CITY OF NEWBURGH
COUNCIL MEETING AGENDA
SESION GENERAL DEL CONSEJAL
April 11, 2016
7:00 PM

Mayor/Alcaldesa

1. Prayer/Rezo
2. Pledge of Allegiance/Juramento a la Alianza

City Clerk:/Secretaria de la Ciudad

3. Roll Call/ Lista de asistencia

Communications/Communicaciones

4. Approval of the minutes of the meeting of March 28, 2016
5. City Manager Update/ Gerente de la Cuidad pone al dia la audiencia de los planes de cada departamento

Presentations/Presentaciones

Comments from the public regarding the agenda/Comentarios del público con respecto a la agenda

Comments from the Council regarding the agenda/Comentarios del Consejo con respecto a la agenda

City Manager's Report/ Informe del Gerente de la Ciudad

6. Resolution 82 - 2016 - NYS Water Grant/Loan Application with EFC

   Resolution Authorizing the City Manager to Apply for and Accept if Awarded Grant Funding and Zero Interest Loan Financing from the New York State Environmental Facilities Corporation Water Infrastructure Improvement Act Grant Program for Phases I through IV of the Long Term Control Plan at an Estimated Project Cost of $12,500,000.00. (Jason Morris)

   Una Resolución Autorizando al Gerente de la Ciudad a Solicitar y Aceptar si es otorgada la financiación en forma de beca y financiamiento de préstamos con cero interés del Programa de Becas de la Corporación de Servicios Ambientales de la Ley de Mejoramiento de Infraestructura de Agua del Estado de Nueva York para las Fases I a IV del Plan de Control a Largo Plazo a un Costo Estimado de $12,500,000.00. (Jason Morris)

   Council Request for Action

7. Resolution No. 83 - 2016 - NYS Water Grants Application - SEQRA Determination

Resolution of the City Council of the City of Newburgh Assuming Lead Agency Status under State Environmental Quality Review Act (SEQRA) for Phase I through IV Projects of the Long Term Control Plan, Declaring the Projects to be Type II Actions, Finding No Significant Adverse Impact on the Environment and Authorizing the City Manager to Execute all SEQRA Documents. (Jason Morris)

Una Resolución del Consejo de la Ciudad de Newburgh Asumiendo el Estatus de Agencia Principal bajo el Acta de Revisión de Estado de Calidad Ambiental (SEQRA) para la Fase I a IV de los proyectos del Plan de Control a Largo Plazo, Declarando que los proyectos son una Acción Tipo II, Encontrando ningún impacto adverso al Medio Ambiente y Autorizando al Gerente de la Ciudad a Ejecutar todos los Documentos SEQRA. (Jason Morris)

Council Request for Action

8. Resolution No. 84 - 2016 -NYS Water Grants Application - Bond Resolution

Bond Resolution of the City of Newburgh, New York, Adopted April 11, 2016, Authorizing a Further Portion of the Phase I through V Long Term Control Plan Sewer Improvements Project in the City, Stating the Estimated Total Cost Thereof is $12,500,000, Appropriating Said Amount Therefor, and Authorizing the Issuance of not to Exceed $12,500,000 Bonds of Said City to Finance Said Appropriation. (John Aber & Jason Morris)

Resolución de un Bono de la Ciudad de Newburgh, Nueva York, Adoptado el 11 de Abril de 2016, Autorizando una porción adicional de la fase I a V del Proyecto de Mejoramiento en la Ciudad de Control a Largo Plazo, Indicando que el costo estimado total es de $12,500,000, Apropiándose de dicho monto correspondiente y autorizando que la emisión no exceda los $12,500,000 bonos de dicha Ciudad para Financiar dicha Apropiación. (John Aber y Jason Morris)

Council Request for Action

9. Resolution No. 85 - 2016 - $500k BAN Resolution

Bond Resolution of the City of Newburgh, New York, Adopted April 11, 2016, Authorizing Demolition and Remediation of Various Buildings in the City, Stating the Estimated Total Cost thereof is $500,000, Appropriating Said Amount therefor, and Authorizing the Issuance of not to Exceed $500,000 Bonds of Said City to Finance Said Appropriation. (John Aber & Jason Morris)

Resolución de un Bono de la Ciudad de Newburgh, Nueva York, Adoptado

el 11 de Abril de 2016, Autorizando la Demolición y Remediación de Varios Edificios en la Ciudad, Indicando que el costo estimado total del mismo es $500,000, Apropiándose de dicho monto correspondiente y autorizando que la emisión no exceda los $500,000 bonos de dicha Ciudad para Financiar dicha Apropiación. (John Aber y Jason Morris)

Council Request for Action

10. Resolution No. 86 - 2016 - Dell Server Lease

    Resolution Authorizing the City Manager to Enter into a 60-Month Lease Agreement with Dell Financial Services for 3 Servers at a Total Cost of $21,305.37. (John Aber & Glenn Kurcon)

    Una Resolución Autorizando al Gerente de la Ciudad a Entrar en Acuerdo de Arrendamiento de 60-Meses con los Servicios Financieros Dell para 3 servidores a un costo Total de $21,305.37. (John Aber y Glenn Kurcon)

    Council Request for Action

11. Resolution No. 87 - 2016 - Purchase of 63 & 66 Carson Avenue

    Resolution to Authorize the Conveyance of Real Property known as 63 Carson Avenue (Section 45, Block 7, Lot 5) and 66 Carson Avenue (Section 45, Block 6, Lot 30) at Private Sale to Shayla Sellers and Robert Grunnah for the Amount of $20,000.00. (Deirdre Glenn & Michelle Kelson)

    Una Resolución Autorizando el Traspaso de Bienes Raíces conocidas como la 63 de la Avenida Carson (Sección 45, Bloque 7, Lote 5) y la 66 de la Avenida Carson (Sección 45, Bloque 6, Lote 30) en una Venta Privada a Shayla Sellers y Robert Grunnah por la cantidad de $20,000.00. (Deirdre Glenn & Michelle Kelson)

    Council Request for Action

12. Resolution No. 88 - 2016 - Res.& Release of Restrictive Covenants for 36 Chambers St

    Resolution Authorizing the Execution of a Release of Restrictive Covenants and Right of Re-Entry from a Deed Issued to 36-38 Chamber, LLC to the Premises Known as 36 Chambers Street (Section 30, Block 5, Lot 37) (Michelle Kelson)

    Una Resolución Autorizando la Ejecución de la Liberación de Convenios Restrictivos y el derecho a re-entrar en la escritura Otorgada a 36-38 Chamber, LLC a las Propiedades Conocidas como la 36 de la Calle Chambers (Sección 30, Bloque 5, Lote 37) (Michelle Kelson)

Council Request for Action

13. Resolution No. 89- 2016 - Extension of Time to Close Title for 205 Broadway

    Resolution Authorizing the Extension of Time to Close Title on the Property Located at 205 Broadway (Section 35, Block 2, Lot 19) Sold at Private Sale to Wei Lou. (Michelle Kelson)

    Una Resolución Autorizando la extensión de tiempo para Cerrar el título de Propiedad localizado en la 205 de Broadway (Sección 35, Bloque 2, Lote 19) Vendido en una venta privada a Wei Lou. (Michelle Kelson)

    Council Request for Action

14. Resolution No. 90 - 2016 Tax Certiorari Rite Aid

    A resolution approving the Consent Judgment and authorizing the City Manager to sign such Consent Judgment in connection with the Tax Certiorari proceedings against the City of Newburgh in the Orange County Supreme Court bearing Orange County Index nos. 6582-2011, 6155-2012, 5374-2013, 4944-2014 and 5162-2015 involving section 32, block 2, lot 1.11 (Rite Aid of New York #1302) (Michelle Kelson)

15. Resolution No. 91-2016 - Susan Whitfield

    A resolution to authorize a settlement in the matter of Susan Whitfield against the City of Newburgh in the amount of $225,000.00. (Michelle Kelson)

16. Resolution No. 92 - 2016 - 17 Spring St.

    A resolution to authorize the re-purchase of real property known as 17 Spring Street (section 39, block 5, lot 8) at private sale to Northern Highlife, LLC. (Michelle Kelson)

17. Resolution No. 93 - 2016 - Washington St.

    A resolution to authorize the re-purchase of real property known as 215 Washington Street (section 38, block 2, lot 24.12) and 225 Washington Street (section 38, block 2, lot 20) at private sale to Resa Real Estate, Inc. (Michelle Kelson)

18. Resolution No. 65 - 2016 Central Hudson Purchase of Poles/Wiring & Easement Agreement

    A Resolution Authorizing the Sale of Utility Poles and Attached Equipment and the Granting of an Easement on Property Known as 75 Temple Avenue (Section 42, Block 1, Lot 8), 205-215 Ellis Avenue (Section 50, Block 1, Lot 5.1) and ES Temple Avenue (Section 50, Block 1, Lot 5.2) to Central Hudson Electric And Gas Corp. for the Amount of $42,297.80. (Michelle Kelson)

    Una Resolución que Autoriza la Venta de Postes de Utilidad y del Equipo Conectado y el Otorgamiento de Acceso a las propiedades conocidas como la 75 de la Avenida Temple (Sección 42, Bloque 1, Lote 8), la 205-215 de la Avenida Ellis (Sección 50, Bloque 1, Lote 5.1) y la ES Avenida Temple (Sección 50, Bloque 1, Lote 5.2) a la Corporación de Gas y

Electricidad de Central Hudson por la Cantidad de $42,297.80. (Michelle Kelson)

Council Request for Action

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

Public Comments Regarding General Matters of City Business

Final Comments from the City Council/ Comentarios Finales del Ayuntamiento:

Adjournment/ Aplazamiento:

RESOLUTION NO.: 82 - 2016

OF

APRIL 11, 2016

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED GRANT FUNDING AND ZERO INTEREST LOAN FINANCING FROM THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION WATER INFRASTRUCTURE IMPROVEMENT ACT GRANT PROGRAM FOR PHASES I THROUGH IV OF THE LONG TERM CONTROL PLAN AT AN ESTIMATED PROJECT COST OF $12,500,000.00

WHEREAS, by Resolution No. 219-2011 of October 24, 2011, the City Council of the City of Newburgh, New York authorized the City Manager to execute an Order on Consent with the New York State Department of Environmental Conservation ("NYS DEC") to resolve violations at the Wastewater Treatment Plant and for the development of the CSO Long Term Control Plan ("LTCP"); and

WHEREAS, the City has submitted its Phase 1 LTCP, the requirements for which will be deemed satisfied upon the approval of the NYS DEC and by Resolution No. 303-2015 of November 23, 2015, the City Council of the City of Newburgh authorized the City Manager to execute a Modification Order on Consent approving a Schedule of Compliance for Phase I through V of the LTCP; and

WHEREAS, the Environmental Facilities Corporation's Water Infrastructure Improvement Act Grant Program ("Water Grant Program") offers a financing option for the planning, engineering and construction costs for Phases I through IV of the LTCP consisting of a combination of 25% grant funding and 75% zero-interest loans; and

WHEREAS, the estimated total cost of the Project is $12,500,000.00 and acceptance into the Water Grant Program provides a potential Project savings to the City of 25% of the total project cost of approximately $3,125,000.00; and

WHEREAS, this Council has determined that applying for and accepting the grant and loan funding if awarded is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant and zero interest loan financing from the New York State Environmental Facilities Corporation Water Infrastructure Improvement Act Grant Program in an estimated Project cost of $12,500,000.00, and upon the award of such funding to enter into and execute a documents and contracts with the New York State Environmental Facilities Corporation for said purposes and further, to carry out and comply with the terms of such project agreement(s).

Environmental Facilities Corporation

The New York State Water Infrastructure Improvement Act of 2015 provided $200 million in grant funding over three state fiscal years, including $75 milli wastewater and drinking water infrastructure projects that improve water quality and protect public health.

If additional funds are appropriated in the enacted 2016-17 state budget, additional grant funding will be available for this round.

