 2020**

ITEM	DESCRIPTION	UNIT	UNIT COST	ESTIMATED QUANTITY	ESTIMATED COST
1	Boring Layout & Dig Safe	Lump Sum	\$ 550.00	1	\$550.00
2	Mobilization/Demobilization of Drill Rig & Crew	Lump Sum	\$ 1,000.00	1	\$1,000.00
3	Drilling Test Borings	Per Day	\$ 2,200.00	2	\$4,400.00
4	Per Diem for Drilling Crew	Per Night	\$ 200.00	1	\$200.00
5	Geotechnical Report	Lump Sum	\$ 1,500.00	1	\$1,500.00
TOTAL ESTIMATED COST:					\$7,650.00

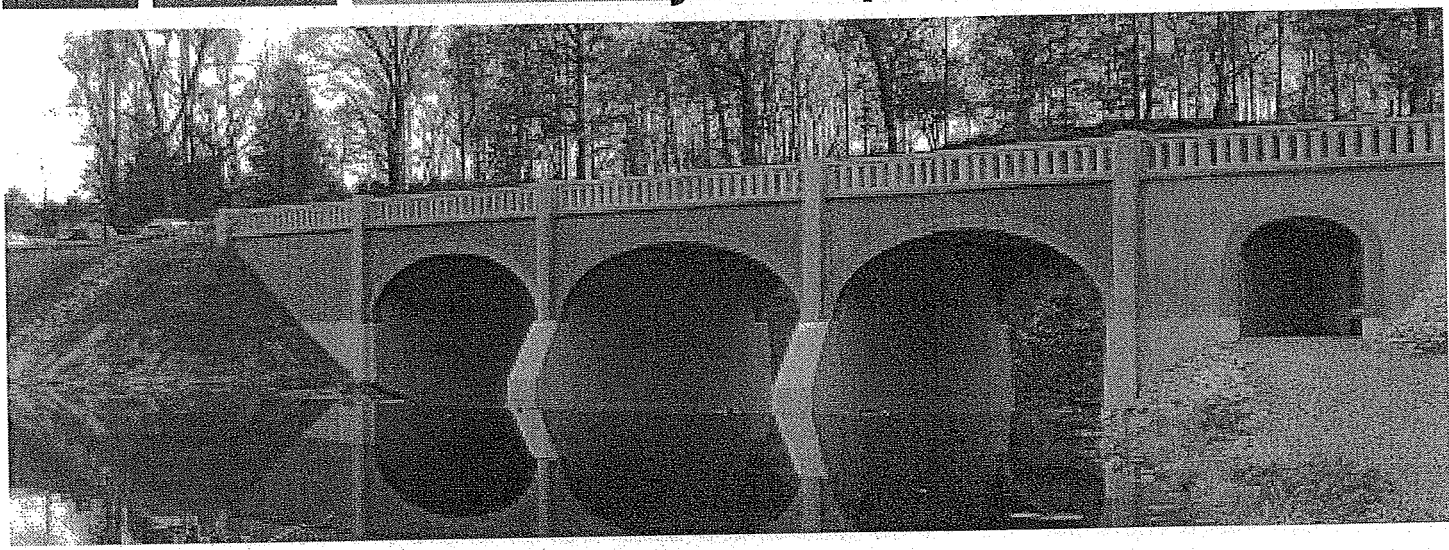
The above unit costs include prevailing wage rates for Orange County, NY.

QC/QA Laboratories, Inc. Standard Terms and Conditions for Subsurface Drilling and Geotechnical Engineering Services