Complete applications must be submitted to **NYSWaterGrants@efc.ny.gov** no later than the close of business on Friday, April 15, 2016.

For inquiries on the grant program, please email **NYSWaterGrants@efc.ny.gov**.

A second webinar was held on March 15, 2016 to provide an overview of the grant criteria and application process for Round 2 of funding.

NYS Water Grants Webinar Slides (March 15, 2016)

Clean Water Useful Links

- **NYS Water Grants Summary - Clean Water**
- **NYS Water Grants Application Form - Clean Water**
- **NYS Water Grants Application Instructions - Clean Water**
- **NYS Water Grants - Frequently Asked Questions**
- **CWSRF Hardship Financing Policy**
- **CWSRF Intended Use Plan**
- **CWSRF Project Listing Form (PLUS)**
- **CWSRF Financing Application**
- **MWBE Construction Bid Packet** and **MWBE Non-Construction Bid Packet**
- **Smart Growth Assessment Form**
- **American Iron and Steel Requirements**
- **Davis Bacon Requirements**

Drinking Water Useful Links

- **NYS Water Grants Summary - Drinking Water**
- **NYS Water Grants Application Form - Drinkin**
- **NYS Water Grants Application Instructions - I**
- **NYS Water Grants - Frequently Asked Questi**
- **DWSRF Hardship Financing Policy**
- **DWSRF Intended Use Plan**
- **DWSRF Project Listing Form**
- **DWSRF Financing Application**
- **MWBE Construction Bid Packet** *and* **MWBE**
- **Smart Growth Assessment Form**
- **American Iron and Steel Requirements**
- **Davis Bacon Requirements**

NYS Water Grants Drop Box

Environmental Facilities Corporation

New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island Resource Center, PO Box 189, Waterford, NY 12188-0189 (Mail)
Delaware Avenue, Cohoes 12047 (Delivery) **(518) 237-8643**

PROJECT REVIEW COVER FORM

Rev. 5-05

Please complete this form and attach it to the top of ***any and all information submitted to this office*** *for review.*
Accurate and complete forms will assist this office in the timely processing and response to your request.

This information relates to a previously submitted project.

PROJECT NUMBER ____**PR**_____

COUNTY _____

☐ If you have checked this box and noted the previous Project Review (PR) number assigned by this office you do not need to continue unless any of the required information below has changed.

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2. This is a new project. ☒ If you have checked this box you will need to complete ALL of the following information.

Project Name Long Term Control Plan Phase I and Phase II Implementation

Location Multiple Sites throughout City (see attached figures)
You MUST include street number, street name and/or County, State or Interstate route number if applicable

City/Town/Village City of Newburgh
List the correct municipality in which your project is being undertaken. If in a hamlet you must also provide the name of the town.

County Orange
If your undertaking* covers multiple communities/counties please attach a list defining all municipalities/counties included.

TYPE OF REVIEW REQUIRED/REQUESTED **(Please answer both questions)**

A. Does this action involve a permit approval or funding, now or ultimately from any other governmental agency?

☐ **No** ☒ **Yes**

If Yes, list agency name(s) and permit(s)/approval(s)

Agency involved	Type of permit/approval	State	Federal
New York State EFC	NYS Water Grant	☒	☐
		☐	☐
		☐	☐

B. Have you consulted the NYSHPO web site at **http://nysparks.state.ny.us to determine the preliminary presence or absence of previously identified cultural resources within or adjacent to the project area? If yes: ☒ **Yes** ☐ **No**

Was the project site wholly or partially included within an identified archeologically sensitive area? ☐ **Yes** ☒ **No**

Does the project site involve or is it substantially contiguous to a property listed or recommended for listing in the NY State or National Registers of Historic Places? ☐ **Yes** ☒ **No**

CONTACT PERSON FOR PROJECT

Name Joshua LaPlante **Title** Project Engineer

Firm/Agency Arcadis

Address 855 Route 146, Suite 210 **City** Clifton Park **STATE** NY **Zip** 12065

Phone (518) 250-7316 **Fax** (518) 250-7301 **E-Mail** joshua.laplante@arcadiscom

****http://nysparks.state.ny.us** then select **HISTORIC PRESERVATION** then select **On Line Resources**

The Historic Preservation Review Process in New York State

In order to insure that historic preservation is carefully considered in publicly-funded or permitted undertakings*, there are laws at each level of government that require projects to be reviewed for their potential impact/effect on historic properties. At the federal level, Section 106 of the National Historic Preservation Act of 1966 (NHPA) directs the review of federally funded, licensed or permitted projects. At the state level, Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 performs a comparable function. Local environmental review for municipalities is carried out under the State Environmental Quality Review Act (SEQRA) of 1978.
regulations on line at:
http://nysparks.state.ny.us then select **HISTORIC PRESERVATION** then select **Environmental Review**

Project review is conducted in two stages. First, the Field Services Bureau assesses affected properties to determine whether or not they are listed or eligible for listing in the New York State or National Registers of Historic Places. If so, it is deemed "historic" and worthy of protection and the second stage of review is undertaken. The project is reviewed to evaluate its impact on the properties significant materials and character. Where adverse effects are identified, alternatives are explored to avoid, or reduce project impacts; where this is unsuccessful, mitigation measures are developed and formal agreement documents are prepared stipulating these measures.

ALL PROJECTS SUBMITTED FOR REVIEW SHOULD INCLUDE THE FOLLOWING MATERIAL(S).

X **Project Description**

Attach a full description of the nature and extent of the work to be undertaken as part of this project. Relevant portions of the project applications or environmental statements may be submitted.

X **Maps Locating Project**

Include a map locating the project in the community. The map must clearly show street and road names surrounding the project area as well as the location of all portions of the project. Appropriate maps include tax maps, Sanborn Insurance maps, and/or USGS quadrangle maps.

X **Photographs**

Photographs may be black and white prints, color prints, or color laser/photo copies; standard (black and white) photocopies are NOT acceptable.

-*If the project involves rehabilitation*, include photographs of the building(s) involved. Label each exterior view to a site map and label all interior views.

-*If the project involves new construction*, include photographs of the surrounding area looking out from the project site. Include photographs of any buildings (more than 50 years old) that are located on the project property or on adjoining property.

NOTE: Projects submissions will not be accepted via facsimile or e-mail.

**Undertaking* is defined as an agency's purchase, lease or sale of a property, assistance through grants, loans or guarantees, issuing of licenses, permits or approvals, and work performed pursuant to delegation or mandate.

ARCADIS Design & Consultancy for natural and built assets

Ms. Lorraine Weiss
New York State Office of Parks, Recreation, and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Tel 518 250 7300
Fax 518 250 7301
www.arcadis.com

Subject:
Request for Project Review
City of Newburgh's Long Term Control Plan Implementation
Newburgh, Orange County, New York

Water

Date:
March 22, 2016

Contact:
Joshua LaPlante

Phone:
518-250-7316

Email:
joshua.laplante
@arcadis.com

Our ref:
660004881.0008

Dear Ms. Weiss:

In accordance with Section 106 of the National Historic Preservation Act, and Section 14.09 of the New York State Parks, Recreation, and Historic Preservation Law, Arcadis is requesting a project review for a portion of the City of Newburgh's (City) Long term Control Plan (LTCP) implementation project located at various sites throughout the City.

On behalf of the City we are requesting an expedited review. The City is trying to secure funding through the New York State Environmental Facilities Corporation (NYS EFC) Water Infrastructure Improvement Act which has a deadline of April 15, 2016. A SHPO Project Review Determination Letter is required to be submitted with the application.

Below are brief descriptions of each of the projects included in Phase I and Phase II of the LTCP that the City is seeking funding to complete:

Regulator No. 2 Upgrades

The location of Regulator No. 2 does not have an address, it is located approximately 800-feet East of Mill Street and Bridge Street as shown on Figure 1. This project includes modifying the regulator to eliminate a hydraulic bottleneck allowing more flow through the system and reducing the hydraulic grade line of the sewer. The site was disturbed during the construction of the original interceptor sewer, CSO discharge sewer, regulator and access road. The foot print of the regulator may be increased slightly.

South Water Street Sewer Separation

This project includes replacement of the existing combined sewer system with new separated storm and sanitary sewer systems on South Water Street as shown on Figure 2.

Screenings Upgrade at the Water Pollution Control Plant

This project is located at the City's Water Pollution Control Plant (WPCP) at 2 Renwick Street and includes the replacement of the existing grinders and fine screens in the existing screenings and grit removal building with new mechanical bar screens. Work will take place inside an existing building in the area shown on Figure 3.

New Drain Outlet at Downing Pond

A new drain outlet will be installed in Downing Park Pond to allow the City to better control the elevation of the water in the pond. The location of Downing Park Pond is shown in Figure 4. The new drain outlet will be tied into a new storm sewer and be directed from the existing combined sewer system.

New Storm Drain along Third Street from Downing Pond to Chambers Street

The outlet from Downing Park Pond is currently connected to the existing combined sewer system. This project includes the construction of a new storm sewer along Third Street from Downing Park Pond to Chambers Street. This will separate the Downing Park Pond drain from the existing combined sewer system. See Figure 5 for the location of this project.

Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street

This project includes replacement of the existing combined sewer system with new separated sanitary and storm sewer systems on Water Street from Carpenter Avenue to Montgomery Street as shown on Figure 6.

Reconstruction of Broadway between Grand Street and Dubois Street

This project is located on Broadway between Grand Street and Dubuis Street and includes reconstruction of the roadway and sidewalks as well as separation of the existing combined sewers. New storm and sanitary sewers with be installed in the area shown on Figure 7.

In accordance with the Historic Preservation Review Process, the following information is included in this submittal for the project:

1. Completed SHPO Project Review Form;
2. Project Location Figures; and
3. Project Photo Logs.

We request that this information be reviewed and a determination be provided on whether or not the project has the potential to impact cultural resources. If the project has the potential to impact cultural resources, we would appreciate being informed of additional steps that are required to further evaluate the potential for adverse effects.

We look forward to your response in the near future. Please feel free to call if you have any questions or require any additional information.

Sincerely,

Arcadis of New York, Inc.

Joshua LaPlante

Project Engineer

Copies:

Jason Morris, City of Newburgh

Harry Nelson, NYS EFC

Robert Ostapczuk, Arcadis

Enclosures

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 1.DWG
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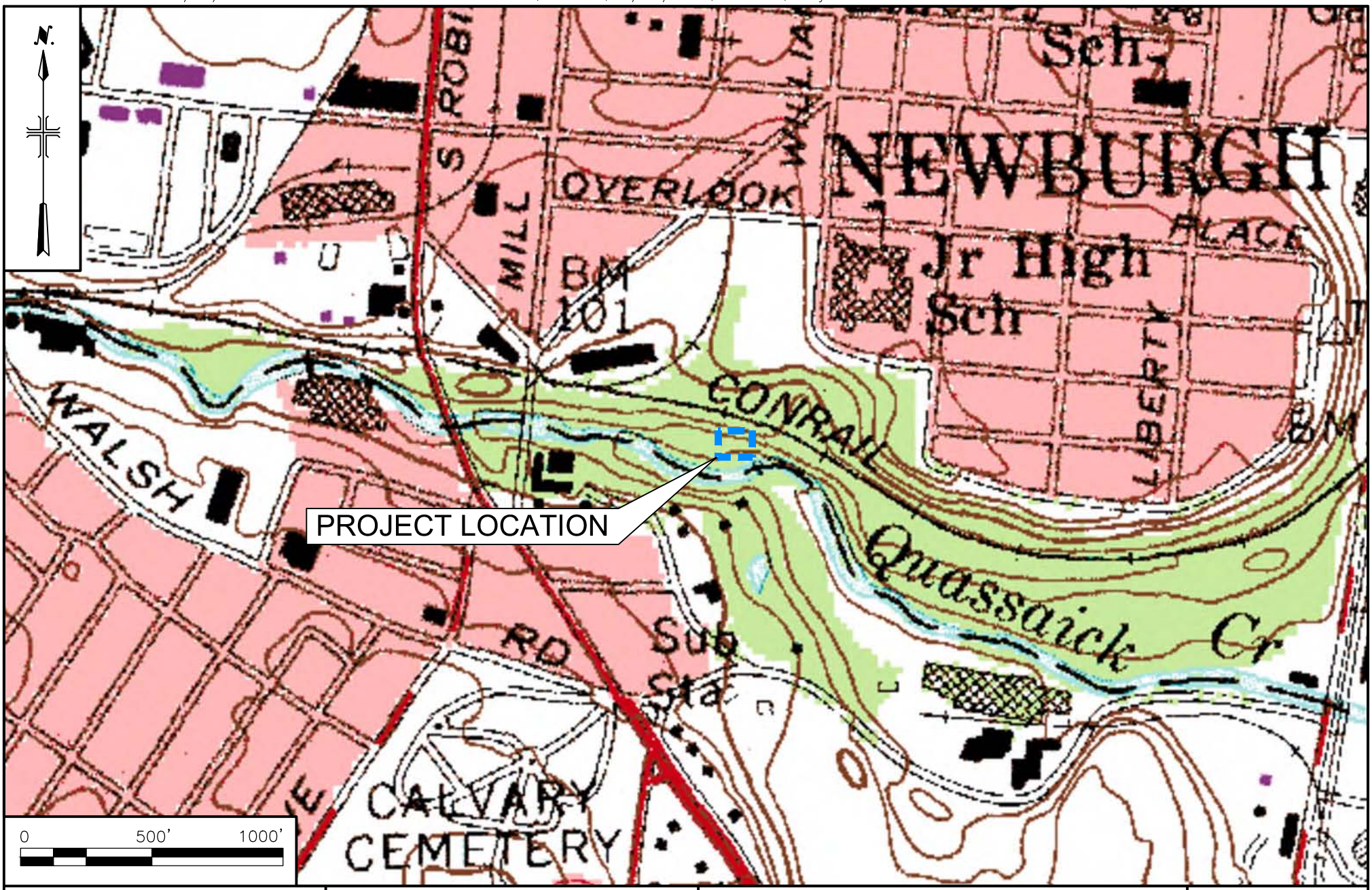

ARCADIS Design & Consultancy for natural and built assets

CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

REGULATOR NO. 2 UPGRADES

SCALE: 1" = 500'

MARCH 2016

FIGURE 1

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 2.DWG
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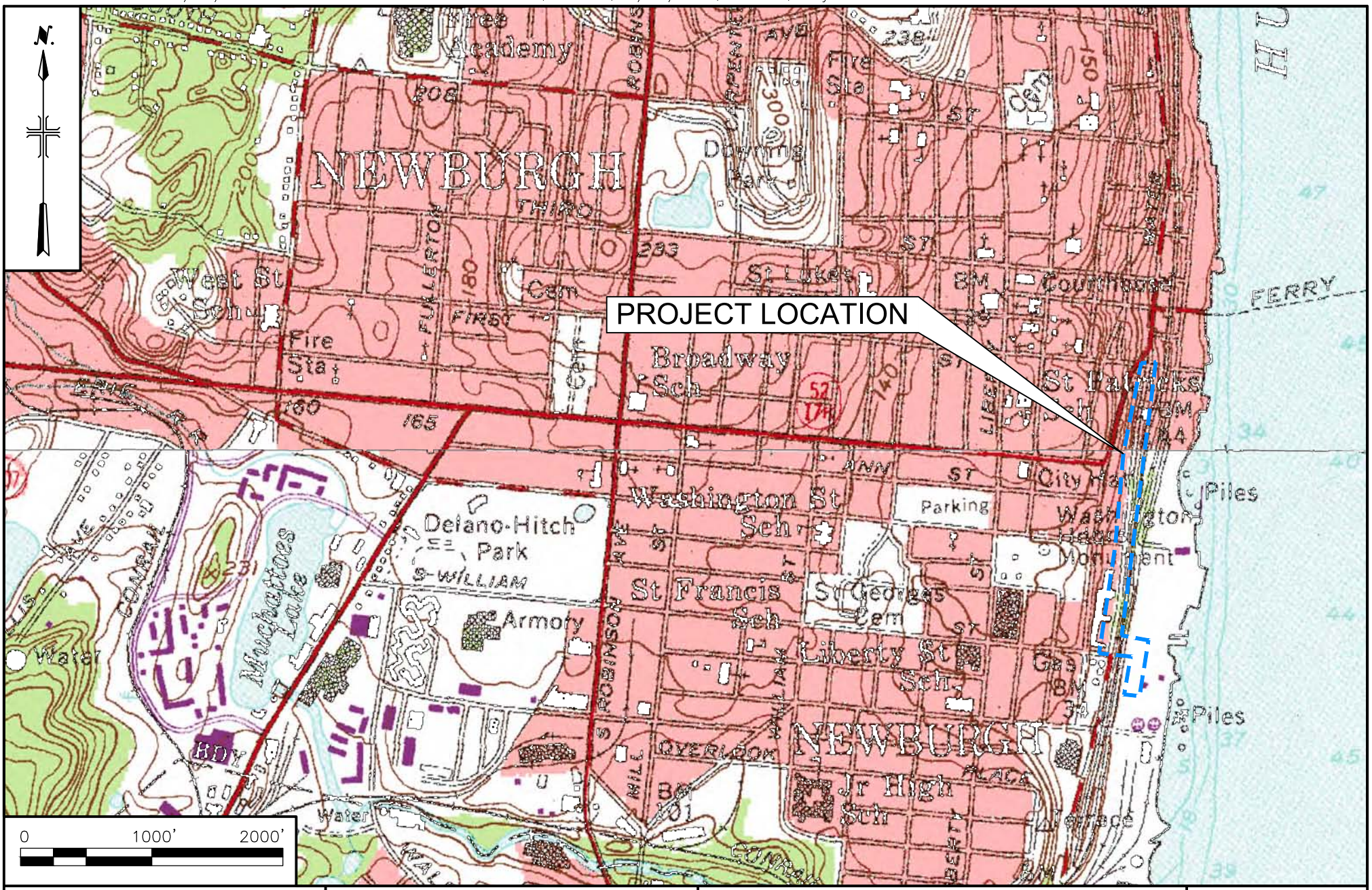

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

SOUTH WATER STREET
SEWER SEPARATION
SCALE: 1" = 1000'

MARCH 2016

FIGURE 2

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 3.DWG
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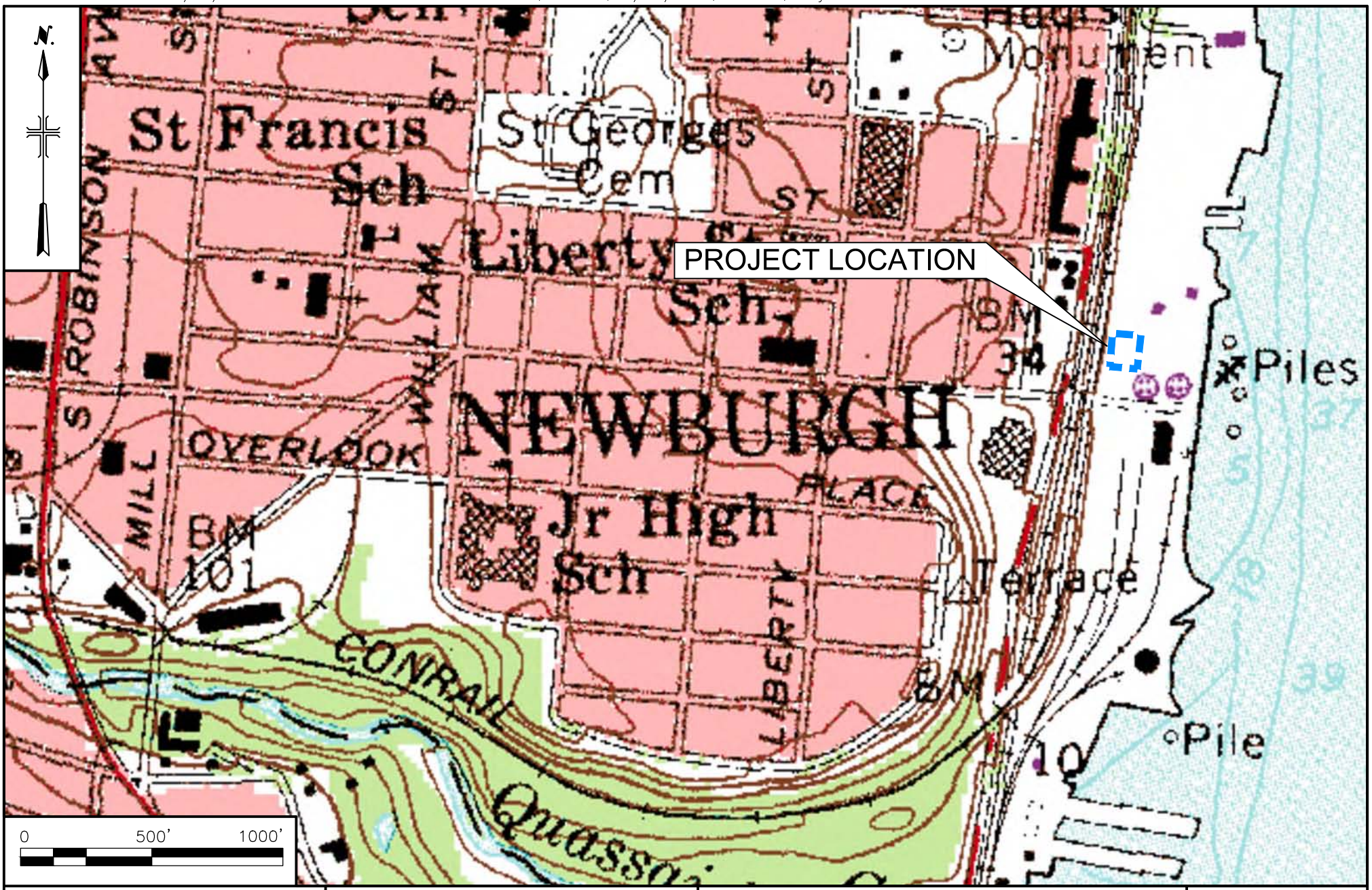

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

SCREENINGS UPGRADE AT THE WATER POLLUTION CONTROL PLANT
SCALE: 1" = 500'