<p>SCOPE OF WORK: QC/QA Laboratories (QCQA) shall perform services in accordance with an Agreement made with Client. The Agreement consists of QCQA's Proposal and these Standard Terms and Conditions. The scope of work, costs and time schedules, if any, defined in the Proposal are based on information provided by Client and shall be subject to the provisions of this Agreement. If this information is incomplete or inaccurate, or if Client directs change to the scope of work established by the Proposal, a written amendment to the Agreement equitably adjusting the costs and time schedules shall be executed by Client and QCQA as soon as practicable. Client is defined as the person or entity requesting and/or authorizing the work, and in so doing, Client represents and warrants that he/she is duly authorized in this role. The acceptance of QCQA's Proposal signifies the acceptance of the terms of this Agreement. Professional engineering services provided under this agreement shall be subcontracted to Quality Geo Engineering, P.C.</p>
<p>INVOICES: QCQA shall submit invoices weekly and/or on completion of work for services performed and expenses incurred and not previously billed. Payment is due upon Client's receipt of the invoice, and is past due thirty (30) days from the date shown on the invoice. Client agrees to pay a service charge of one and one-half percent (1.5%) per month on all past due amounts.</p>
<p>STANDARD OF CARE: QCQA will perform its services under this Agreement in conformance with the care and skill ordinarily exercised by reputable members of the profession practicing under similar conditions at the same time. No other warranty of any kind, expressed or implied, in fact or by law, is made or intended. In accepting reports of observations, tests, and opinions provided pursuant to this Agreement, the Client acknowledges that the extent of QCQA's obligation with respect thereto is limited to furnishing of such data, which shall not be solely relied upon by others as acceptance of any construction work, nor shall it relieve the contractor in any way from his obligations and responsibilities under the construction contract to conduct the work in conformance with the project plans and specifications. The Client recognizes that subsurface conditions may vary from those encountered at the location where borings, surveys, or explorations are made by QCQA and that the data, interpretations and recommendations of QCQA are based solely on the information available to it. QCQA will be responsible for only the data furnished by it, but shall not be responsible for the interpretation by others of the information developed. The Client agrees to indemnify and hold QCQA harmless from and against all claims, damages, losses, and expenses arising from the interpretation by others and data provided by QCQA.</p>
<p>SAFETY AND RIGHT OF ENTRY: It is understood and agreed that, with respect to Project site health and safety, QCQA is responsible solely for the safe conduct of its personnel in the performance of their duties. It is expressly agreed that QCQA has no responsibility for the protection and safety of any other persons on and about the Project site. The Client will provide for right of entry of the employees, agents or subcontractors of QCQA and all necessary equipment, in order to perform and complete the work, which is the subject of this agreement. While QCQA will take all reasonable precautions to minimize any damage to the property, the Client understands and agrees that in the normal course of work some damage may occur, the correction of which is not part of this agreement.</p>
<p>HAZARDOUS WASTES: The client shall advise QCQA of any hazardous wastes or hazardous substances existing at or near the site at which QCQA is to perform work. If QCQA discovers hazardous wastes or hazardous substances after it undertakes a project, or if QCQA discovers the nature or extent of hazardous wastes or hazardous substances differs materially from what the Client advised QCQA, the Client and QCQA agree that the scope of services, schedule, and estimated fee budget shall be adjusted as needed to complete the work. If reportable quantities of petroleum product and/or chemical contamination are discovered on the project site during performance of the work tasks described herein, or during any subsequent work completed at the project site, the appropriate local, state, and/or federal agencies will be notified immediately, as required by law. The ownership of and responsibility for all contaminated materials, hazardous materials, and hazardous substances generated, released, uncovered, transported, and/or collected during the work tasks referred to herein will remain with the Client.</p>
<p>DELAYS: QCQA shall not be considered in default under this Agreement if its performance is prevented or delayed by any cause which is beyond its reasonable control. Further, Client understands and agrees to pay all reasonable charges associated with any delays, cancellations, rescheduling or other activities that may alter time schedules and anticipated costs and that are beyond the reasonable control of QCQA.</p>
<p>OWNERSHIP OF DOCUMENTS: All reports, boring logs, field data, field notes, laboratory test data, calculations, and other documents prepared by QCQA as instruments of service shall remain the property of QCQA. The Client agrees that all reports and other work furnished to the Client or its agents, which is not paid for, will be returned to QCQA upon demand and will not be used by the Client for any purpose whatsoever. QCQA will retain all pertinent records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to the Client at all reasonable times upon request and for the cost of reproduction. The Client and QCQA agree that reuse of documents on extensions of the project or any other project by either party is prohibited without permission.</p>
<p>SAMPLE RETENTION: QCQA will retain all soil and rock samples for 60 days after submission of test reports to the Client. Further storage or transfer of samples will be made upon written request at the Client's expense.</p>
<p>SUBPOENAS OR COURT ORDERS: If any subpoena or court order is served upon QCQA and/or any of its staff, subconsultants or subcontractors requiring the presentation of documents or appearance at a deposition or trial, or for other discovery purposes, arising out of services provided under this Agreement, Client shall pay the charges applicable to QCQA's compliance with the subpoena or court order. Charges will accrue on an actual time and related expense basis in accordance with the standard rates in effect at the time of service upon QCQA of the subpoena or court order. Invoices will include time and expenses incurred gathering, organizing and duplicating documents, preparing to give testimony, travel and testifying in deposition or trial.</p>
<p>UTILITIES: The Client will provide to QCQA documentation setting forth the location and depth of all underground utilities or structures. The Client agrees to hold harmless, indemnify and defend QCQA from any and all loss, cost, expense claim, damage or liability resulting from subsurface conditions which are unforeseen, not called to QCQA's attention or correctly shown on the plans furnished by or on behalf of the owner.</p>
<p>LIMITATION OF LIABILITY: The liability of QCQA for any reason whatsoever arising under or relating to this Agreement will not exceed in the aggregate \$50,000 or the amount of the fee actually received by QCQA, whichever is greater. In addition, in no event will QCQA be liable for any claim or demand by Client, or against Client by any third party, in or for any amounts representing loss of profit, loss of business, delay damages or special, indirect, incidental, consequential, exemplary or punitive damages. The provisions of this paragraph shall apply regardless of the form of the cause of action, whether in contract, tort (including without limitation, negligence), statute or otherwise.</p>
<p>INDEMNIFICATION: If any claim, suit or legal action arising out of the services under this Agreement is asserted against QCQA, its respective shareholders, directors, officers, consultants, agents or employees, by a person or entity who is not a party to this Agreement, Client agrees to indemnify, hold harmless, protect and defend QCQA from and against any such claim, suit or legal action, and any and all loss, liability, damage, costs and expenses associated therewith, except to the extent that the event and/or damages giving rise to such claim, suit or legal action is found to have been caused by the negligence of QCQA. The Client's obligation hereunder includes, but is not limited to, the payment of attorney's fees, court costs, and expert and consulting expenses required for the proper and vigorous defense of QCQA.</p>
<p>INSURANCE: QCQA represents and warrants that it, together with its agents and staff, are protected by worker's compensation insurance, and that QCQA has such coverage under public liability and property damage insurance policies that QCQA deems to be adequate. Certificates for any such policies of insurance will be provided to the Client upon written request. The Client recognizes that QCQA's insurance policies contain certain exclusions, including those for certain claims arising from the discharge, dispersal, release or escape of pollutants. The Client agrees to defend, indemnify, and hold QCQA and its employees or agents harmless for and against all claims, causes of action, suits, proceedings, damages, losses, and expenses, including third party claims or actions, arising from QCQA's work for the Client under this Agreement that falls within the scope of any exclusion from QCQA's liability or property damage insurance policies.</p>
<p>NO THIRD PARTY BENEFICIARIES: Nothing in this Agreement shall create a contractual relationship with, or cause of action in favor of, a third party against Client or QCQA.</p>
<p>DISPUTE RESOLUTION: All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof which cannot be resolved through negotiation shall be submitted to mediation before and as a condition precedent to any other remedy. Upon written request by either party to this Agreement for mediation of any dispute, Client and QCQA shall select by mutual agreement a neutral mediator. If the dispute cannot be settled through mediation, then such dispute shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (AAA) then in effect. The award rendered, if any, by the arbitrator(s) shall be final and binding on both parties and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction. Each party involved in the arbitration process shall pay all its own arbitration fees and costs to the AAA and shall share equally in the fees charged by the arbitrator(s). All mediation or arbitration shall take place in Albany, NY unless Client and QCQA agree otherwise.</p>
<p>TERMINATION: This Agreement may be terminated by either party upon at least seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, QCQA shall be paid for services performed prior to the termination date set forth in the notice plus reasonable termination expenses.</p>