MARCH 2016

FIGURE 3

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 4.DWG
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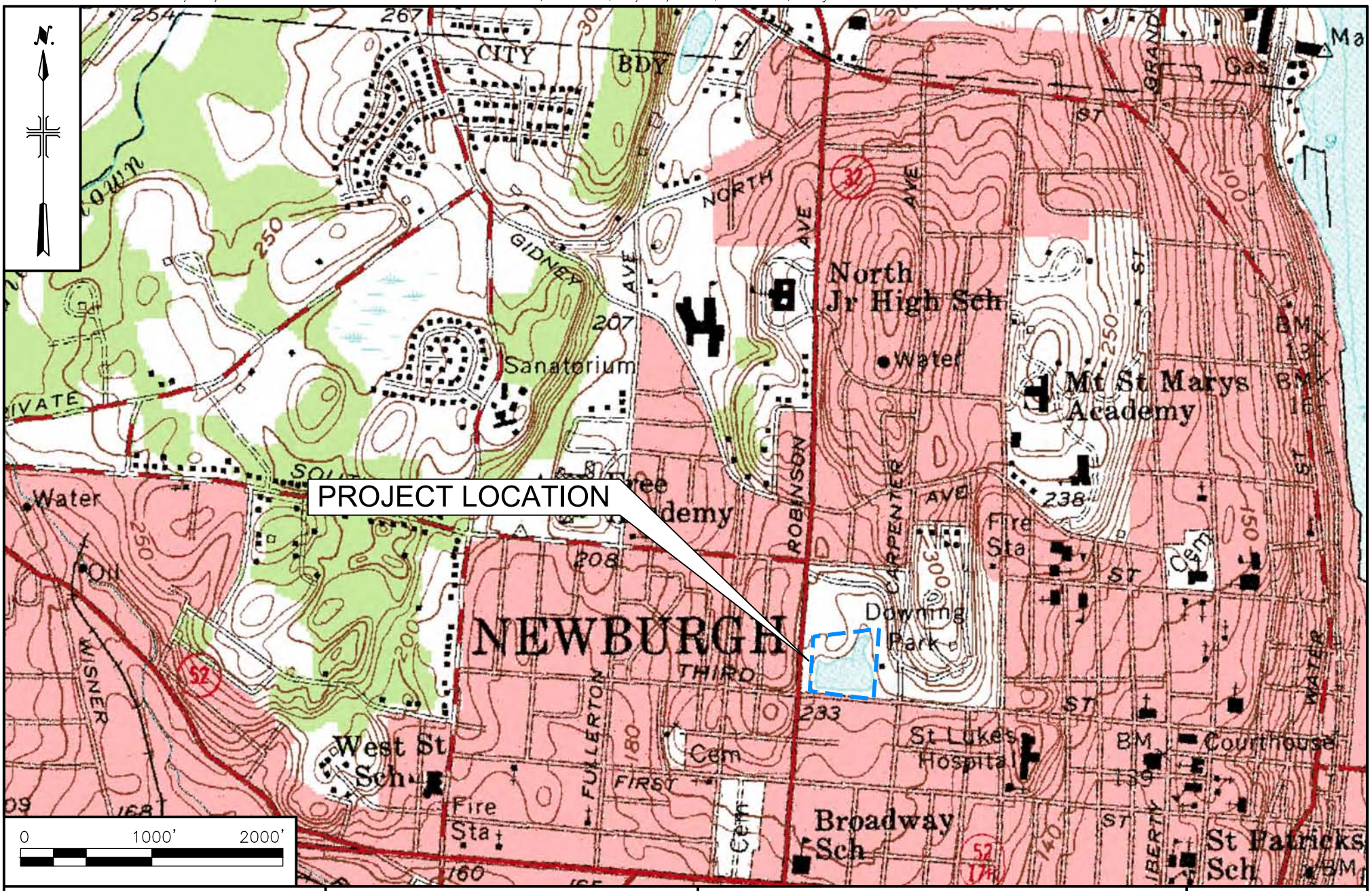

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

NEW DRAIN OUTLET
AT DOWNING POND
SCALE: 1" = 1000'

MARCH 2016

FIGURE 4

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 5.DWG
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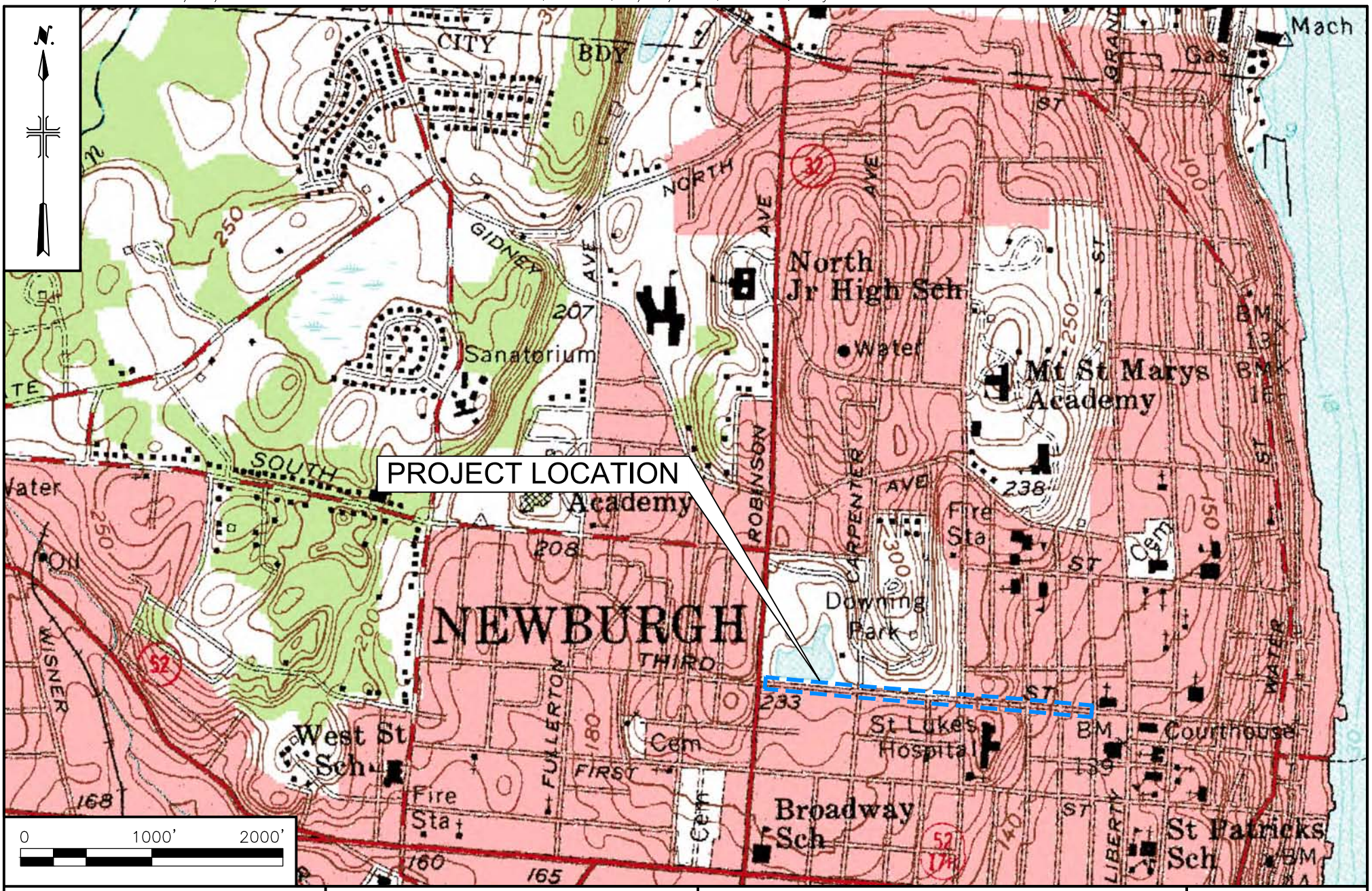

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

NEW STORM DRAIN ALONG 3RD STREET FROM DOWNING POND TO CHAMBERS STREET

SCALE: 1" = 1000'

MARCH 2016

FIGURE 5

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 6.DWG
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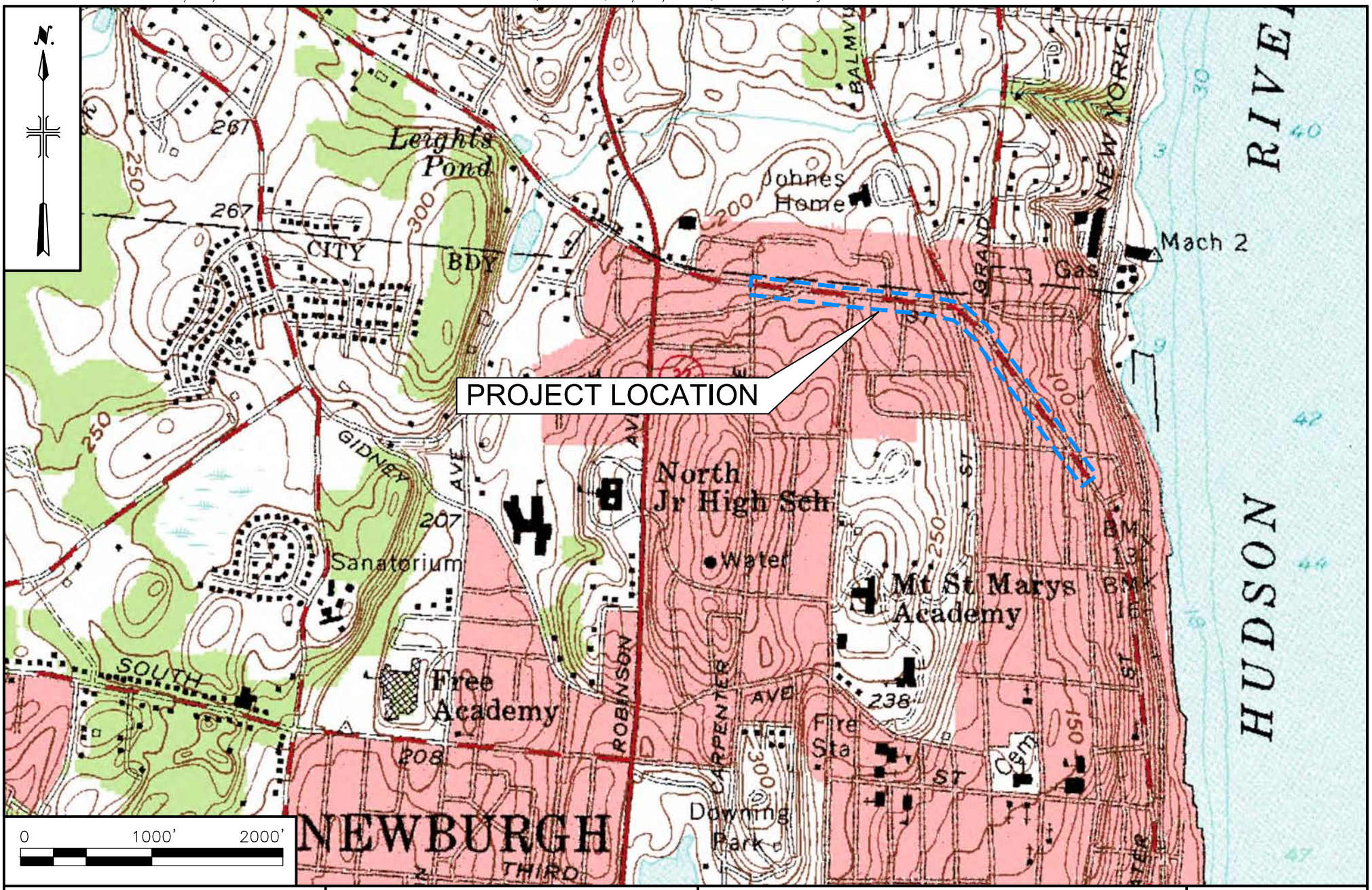

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

SEPARATION OF COMBINED SEWERS ON WATER STREET FROM CARPENTER AVE. TO MONTGOMERY ST.
SCALE: 1" = 1000'