Project Experience



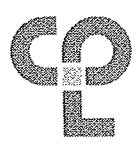
PROJECT EXPERIENCE

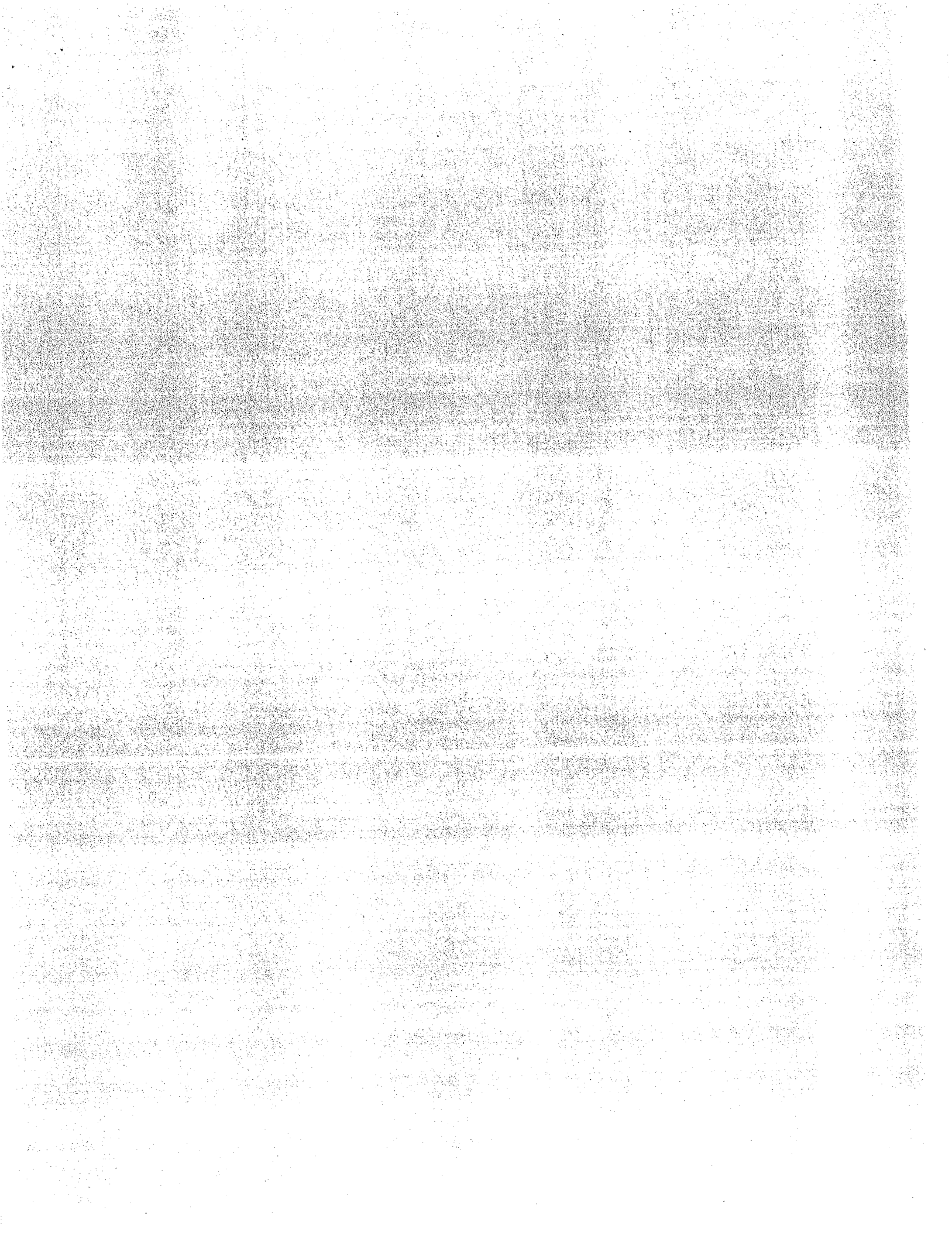
CPL offers first-hand experience addressing the issues and challenges of culvert, bridge and highway related projects. Our team has extensive civil and structural engineering experience and we take pride in completing your project on time and within budget.