MARCH 2016

FIGURE 6

User: LAPLANTE Spec: PIRNIE STANDARD File: G:\PROJECT\04881002\FILE\SHPO\FIG. 7.DWG
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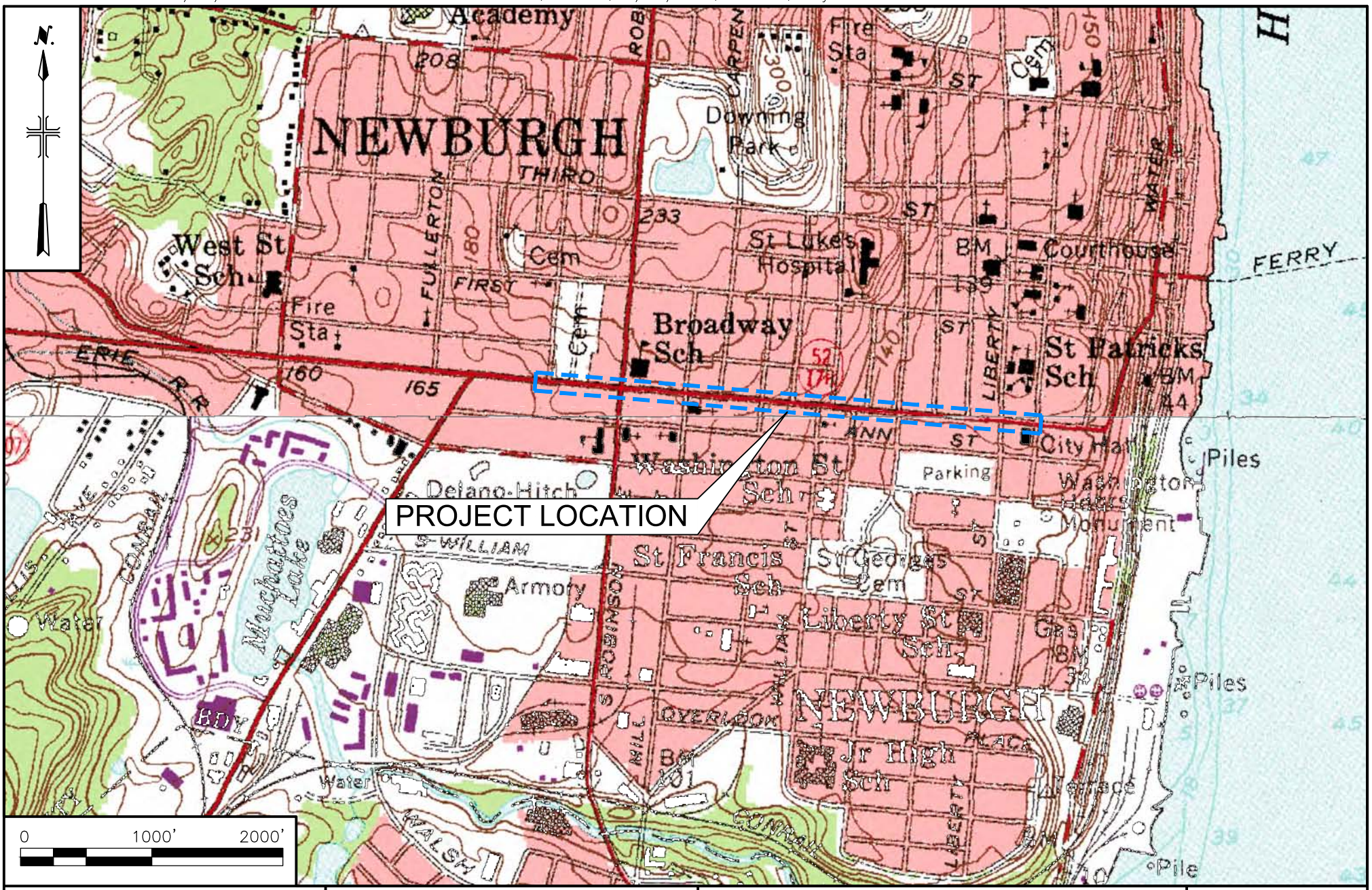

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CITY OF NEWBURGH
ORANGE COUNTY, NEW YORK
SHPO REVIEW

RECONSTRUCTION OF BROADWAY BETWEEN GRAND STREET AND DUBOIS STREET

SCALE: 1" = 1000'