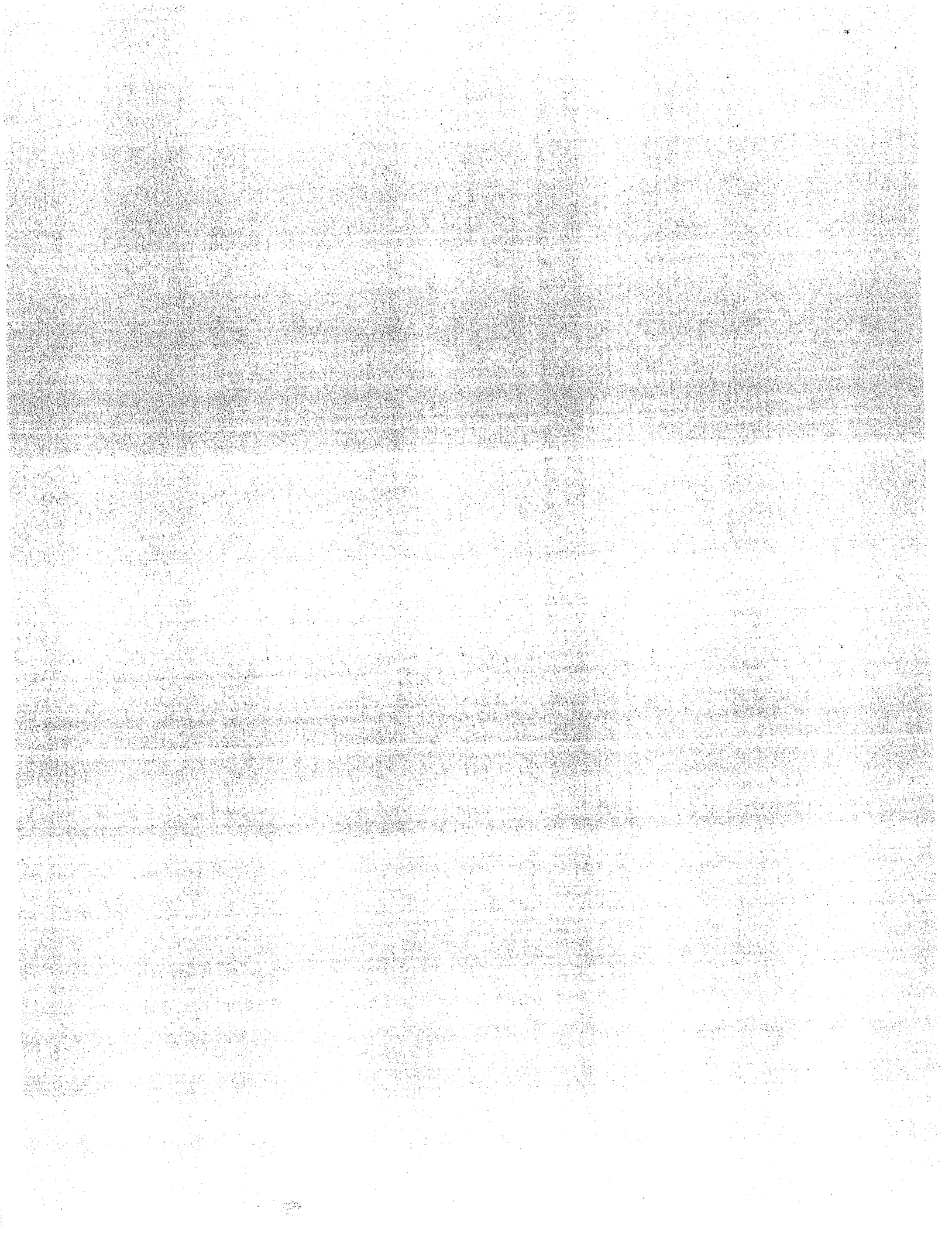
We have successfully provided preliminary design services and have prepared final plans, specifications, and estimates for many culvert and bridge replacement, rehabilitation and reconstruction projects. Our staff of uniquely qualified experts is proficient in bridge design including load rating,

deck analysis, structural studies, plans and contract drawings.

We have included some of our relevant project experience in this section of our proposal, for your review.









Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists

555 Hudson Valley Avenue, Suite 101
New Windsor, NY 12553-4749
T: 845.564.4495
F: 845.567.1025
www.maserconsulting.com

September 24, 2019

VIA E-MAIL & U.S. MAIL

James Osborne, P.E.
Town of Newburgh
1496 Route 300
Newburgh, NY 12550

Re: Proposal for Professional Services
Elmhurst Ave Culvert Replacement
Town of Newburgh, Orange County, New York
MC Proposal No. 18006437P1

Dear Mr. Osborne:

Per your request, Maser Consulting P.A. is pleased to submit this proposal for engineering and land surveying services in connection with the replacement of the referenced structure. We understand that the project will consist of design and preparation of construction and bid documents (plans, specifications and construction cost estimate), utility coordination, and associated permitting.

This proposal is divided into four sections as follows:

- Section I – Scope of Services
- Section II – Business Terms and Conditions
- Section III – Technical Staff Hourly Rate Schedule and Reimbursable Expenses
- Section IV – Client Contract Authorization

The following scope of services has been separated into phases so that it may be more easily reviewed. The order in which the phases are presented generally follows the sequence in which the project will be accomplished; however, depending on the project, the various authorized services contained in this proposal may be performed in a sequence as deemed appropriate by Maser Consulting to meet project schedules.

SECTION I – SCOPE OF SERVICES

Based on our conversations and information noted above, we propose to complete the following:

PHASE 1.0 TOPOGRAPHIC AND RIGHT-OF-WAY SURVEY

Maser Consulting will perform a Topographic and Right-of-Way Survey of the above referenced site in accordance with the guidelines of the New York State Education Department and the State Board of Engineers and Land Surveyors. We will provide a signed plan of the same.

We will prepare a Right-of-Way and Topographic survey that is a graphic pictorial representation of the above ground features with the subject project limits. For the purpose of this project, the topographical mapping will be on 30 scale mapping and one-foot contours. Vertical data will be tied into NAVD 88.

The contouring information will be generated through ground survey work. Our will include 10' overlap. We will locate any utilities that are visible above the ground only.

Limits of Survey:



Temporary Easement Mapping

Maser Consulting will prepare temporary easement maps for Tax Parcels 53-1-1 & 6.3, with metes and bounds descriptions in accordance with the format provided by the Town.

Phase 1.0 Lump Sum Fee

\$8,500.00



PHASE 2.0 – GEOTECHNICAL EXPLORATION

We propose a geotechnical exploration program consisting of four test borings, two at each substructure. The borings will extend depths up to 50 ft below the existing grades to explore the underlying subsurface conditions.

PROGRAM SCOPE:

Test Borings

We will coordinate with a drilling contractor to advance up to four Standard Penetration Test (SPT) test borings to the depths referenced above.

Field Observation and Duration

The subsurface exploration program will be performed under the full-time observation of a geotechnical specialist, who will observe and log the explorations, collect soil samples, and will be acting under the direction of a licensed Professional Geotechnical Engineer. Explorations will be field-located by our representative by measuring from existing site features using conventional taping methods. **We estimate two (2) days will be required to perform the test borings (up to 200 LF of drilling).**

General Laboratory Soil Testing

Representative samples obtained from the explorations will be subjected to limited laboratory testing to evaluate general engineering characteristics. Such testing will likely include moisture contents, grain-size analysis, Atterberg Limits.

Geotechnical Report

We will prepare a geotechnical report summarizing the subsurface conditions encountered at the site. The report will include the results of the subsurface exploration programs and laboratory testing, and geotechnical recommendations including:

- Recommended foundation types and corresponding capacity;
- Bearing strata;
- Seismic design Parameters (based on SPT-N values only);
- Lateral earth pressure coefficients;
- Subgrade modulus for the design of slab-on-grade, if required;
- Excavation support systems;
- Construction dewatering, if required;
- Considerations for construction, such as for subgrade preparation.

Schedule

We anticipate our geotechnical report to be ready in about four (4) weeks from the conclusion of our exploration program if special soil testing is not required.



Procedures

The drilling Subcontractor shall be responsible for contacting the Dig Safe NY 811 System for location of public utilities. The Client shall be responsible for providing us with available information for private on-site utilities. If such utility information is not available, we recommend that designation of private utilities be performed, which is excluded from the scope of this proposal.

Due to the nature of the work, some disturbance and settlement should be anticipated at the completion of the test borings. It will be the responsibility of the client to maintain the grade at each test location should settlement occur. This proposal excludes site restoration, other than backfilling the boreholes with the soil cuttings and repair of boreholes with cold-patch asphalt. The price excludes the cost of exporting the excess excavated spoils from the site if determined to be necessary by an environmental specialist.

The Client will provide right of entry to the site as well as any associated project information. The client agrees to indemnify, hold harmless, and defend Maser and any of Maser's employees from and against all loss, injury, damage and legal liability, including attorney's fees and other costs of defense arising out of any structural damage, utility damage, or boring settlement.

The test borings will each be advanced utilizing standard hollow-stem auger drilling techniques. Soil samples will be obtained from within the borehole by means of a standard two-inch outside-diameter split spoon sampler advanced in accordance with ASTM Designation D-1586 for the Standard Penetration Test.

If conditions encountered differ significantly from those anticipated, and as a result would increase the scope of our work, we will notify you immediately and provide a new scope of work for your authorization to continue with work.

Schedule of Fees

We will perform the services outlined above for the following fees:

Engineering, General Lab Testing and Report	\$ 3,000
Field Engineering (\$1,000/day, 2 days)	\$ 2,000
Drilling Subcontractor (estimated)	\$ 6,000

EXCLUSIONS AND UNDERSTANDINGS

This proposal does not include the following items within the quoted fees:

- Any items not specifically defined in the Scope of Services;
- Drilling subcontractor;
- Export of soil cuttings;
- Testing and analysis for stormwater design;



- Any specialized laboratory testing that may be warranted due to subsurface conditions encountered; a separate proposal will be prepared if subsurface soil conditions warrant such laboratory testing;
- Any exploratory or testing work, interpretations, or conclusions related to the determination of potential chemical, toxic, radioactive, or other type of contaminants on site;
- The fees above were developed assuming Level D Personal Protective Equipment (PPE) is adequate for performing the on-site intrusive geotechnical explorations; this proposal excludes the cost of additional safety provisions that may be required should Class D PPE be insufficient for drilling or sampling of the site soils.

Phase 2.0 Lump Sum Fee (Estimated)

\$11,000.00

PHASE 3.1 – WETLAND DELINEATION AND REPORT

Wetland Delineation

Maser Consulting will review background information and perform a site inspection to delineate freshwater wetlands and waters on project site using methodologies outlined in the Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1) and Regional Supplement. This will involve flagging the limits of wetlands and waters with numbered surveyor's ribbon and collection of the following information:

- a. Characterizing the soils of the wetland and upland areas including a statement on their hydric or non-hydric nature based upon Munsell Soil Color Chart readings.
- b. Characterizing the upland and wetland plant communities and compiling a general list of plant species within each major wetland and upland community.
- c. Characterizing the hydrology of the wetland and upland areas on the project site.

Data plots will be located along representative portions of the wetland delineation boundary at which technical data on soils, vegetation, and hydrology will be collected and transcribed into technical data sheets.

Wetland Report

A wetland delineation report will be prepared and will include the above technical information and will be based on the U.S. Army Corps of Engineers (USACE) Jurisdictional Determination Checklist. The report will also include a survey which depicts the property boundaries, topography and locations of delineated wetlands/waters.

Phase 3.1 Lump Sum Fee

\$4,500.00

PHASE 3.2 FIELD INSPECTION WITH THE USACE (IF REQUIRED)

The USACE normally requires the wetland consultant to be present during their field inspections; however, field inspections are not always required. If required, field inspections with the USACE



will be billed as an extra cost on a time and materials basis. Maser Consulting estimates that inspections with the USACE for this site will cost approximately \$1,000 per site visit.

Phase 3.2 Lump Sum Fee (Estimated) \$1,000.00

PHASE 3.3 PHASE 1 BOG TURTLE HABITAT ASSESSMENT

Maser Consulting will perform a Phase 1 Habitat Assessment of the delineated wetlands on the project site to determine whether the project site contains potential habitat for bog turtle. The Phase 1 Habitat Assessment will be performed in accordance with the USFWS Guidelines for Bog Turtle Surveys. These guidelines rely on three criteria in determining whether a wetland exhibits characteristics suitable for bog turtle use. These are suitable hydrology, suitable soils, and suitable vegetation. The USFWS recognizes that suitable hydrology and soils are the most important characteristics in determining if a wetland possesses suitable habitat for bog turtle.

Maser Consulting will perform the following tasks as part of the bog turtle Phase 1 Habitat Assessment:

Background Information

Maser Consulting will review background information to determine if records for bog turtle occur in the project site vicinity and review information to determine the potential for suitable habitat.

Site Inspection(s) and Mapping

Maser Consulting will perform a site inspection(s) to characterize and document the hydrology, soils and vegetation of the wetlands on the project site with respect to bog turtle habitat requirements. Habitat limits will be identified through a combination of map sketches (utilizing aerial photos), GPS data points, and surveyed wetland delineation points. Areas adjacent to the site (up to 300 ft.) will be evaluated based on peripheral observations and aerial photography.

Report

Maser Consulting will prepare a report which includes the following:

1. U.S. Geological Survey topographic map indicating the location of the site;
2. Map showing the location of wetlands and delineation of wetland cover type (e.g. PEM, PSS, PFO, POW) and designated survey areas;
3. Color photographs of the property and survey areas;
4. Surveyor's name; dates of visits; opinion on potential/not potential habitat;
5. Description of the hydrology, soils, and vegetation for each wetland type, and
6. Bog turtle habitat evaluation field forms.

This scope does not include a Phase 2 bog turtle survey, which is performed to determine species presence or probable absence and may be necessary if potential habitat is identified. The Phase 2



survey effort is dictated by the amount of potential habitat as determined during the Phase 1 and consultation with the USFWS. Phase 1 surveys can be performed any time of year if site conditions are suitable (e.g. no snow cover, ground is not frozen, no drought). The Phase 2 survey season in the northeast is from April 15 to June 15.

Phase 3.3 Lump Sum Fee

\$3,500.00

PHASE 3.4 CONSULTATION WITH USFWS (OPTIONAL)

If potential bog turtle habitat is observed and at the Client's request, Maser Consulting can initiate consultation with the U.S. Fish and Wildlife Service (USFWS) to determine if adverse impacts to bog turtle or its habitat may occur as a result of the proposed project. This phase will include a transmittal of conceptual or final site plans and the bog turtle habitat assessment, and to the extent possible, statements regarding potential impacts (or lack thereof) to bog turtle and potential conservation measures to avoid or minimize impacts to bog turtle.