MARCH 2016

FIGURE 7

Project: Regulator No. 2 Upgrades

Photo 1 – Regulator No. 2 Site

Project: South Water Street Sewer Separation

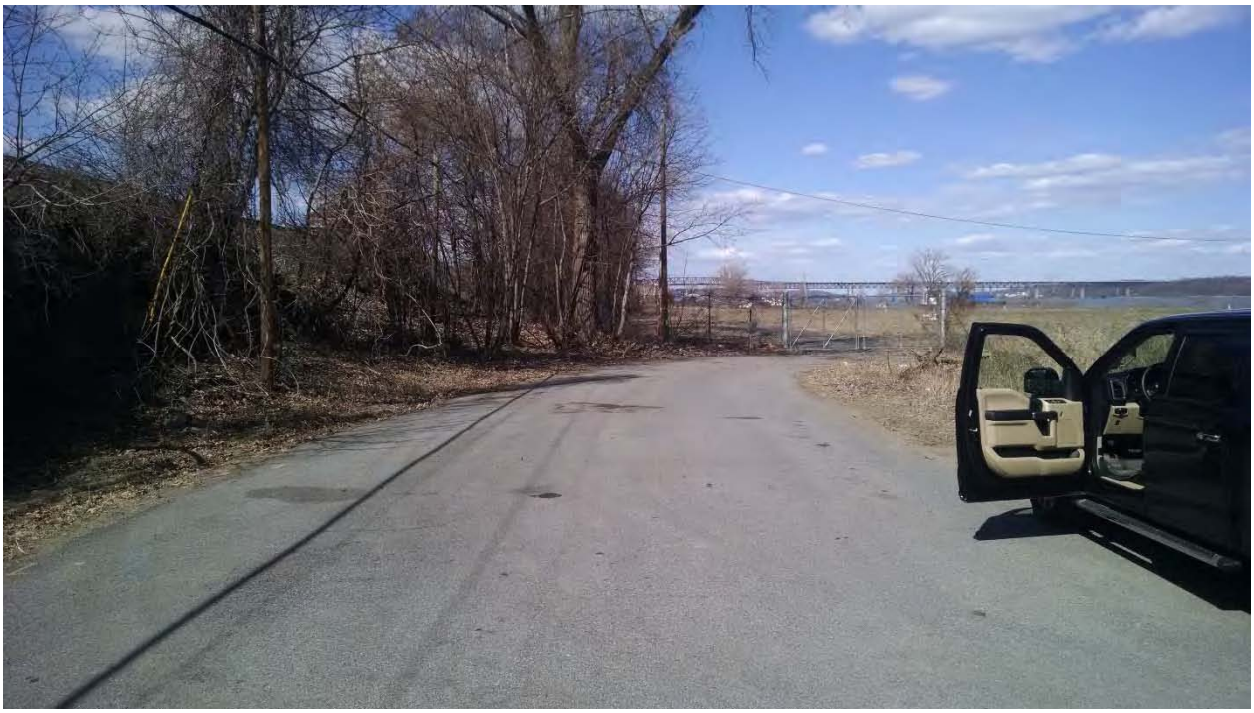

Photo 1 – River Street looking north

Photo 2 – River Street looking west

Photo 3 – South Water Street @ First Street looking north

Photo 4 – South Water Street @ First Street looking south

Photo 5 – South Water Street @ South William Street looking east

Photo 6 – South Water Street @ South William Street looking north

Photo 7 – South Water Street @ South William Street looking south

Photo 8 – South Water Street @ Washington Street looking south

Photo 9 – South Water Street @ Washington Street looking north

Project: Screenings Upgrade at the Water Pollution Control Plant

Photo 1 – East side of Screenings and Grit Removal Building

Photo 2 – South side of Screenings and Grit Removal Building

Photo 3 – West side of Screenings and Grit Removal Building

Photo 4 – Interior of Screenings and Grit Removal Building

Photo 5 – Interior of Screenings and Grit Removal Building

Project: New Drain Outlet at Downing Pond

Photo 1 – Northwest corner of Downing Pond

Photo 2 – West side of Downing Pond

Project: New Storm Drain along Third Street from Downing Pond to Chambers Street

Photo 1 – Third Street @ Carpenter Avenue looking east

Photo 2 – Third Street @ Carpenter Avenue looking west

Photo 3 – Third Street @ City Terrace looking east

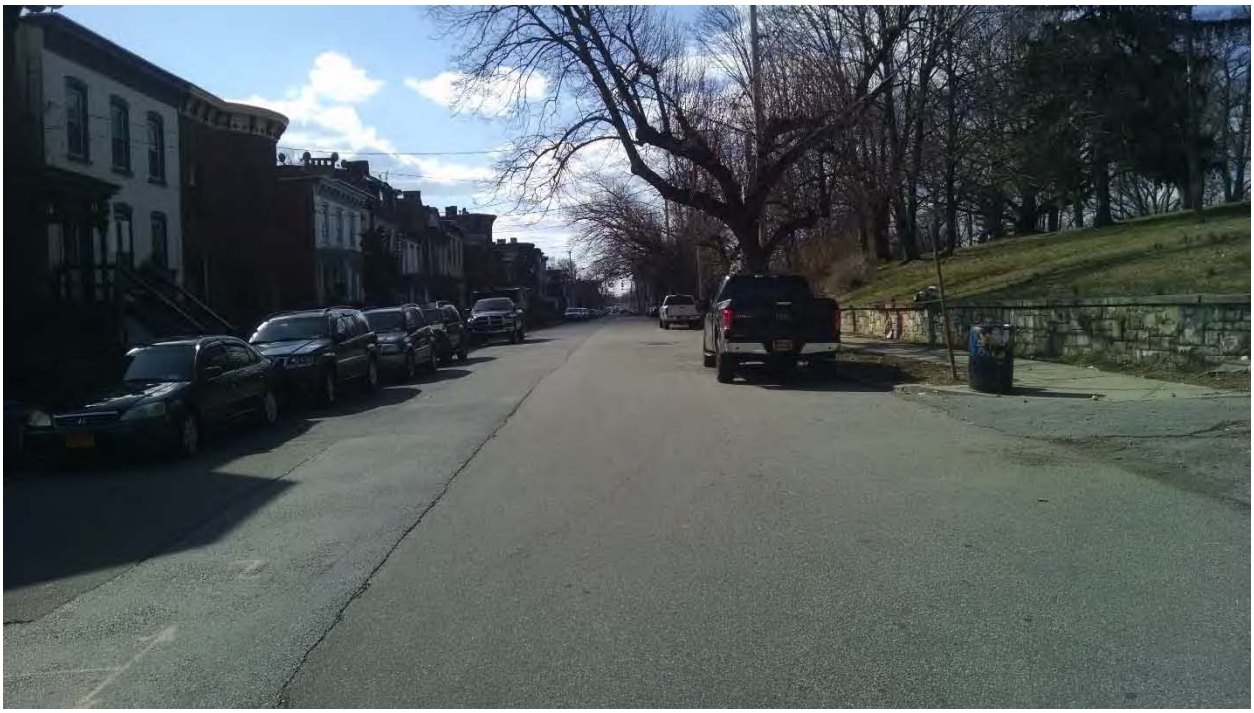

Photo 4 – Third Street @ City Terrace looking west

Photo 5 – Third Street @ Dubois Street looking east

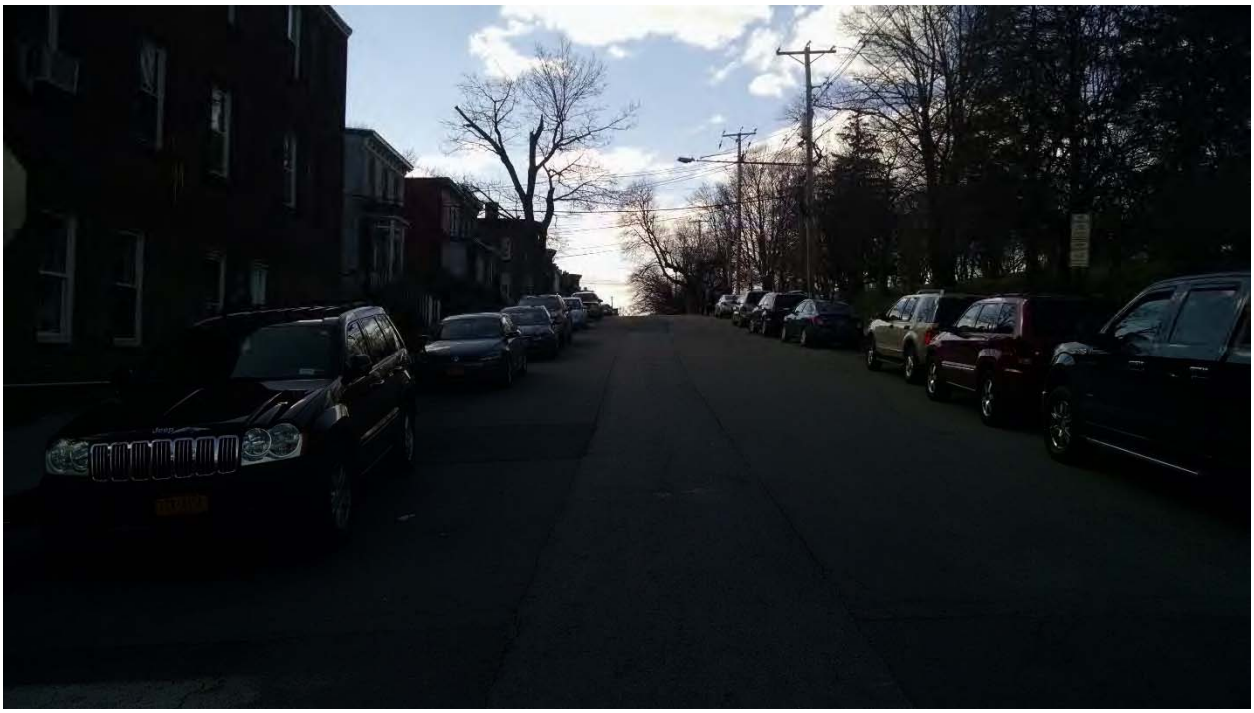

Photo 6 – Third Street @ Dubois Street looking west

Photo 7 – Third Street @ Lander Street looking east

Photo 8 – Third Street @ Lander Street looking west

Project: Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street

Photo 1 – Leroy Place @ Grand Street looking northwest

Photo 2 – Leroy Place @ Grand Street looking southeast

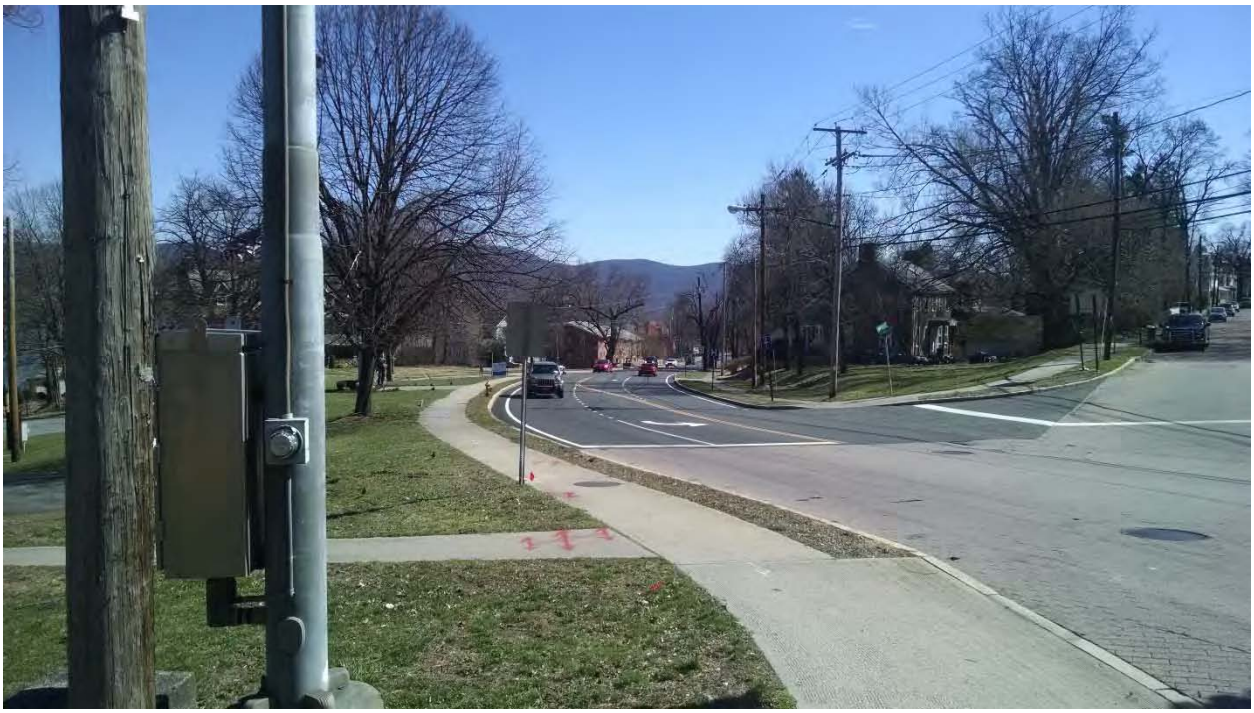

Photo 3 – Leroy Place @ Liberty Street looking east

Photo 4 – Leroy Place @ Montgomery Street looking northwest

Photo 5 – Plank Road @ Carpenter Avenue looking east

Project: Reconstruction of Broadway between Grand Street and Dubois Street

Photo 1 – Broadway @ Liberty Street looking east

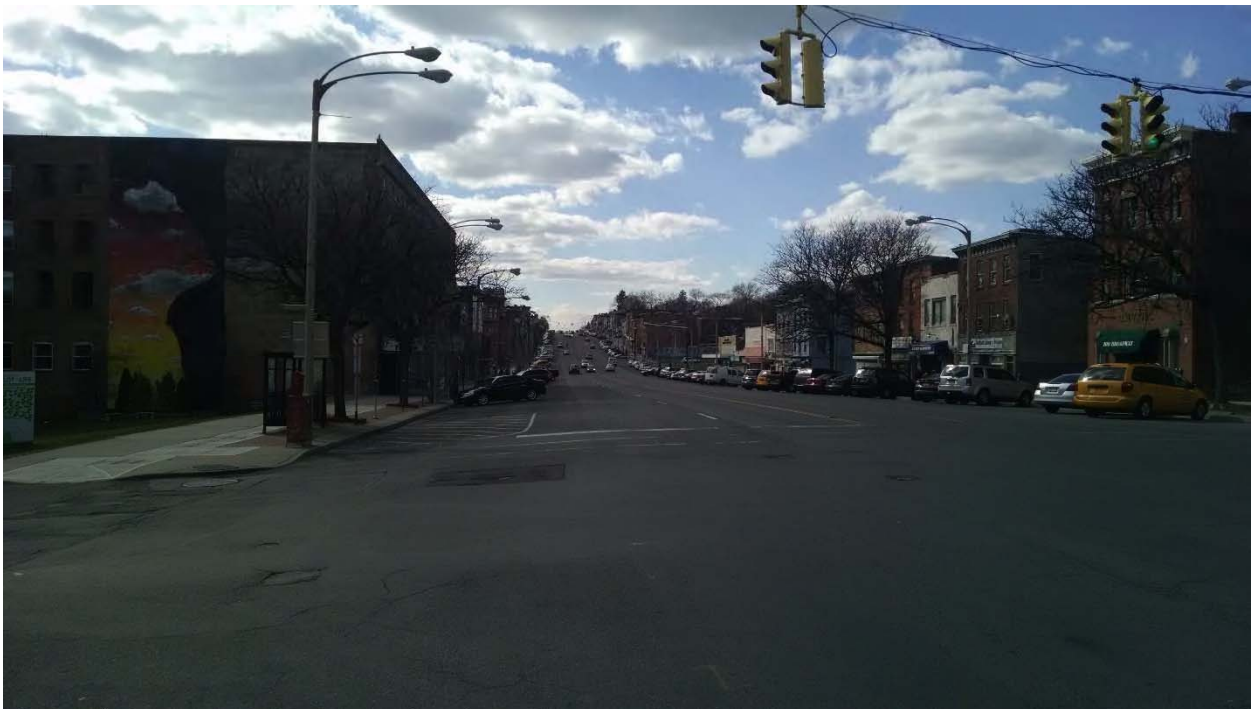

Photo 2 – Broadway @ Liberty Street looking west

Photo 3 – Broadway @ Robinson Avenue looking east

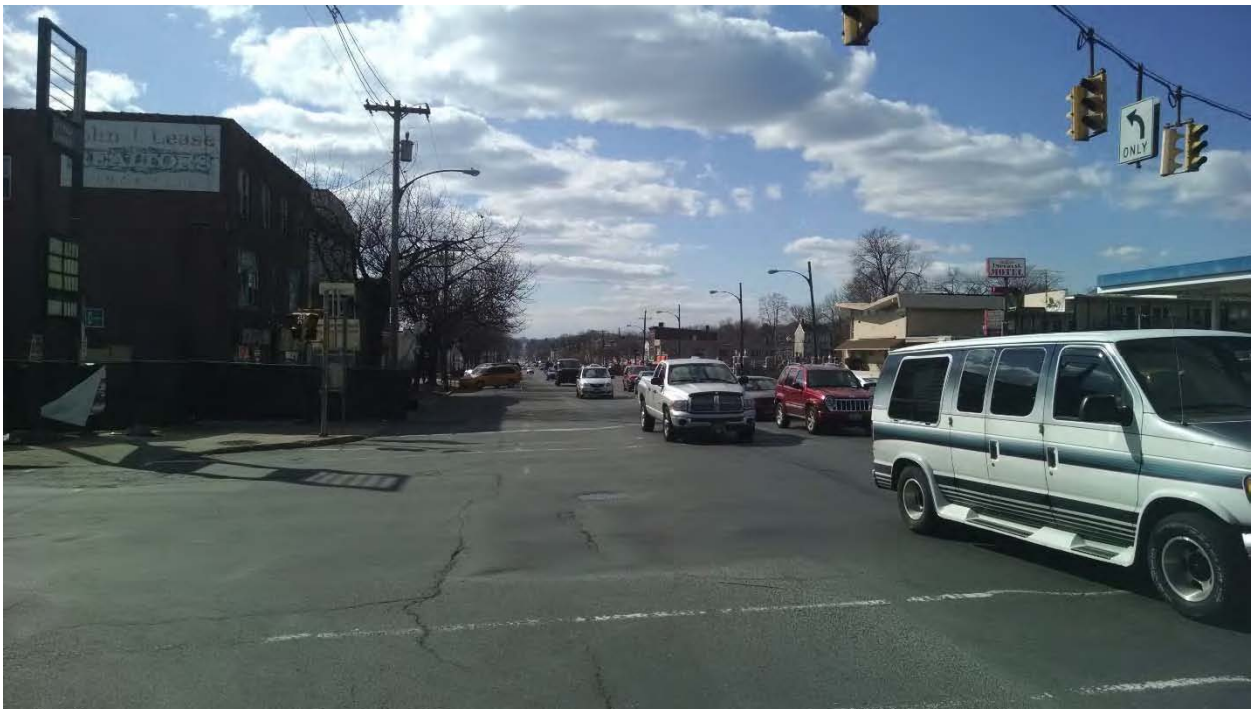

Photo 4 – Broadway @ Robinson Avenue looking west

Photo 5 – Broadway @ William Street looking east

Photo 6 – Broadway @ William Street looking west

RESOLUTION NO.: 83 - 2016

OF

APRIL 11, 2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) FOR PHASE I THROUGH IV PROJECTS OF THE LONG TERM CONTROL PLAN, DECLARING THE PROJECTS TO BE TYPE II ACTIONS, FINDING NO SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL SEQRA DOCUMENTS

WHEREAS, by Resolution No. 219-2011 of October 24, 2011, the City Council of the City of Newburgh, New York authorized the City Manager to execute an Order on Consent with the New York State Department of Environmental Conservation ("NYS DEC") to resolve violations at the Wastewater Treatment Plant and for the development of the CSO Long Term Control Plan ("LTCP"); and

WHEREAS, the City has submitted its Phase 1 LTCP, the requirements for which will be deemed satisfied upon the approval of the NYS DEC and by Resolution No. 303-2015 of November 23, 2015, the City Council of the City of Newburgh authorized the City Manager to execute a Modification Order on Consent approving a Schedule of Compliance for Phase I through V of the LTCP; and

WHEREAS, the City of Newburgh proposes undertake the financing of the planning, engineering and construction costs for Phases I through IV as listed in the Modification Order on Consent LTCP Schedule of Compliance (the "LTCP Projects") through an application to the Environmental Facilities Corporation's Water Infrastructure Improvement Act Grant Program, as follows:

1. Design and construction of Regulator No. 2 upgrades;
2. Design and construction of South Water Street Sewer Separation;
3. Design and construction of Wastewater Pollution Control Plant screenings upgrade;
4. Design and construction of new drain outlet at Downing Pond;
5. Design and construction of a new storm drain along Third Street from Downing Pond to Chambers Street;
6. Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street;
7. Reconstruction of Broadway between Grand Street and Dubois Street;
8. Design only of North Interceptor Improvements; and
9. Design only of High Rate Disinfection at Water Pollution Control Plant; and

WHEREAS, the City of Newburgh intends to adopt a bond resolution necessary to apply for grant and loan financing of these LTCP Projects; and

WHEREAS, the City desires to comply with the New York State Environmental Quality Review Act ("SEQRA") and the regulations contained within 6 NYCRR Part 617 (the "Regulations") with respect to these LTCP Projects; and

WHEREAS, under Section 617.5(c)(29) of the SEQRA Regulations, the LTCP Projects are defined as a Type II Action pursuant to the Modification Order on Consent LTCP Schedule of Compliance which constitutes a civil administrative enforcement proceeding which includes particular courses of action specifically required to be undertaken, and therefore, the LTCP Projects are classified as a categorical exclusion to SEQRA, and further qualify as categorical exclusions to SEQRA as follows:

1. The design and construction of Regulator No. 2 upgrades constitutes a maintenance and repair involving no substantial changes in the existing structure under Section 617.5(c)(1) of the SEQRA Regulations;
2. The design and construction of the South Water Street Sewer Separation constitutes the extension of utility distribution facility, specifically sewer connections, to render service in approved subdivisions or in connection with any other Type II action under Section 617.5(c)(11) of the SEQRA;
3. Design and construction of Wastewater Pollution Control Plant screenings upgrade constitute the replacement, rehabilitation or reconstruction of a facility in kind at the same site under Section 617.5(c)(2) of the SEQRA Regulations;
4. Design and construction of new drain outlet at Downing Pond constitutes the replacement, rehabilitation or reconstruction of a facility in kind at the same site under Sections 617.5(c)(2) of the SEQRA Regulations;
5. Design and construction of a new storm drain along Third Street from Downing Pond to Chambers Street constitute the replacement, rehabilitation or reconstruction of a facility in kind at the same site under Section 617.5(c)(2) of the SEQRA Regulations;
6. Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street constitutes the replacement, rehabilitation or reconstruction of a facility in kind at the same site under Sections 617.5(c)(2) of the SEQRA Regulations;
7. Reconstruction of Broadway between Grand Street and Dubois Street constitute a maintenance and repair involving no substantial changes in the existing structure under Section 617.5(c)(1) of the SEQRA Regulations;
8. Design only of North Interceptor Improvements constitutes engineering and preliminary planning processes necessary to the formulation of a proposal for action that does not commit the City to commence, engage or approve such action under Section 617.5(c)(21) of the SEQRA Regulations;
9. Design only of High Rate Disinfection at Water Pollution Control Plant engineering and preliminary planning processes necessary to the formulation of a proposal for action that does not commit the City to commence, engage or approve such action under Section 617.5(c)(21) of the SEQRA Regulations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the capital improvement projects listed in this resolution constitute "Type II", as the quoted term is defined in the SEQRA Regulations and that no further review for SEQRA purposes is required; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to sign and file any/and all other documents that may be necessary in connection with this SEQRA classification of the capital improvement projects listed in this resolution.

Mr. Jason Morris, P.E.
City Engineer
83 Broadway
Newburgh, New York 12550

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Tel 518 250 7300
Fax 518 250 7301
www.arcadis.com

Subject:
New York State Environmental Facilities Corporation
Water Infrastructure Improvement Grant Funding

Water

Date:
March 29, 2016

Contact:
Robert Ostapczuk

Phone:
518-250-7300

Email:
robert.ostapczuk
@arcadis.com

Our ref:
60004881.0000

Dear Mr. Morris:

In accordance with the requirements of the New York State Environmental Facilities Corporation (NYS EFC) Water Infrastructure Improvements Grant Application, the City of Newburgh needs to complete the following two activities prior to the April 15, 2016 application deadline:

- Provide a certified bond resolution by the City Council in the total amount of the projects shown herein authorizing the issuance of debt for the project, and;
- Provide an environmental review determination in accordance with the State Environmental Review Process (SERP) and the State Environmental Quality Review Act (SEQR). In our opinion the improvement of existing combined sewers and planning and engineer for future projects may be considered Type II actions.

Based on the planning level budgets prepared during the development of the LTCP the City is required, by Order on Consent, to complete $12.5M in for planning, engineering and construction costs for Phases I through IV. Please note that the work proposed herein for Phases III and IV are only for planning and engineering and not construction at this time. Arcadis suggests that the City authorize bonding for a total of $12.5M through the NYS EFC. Based on the grant funding program requirements, we believe that the City is eligible for both 0% hardship financing and 25% principal forgiveness (or $3.125M in grants) resulting in a total loan of $9.375M. This is a limit opportunity to leverage significant grant funding towards the implementation of the LTCP through the NYS EFC, reducing the impacts to rate payers.

If you have any questions, please do not hesitate to call me so that I may be of further assistance.

Sincerely,

Arcadis of New York, Inc.

Robert Ostapczuk, P.E., BCEE

Associate Vice President

Copies:

J. Aber, City of Newburgh

City of Newburgh CSO LTCP
Schedule of Compliance

Project Name	Project Milestones/Deadlines
Phase I	
Institutional Changes to Promote Green Infrastructure	Project Start Date: 1/1/16 Project End Date: 12/31/20
Regulator No. 2 Upgrades	Completed Planning Phase: 9/2/16 Completed Plans and Specifications: 9/1/17 NTP for Construction: 3/1/18 Construction Completion Date: 3/1/19 Operational Startup Date: 3/1/19
Phase II	
Liberty and Grant Street Sewer Separation	Completed Planning Phase: 6/6/16 Completed Plans and Specifications: 6/5/17 NTP for Construction: 12/1/17 Construction Completion Date: 12/1/18 Operational Startup Date: 12/1/18
South Water Street Sewer Separation	Completed Planning Phase: 6/6/16 Completed Plans and Specifications: 6/5/17 NTP for Construction: 9/5/17 Construction Completion Date: 10/5/18 Operational Startup Date: 10/5/18
Screenings Upgrade at WPCP	Completed Planning Phase: 11/30/18 Completed Plans and Specifications: 9/2/19 NTP for Construction: 3/2/20 Construction Completion Date: 3/31/21 Operational Startup Date: 3/31/21
New Drain Outlet at Downing Pond	Completed Planning Phase: 1/2/20 Completed Plans and Specifications: 1/3/21 NTP for Construction: 5/3/21 Construction Completion Date: 2/2/22 Operational Startup Date: 2/2/22
New Storm Drain along 3rd Street from Downing Pond to Chambers Street	Completed Planning Phase: 9/2/20 Completed Plans and Specifications: 9/3/21 NTP for Construction: 2/3/22 Construction Completion Date: 12/2/22 Operational Startup Date: 12/2/22
Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street	Completed Planning Phase: 8/1/20 Completed Plans and Specifications: 5/6/21 NTP for Construction: 11/6/21 Construction Completion Date: 11/25/22 Operational Startup Date: 11/25/22
Reconstruction of Broadway between Grand Street and Dubois Street	Completed Planning Phase: 4/1/20 Completed Plans and Specifications: 4/1/21

City of Newburgh CSO LTCP
Schedule of Compliance

Project Name	Project Milestones/Deadlines
	NTP for Construction: 7/1/21 Construction Completion Date: 12/30/22 Operational Startup Date: 12/30/22
Separation of Combined Sewers on North Street from Fullerton Avenue to Robinson Avenue	Completed Planning Phase: 9/4/22 Completed Plans and Specifications: 9/7/23 NTP for Construction: 2/7/24 Construction Completion Date: 12/20/24 Operational Startup Date: 12/20/24
Reconstruction of Liberty Street from Renwick Street to Broadway & Renwick Street from Montgomery Street to S. Colden Street	Completed Planning Phase: 5/31/23 Completed Plans and Specifications: 5/2/24 NTP for Construction: 11/2/24 Construction Completion Date: 12/31/25 Operational Startup Date: 12/31/25
Phase III	
North Interceptor Improvements	Completed Planning Phase: 5/1/20 Completed Plans and Specifications: 11/4/21 NTP for Construction: 4/4/22 Construction Completion Date: 4/2/24 Operational Startup Date: 4/2/24
Phase IV	
Disinfection at WPCP	Completed Planning Phase: 11/1/21 Completed Plans and Specifications: 10/4/22 NTP for Construction: 4/4/23 Construction Completion Date: 1/6/25 Operational Startup Date: 1/6/25
Phase V	
South Interceptor Improvements	Completed Planning Phase: 1/3/28 Completed Plans and Specifications: 10/3/28 NTP for Construction: 4/3/29 Construction Completion Date: 12/31/30 Operational Startup Date: 12/31/30

617.5(c)(29)

"civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;"

Examples of law enforcement actions exempt from SEQR include:

- local enforcement of zoning code violations,
- replacement of pollution control equipment with better technology pursuant to administrative or judicial order,
- closure of landfills pursuant to administrative or judicial order,
- remediation of wetland violations or hazardous waste sites under administrative or judicial order; and
- construction of a new water filtration plant, as ordered by an "administrative tribunal", because the old one was failing. Because the action was to be undertaken to satisfy the mandate specified by an administrative determination issued by an agency, the town had no discretion as far as initiating the construction, and so that element of the project can be classified as Type II. However, if the order does not explicitly specify the location of the new plant, then that siting decision may still be subject to SEQR.

When such court or administrative orders are explicit with regard to a component of this activity, the action is entirely exempt from SEQR. If, however, the orders have left some discretion as to the methods of implementing the order, those discretionary aspects of the action may still be subject to SEQR review. For example:

- A respondent was found to have an illegal dump of construction debris. If he is merely ordered to apply for a permit to construct a disposal site, but DEC is not ordered to approve the application, SEQR would apply.
- A developer has begun construction on a subdivision, and his crew bulldozes a 15 acre wetland and small pond. A DEC Environmental Conservation Police Officer catches the crew in the process of this destruction, stops the work and gives the developer a summons. The developer and DEC enforcement attorneys agree to settle the case civilly rather than criminally. In addition to paying a fine, the developer is mandated to obtain a DEC wetlands permit before he proceeds with any work for his subdivision. He is also required to reestablish the wetland and pond that he destroyed. Again, SEQR would apply to the actions covered by the wetlands permit application. However, the restoration of the wetland to its former state would be a Type II action because it was directly required by the terms of the settlement.

EXTRACT OF MINUTES

Meeting of the City Council of the

City of Newburgh, in the

County of Orange, New York

April 11, 2016

* * *

A regular meeting of the City Council of the City of Newburgh, in the County of Orange, New York, was held at the City Hall, Newburgh, New York, on April 11, 2016, at _____ o'clock P.M. (Prevailing Time).

There were present: Hon. Judy Kennedy, Mayor; and

Councilpersons:

There were absent:

Also present: Lorene Vitek, City Clerk

* * *

_____ offered the following resolution and moved its adoption:

RESOLUTION NO. 84 - 2016

OF

APRIL 11, 2016

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED APRIL 11, 2016, AUTHORIZING A FURTHER PORTION OF THE PHASE I THROUGH V LONG TERM CONTROL PLAN SEWER IMPROVEMENTS PROJECT IN THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS $12,500,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $12,500,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. Based upon the review of this action by the City Engineer of the City of Newburgh, in the County of Orange, New York (herein called the "City"), the City Council has determined by Resolution No. ____ - 2016 that the objects or purposes authorized to be financed pursuant to this resolution constitute Type II Actions pursuant to the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) ("SEQRA") and require no further proceedings under SEQRA.