Phase 3.4 Lump Sum Fee

\$2,700.00

PHASE 4.0 – PERMITTING

Based on a review of available background information as presented in the Feasibility Report, the project will require permits from various state and local regulatory agencies, such as DEC, Army Corps, FEMA, Town (Flood Plain & SEQRA). The anticipated permits required for this project are:

- Article 401 Water Quality Certification (NYSDEC);
- Nationwide Permit No. 3 or 14 (USACE);
- Flood Plain Disturbance Permit (Town).

Accordingly, this proposal provides the following permitting items:

Phase 4.1 Cultural Resources Desktop Review and 'CRIS' Submittal

Maser Consulting will perform a desktop review of Cultural Resources for the proposed project through the New York State Historic Preservation Office (SHPO)'s Cultural Resource Information System (CRIS). Maser will submit a project narrative, proposed mapping, and pictures of the area to the CRIS website for review by SHPO. A letter of "No Effect" will be sought from SHPO.

If directed by SHPO, detailed Cultural Resource Studies (Phase 1) may be required and will be handled under supplemental agreement.

Phase 4.2 Request for Jurisdictional Determination of Wetlands.

Using the information from other phases of work in this scope, Maser Consulting will prepare and submit a request for a Jurisdictional Determination to the USACE to confirm



the location, extent and jurisdictional status of freshwater wetlands and waters on the subject property. If required, a request for a Freshwater Wetlands Validation will be submitted to the NYSDEC to confirm the limits of State-regulated wetlands and the associated 100-foot adjacent area.

Site inspections with the USACE or NYSDEC, if required, will be under other phases of this proposal.

Phase 4.3 Joint Application to NYSDEC and U.S. Army Corps.

Maser Consulting will prepare and submit The Joint Application for Permit to USACE and NYSDEC. Permits will be required from these agencies for the proposed bridge replacement over regulated streams and wetlands. The Joint Application for Permit will include a Joint Application for Permit Form, permission letter to inspect property, applicant contact information, short Environmental Assessment Form, and a compliance statement which includes a description of the project site, site location maps, a description of the proposed activities and conformance with Nationwide Permit standards, information regarding the location of wetlands/waters, and database information regarding threatened or endangered species or historic resources.

It is assumed construction activities will disturb less than 0.10 acre of wetlands/waters of the U.S. and will not require compensatory mitigation.

Site inspections with the USACE or NYSDEC, if required, will be under other phases of this proposal.

Phase 4.4 SEQRA

Maser Consulting will prepare a Short Form EAF, Part 1, a narrative description of the proposed action, and supporting documentation from permitting tasks above required for review by the Town. The action we will request from the Town Board includes The Town Board seeking Lead Agency status under SEQRA, conducting a coordinated view and concluding the review process with a Declaration regarding the application.

Phase 4.5 Flood Plain

Project limits extend into the 100-year flood plain of the Bushfield Creek and may affect or be in direct vicinity with the "Floodway". Maser Consulting will prepare a letter report summarizing the project's activities in relation to the 100-year flood plain and Floodway for submittal to the Town and their Code Enforcement Department. A detailed analysis of the 100-year flood plain, in HEC-RAS or otherwise is excluded. It is assumed available data from FEMA and HY-8 inlet-outlet analysis will be sufficient for this task.

The Town of Newburgh maintains a development jurisdiction over "floodways" within their bounds and it is assumed various Town departments will handle permit applications



& procedures for their own project. This scope is limited to only an Engineer's Letter Report to document the project's affect, if any, to flood plains and flood ways.

Phase 4.6 Hydraulic Analysis Updates

Hydraulic Analysis will need to be updated with survey-based information. The analysis will consist of updating the previous study which included the flow characteristics of the existing and proposed bridge hydraulic openings. The hydraulic analysis will utilize the HY-8 inlet-outlet analysis program. The hydrologic data and the bridge fascia/stream topography will be analyzed to determine the 100-year peak rate of runoff (or the 50-year storm plus freeboard per NYSDOT Bridge manual). The resulting water surface elevations will aid in determining the adequacy of the proposed bridge geometry. The Hydrologic calculations will be based on field inspections, FEMA data and Stream Stats (USGS).

Phase 4.7 Permitting Support

For all permitting tasks included in Phase 4 of this scope tasks such as coordination, drafting maps/figures and communications will be required at the request of any agency involved. The intensity, methods, and frequency of communications required to complete permitting varies from client to client, and from project to project, but is essential to expediting the project successfully. Services under this effort will include, but may not be limited to:

- Telephone calls with review agencies;
- Correspondence and coordination (letters, e-mails, etc.) with agencies having jurisdiction over the project
- Drafting of maps, figures, exhibits requested by agencies having jurisdiction over the project.

Schedule of Fees

We will perform the services outlined above for the following fees:

Phase 4.1 Cultural Resources	\$ 2,000
Phase 4.2 Request for Jurisdictional Determination of Wetlands	\$ 1,000
Phase 4.3 Joint Application to NYSDEC and U.S. Army Corps	\$ 2,000
Phase 4.4 SEQRA	\$ 1,000
Phase 4.5 Flood Plain	\$ 2,500
Phase 4.6 Hydraulic Analysis Updates	\$ 3,000
Phase 4.7 Permitting Support	\$ 3,500

Total Phase 4.0 Lump Sum Fee

\$15,000.00



PHASE 5.0 – UTILITY COORDINATION

Maser Consulting will coordinate with all utility agencies that own facilities adjacent to the site in order to mitigate the impacts of the project on their facilities. We anticipate holding at least one site meeting for this task.

Phase 5.0 Lump Sum Fee **\$2,600.00**

PHASE 6.0 – STRUCTURAL ENGINEERING

Maser Consulting will design and detail the following culvert components:

- Rigid 3-sided precast reinforced concrete frame;
- Cast-in-place reinforced concrete foundations;
- Cast-in-place reinforced concrete wingwalls and their foundations;
- Cast-in-place reinforced concrete pylons, if needed;
- Beam guide railing and transitions, if needed;
- Approach asphalt pavement (mill and pave and full depth replacement).

We will prepare construction documents suitable for bidding, which will include construction drawings, special technical specification sections, if any, and a construction cost estimate.

The project will be performed in two stages – Preliminary Design drawings will be submitted to the Town for their review and comments, after which the Final Design will be completed.

Plans and technical specification sections will be prepared in compliance with the current NYSDOT manuals and specifications.

Phase 6.0 Lump Sum Fee **\$22,800.00**

PHASE 7.0 – ENGINEER’S REPORT

Maser Consulting will summarize the proposed replacement project in a written letter-report, including an Engineer’s Estimate of the construction cost.

Phase 7.0 Lump Sum Fee **\$2,400.00**

PHASE 8.0 MEETINGS

Attendance at agency, project coordination and teleconference (including with client and other consultants) meetings will be billed hourly in accordance with the Schedule of Hourly Rates in effect at the time the meeting is held. Time spent preparing for meetings will be billed hourly in accordance with the Schedule of Hourly Rates in effect at the time the service is completed.

Phase 8.0 Fee **Hourly**



EXCLUSIONS AND UNDERSTANDINGS

Services relating to the following items are not anticipated for the project or cannot be quantified at this time. Therefore, any service associated with the following items is specifically excluded from the scope of professional services within this agreement:

- Services not specifically outlined above in Section I;
- Flood Hazard Area Application;
- Cultural Resource Phase 1 A/B and more advanced studies;
- Detailed compensatory mitigation plans for wetlands, flood areas, or otherwise;
- Detailed habitat assessments and species surveys other than specifically mentioned in above scope;
- Permitting processes for permits not specifically outlined above;
- Stormwater Management Design and/or SWPPP tasks;
- Long environmental assessment form and environmental impact statements (DEIS, FEIS);
- Exploratory or testing work, interpretations or conclusions related to determination of potential hazardous materials (lead, asbestos, etc.), chemical, toxic, radioactive or other type of contaminants on the site;
- Hazardous material removal plans;
- Application fees and escrow deposits to the municipality or to any regulatory review agencies;
- Changes or revisions beyond our control or changes in basic concept after design service has been accomplished.

If an item listed herein, or otherwise not specifically mentioned within this agreement, is deemed necessary Maser Consulting may prepare an addendum to this agreement for your review, outlining the scope of additional services and associated professional fees with regard to the extra services.



PHASE 9.0 ADDITIONAL SERVICES

Services accomplished under this phase will be billed hourly in accordance with the Schedule of Hourly Rates in effect at the time the service is accomplished and will include revisions or extra services requested by the various review agencies and/or the client that differ from the original scope of service, or revisions required as conditions of approval that are not an error or omission on the part of Maser Consulting. Additional services will not be advanced without providing notice to you of the need for additional services and obtaining your approval of the additional scope of services and fees.

Phase 9.0 Fee **Hourly**

SCHEDULE OF FEES

For your convenience, we have broken down the total estimated cost of the project into the categories identified within the scope of services.

PHASE 1.0	TOPOGRAPHIC AND RIGHT-OF-WAY SURVEY	\$ 8,500.00
PHASE 2.0	GEOTECHNICAL EXPLORATION	\$11,000.00
PHASE 3.1	WETLANDS DELINEATION AND REPORT	\$ 4,500.00
PHASE 3.2	FIELD INSPECTION WITH THE USACE (IF REQUIRED)	\$ 1,000.00
PHASE 3.3	PHASE 1 BOG TURTLE HABITAT ASSESSMENT	\$ 3,500.00
PHASE 3.4	CONSULTATION WITH USFWS (OPTIONAL)	\$ 2,700.00
PHASE 4.0	PERMITTING	\$15,000.00
PHASE 5.0	UTILITY COORDINATION	\$ 2,600.00
PHASE 6.0	STRUCTURAL ENGINEERING	\$22,800.00
PHASE 7.0	ENGINEER'S REPORT	\$ 2,400.00
PHASE 8.0	MEETINGS (Agency/Coordination)	HOURLY
PHASE 9.0	PLAN REVISIONS AND ADDITIONAL SERVICES	HOURLY

This Contract and Fee Schedule are based upon the acceptance of Maser Consulting's Business Terms and Conditions contained in Section II of this Contract. Delivery, mileage, printing and reproduction, overnight mail service and postage costs are not included in the lump sum fees and will be added to each monthly invoice.