Section 2. The City of Newburgh, in the County of Orange, New York (herein called the "City"), is hereby authorized to finance the cost of a further portion of the Phase I through V Long Term Control Plan comprising sewer system improvements as follows: (i) Phase I Regulator No. 2 Upgrades, (ii) Phase II South Water Street Sewer Separation, Screenings Upgrade at the Water Pollution Control Plant, New Drain Outlet at Downing Pond, New Storm Drain along 3rd Street from Downing Pond to Chambers Street, Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street, and Reconstruction of Broadway Sewer and Stormsewers between Grand Street and Dubois Street; (iii) Phase III design of North Interceptor Improvements; and (iv) Phase IV design of Disinfection at the Water Pollution Control Plant; all in accordance with Resolution 303-2015 adopted by the City Council on November 23, 2015 and as referenced in the Schedule of Compliance attached to New York State Department of Environmental Conservation Modification Order on Consent Case No. R3-20110107-17, dated January 5, 2016. The estimated maximum cost of said object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is $12,500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of not to exceed $12,500,000 bonds of the City to finance said appropriation and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable, with the expectation that any grant funds received by the City from the New York State Environmental Facilities Corporation shall be used to pay a part of the cost of the project or to pay debt service on bonds or notes issued to finance the project or shall be budgeted as an offset to such taxes to be levied and collected.

Section 2. Bonds of the City in the aggregate principal amount of $12,500,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance the appropriation referred to herein.

Section 3. The period of probable usefulness of the specific object or purpose for which said $12,500,000 bonds herein authorized are to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) years.

Section 4. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose or purposes for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller/Director of Finance, the chief fiscal officer of the City.

Section 7. Pursuant to the provisions of section 16 of Chapter 223 of the New York Laws of 2010, the City is authorized to include in this resolution the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 16:

"The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the city during the effective period of this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the city to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged."

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution or a summary hereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 9. This Bond Resolution shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in *"The Sentinel," "The Mid Hudson Times,"* and *"The Hudson Valley Press,"* three newspapers each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

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

AYES:

NOES:

The resolution was declared adopted.

****

CERTIFICATE

I, LORENE VITEK, City Clerk of the City of Newburgh, in the County of Orange, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the City Council of said City of Newburgh duly called and held on April 11, 2016, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said City Council and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Newburgh this _____ day of April, 2016.

(SEAL)

_____
City Clerk

(THE FOLLOWING NOTICE IS TO BE ATTACHED TO AND
TO BE PUBLISHED
WITH SUMMARY OF RESOLUTION AFTER ADOPTION)

NOTICE

The resolution, summary of which is published herewith, has been adopted on April 11, 2016, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the CITY OF NEWBURGH, in the County of Orange, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

LORENE VITEK
City Clerk

RESOLUTION NO. _____ OF 2016

BOND RESOLUTION DATED APRIL 11, 2016

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED APRIL 11, 2016, AUTHORIZING A FURTHER PORTION OF THE PHASE I THROUGH V LONG TERM CONTROL PLAN SEWER IMPROVEMENTS PROJECT IN THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS $12,500,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $12,500,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

object or purpose: to finance the cost of a further portion of the Phase I through V Long Term Control Plan comprising sewer system improvements as follows: (i) Phase I Regulator No. 2 Upgrades, (ii) Phase II South Water Street Sewer Separation, Screenings Upgrade at the Water Pollution Control Plant, New Drain Outlet at Downing Pond, New Storm Drain along 3rd Street from Downing Pond to Chambers Street, Separation of Combined Sewers on Water Street from Carpenter Avenue to Montgomery Street, and Reconstruction of Broadway Sewer and Stormsewers between Grand Street and Dubois Street; (iii) Phase III design of North Interceptor Improvements; and (iv) Phase IV design of Disinfection at the Water Pollution Control Plant; all in accordance with Resolution 303-2015 adopted by the City Council on November 23, 2015 and as referenced in the Schedule of Compliance attached to New York State Department of Environmental Conservation Modification Order on Consent Case No. R3-20110107-17, dated January 5, 2016, at the estimated maximum cost of $12,500,000

period of probable usefulness: forty (40) years

amount of obligations to be issued: not to exceed $12,500,000

A complete copy of the Bond Resolution summarized above shall be available for public inspection during normal business hours at the office of the City Clerk, in Newburgh, New York.

Dated: April 11, 2016
Newburgh, New York

Environmental Facilities Corporation

The New York State Water Infrastructure Improvement Act of 2015 provided $200 million in grant funding over three state fiscal years, including $75 milli wastewater and drinking water infrastructure projects that improve water quality and protect public health.

If additional funds are appropriated in the enacted 2016-17 state budget, additional grant funding will be available for this round.

Complete applications must be submitted to **NYSWaterGrants@efc.ny.gov** no later than the close of business on Friday, April 15, 2016.

For inquiries on the grant program, please email **NYSWaterGrants@efc.ny.gov**.

A second webinar was held on March 15, 2016 to provide an overview of the grant criteria and application process for Round 2 of funding.

NYS Water Grants Webinar Slides (March 15, 2016)

Clean Water Useful Links

- **NYS Water Grants Summary - Clean Water**
- **NYS Water Grants Application Form - Clean Water**
- **NYS Water Grants Application Instructions - Clean Water**
- **NYS Water Grants - Frequently Asked Questions**
- **CWSRF Hardship Financing Policy**
- **CWSRF Intended Use Plan**
- **CWSRF Project Listing Form (PLUS)**
- **CWSRF Financing Application**
- **MWBE Construction Bid Packet** and **MWBE Non-Construction Bid Packet**
- **Smart Growth Assessment Form**
- **American Iron and Steel Requirements**
- **Davis Bacon Requirements**

Drinking Water Useful Links

- **NYS Water Grants Summary - Drinking Water**
- **NYS Water Grants Application Form - Drinkin**
- **NYS Water Grants Application Instructions - I**
- **NYS Water Grants - Frequently Asked Questi**
- **DWSRF Hardship Financing Policy**
- **DWSRF Intended Use Plan**
- **DWSRF Project Listing Form**
- **DWSRF Financing Application**
- **MWBE Construction Bid Packet** *and* **MWBE**
- **Smart Growth Assessment Form**
- **American Iron and Steel Requirements**
- **Davis Bacon Requirements**

NYS Water Grants Drop Box

Environmental Facilities Corporation

Mr. Jason Morris, P.E.
City Engineer
83 Broadway
Newburgh, New York 12550

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Tel 518 250 7300
Fax 518 250 7301
www.arcadis.com

Subject:
New York State Environmental Facilities Corporation
Water Infrastructure Improvement Grant Funding

Water

Date:
March 29, 2016

Contact:
Robert Ostapczuk

Phone:
518-250-7300

Email:
robert.ostapczuk
@arcadis.com

Our ref:
60004881.0000

Dear Mr. Morris:

In accordance with the requirements of the New York State Environmental Facilities Corporation (NYS EFC) Water Infrastructure Improvements Grant Application, the City of Newburgh needs to complete the following two activities prior to the April 15, 2016 application deadline:

- Provide a certified bond resolution by the City Council in the total amount of the projects shown herein authorizing the issuance of debt for the project, and;
- Provide an environmental review determination in accordance with the State Environmental Review Process (SERP) and the State Environmental Quality Review Act (SEQR). In our opinion the improvement of existing combined sewers and planning and engineer for future projects may be considered Type II actions.

Based on the planning level budgets prepared during the development of the LTCP the City is required, by Order on Consent, to complete $12.5M in for planning, engineering and construction costs for Phases I through IV. Please note that the work proposed herein for Phases III and IV are only for planning and engineering and not construction at this time. Arcadis suggests that the City authorize bonding for a total of $12.5M through the NYS EFC. Based on the grant funding program requirements, we believe that the City is eligible for both 0% hardship financing and 25% principal forgiveness (or $3.125M in grants) resulting in a total loan of $9.375M. This is a limit opportunity to leverage significant grant funding towards the implementation of the LTCP through the NYS EFC, reducing the impacts to rate payers.

If you have any questions, please do not hesitate to call me so that I may be of further assistance.

Sincerely,

Arcadis of New York, Inc.

Robert Ostapczuk, P.E., BCEE

Associate Vice President

Copies:

J. Aber, City of Newburgh

EXTRACT OF MINUTES

Meeting of the City Council of the

City of Newburgh, in the

County of Orange, New York

April 11, 2016

* * *

A regular meeting of the City Council of the City of Newburgh, in the County of Orange, New York, was held at the City Hall, Newburgh, New York, on April 11, 2016, at _____ o'clock P.M. (Prevailing Time).

There were present: Hon. Judy Kennedy, Mayor; and

Councilpersons:

There were absent:

Also present: Lorene Vitek, City Clerk

* * *

_____ offered the following resolution and moved its adoption:

RESOLUTION NO. 85 -2016

OF

APRIL 11, 2016

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED APRIL 11, 2016, AUTHORIZING DEMOLITION AND REMEDIATION OF VARIOUS BUILDINGS IN THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS $500,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $500,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. The City of Newburgh, in the County of Orange, New York (herein called the "City"), is hereby authorized to finance the cost of demolition and remediation of various buildings in the City which pose a significant threat to public health or safety, at the estimated maximum cost of $500,000. The estimated maximum cost of said objects or purposes, including preliminary costs and costs incidental thereto and to the financing thereof, is $500,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of not to exceed $500,000 bonds of the City to finance said appropriation, and the levy and

collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the aggregate principal amount of $500,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance the appropriation referred to herein.

Section 3. The period of probable usefulness of the objects or purposes for which said $500,000 bonds herein authorized are to be issued, within the limitations of Section 11.00 a. 89 of the Law, is five (5) years.

Section 4. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose or purposes for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and

redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller/Director of Finance, the chief fiscal officer of the City.

Section 7. Pursuant to the provisions of section 16 of Chapter 223 of the New York Laws of 2010, the City is authorized to include in this resolution the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 16:

"The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the city during the effective period of this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the city to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and

expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged."

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of such resolution or a summary hereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the constitution.

Section 9. This Bond Resolution shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing resolution, in summary, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in *"The Sentinel," "The Mid Hudson Times,"* and *"The Hudson Valley Press,"* three newspapers each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

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

AYES:

NOES:

The resolution was declared adopted.

****

CERTIFICATE

I, LORENE VITEK, City Clerk of the City of Newburgh, in the County of Orange, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the City Council of said City of Newburgh duly called and held on April 11, 2016, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said City Council and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Newburgh this _____ day of April, 2016.

(SEAL)

_____
City Clerk

(THE FOLLOWING NOTICE IS TO BE ATTACHED TO AND
TO BE PUBLISHED
WITH SUMMARY OF RESOLUTION AFTER ADOPTION)

NOTICE

The resolution, a summary of which is published herewith, has been adopted on April 11, 2016, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the CITY OF NEWBURGH, in the County of Orange, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

LORENE VITEK
City Clerk

RESOLUTION NO. _____ OF 2016

BOND RESOLUTION DATED APRIL 11, 2016

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED APRIL 11, 2016, AUTHORIZING DEMOLITION AND REMEDIATION OF VARIOUS BUILDINGS IN THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS $500,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $500,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

object or purpose: to finance the cost of demolition and remediation of various buildings in the City which pose a significant threat to public health or safety, at the estimated maximum cost of $500,000

period of probable usefulness: five (5) years

amount of obligations to be issued: $500,000

A complete copy of the Bond Resolution summarized above shall be available for public inspection during normal business hours at the office of the Clerk of the Common Council, in Newburgh, New York.

Dated: April 11, 2016
Newburgh, New York

RESOLUTION NO.: 86 - 2016

OF

APRIL 11, 2016

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A 60-MONTH LEASE AGREEMENT WITH DELL FINANCIAL SERVICES FOR 3 SERVERS AT A TOTAL COST OF $21,305.37

WHEREAS, the City of Newburgh wishes to replace VMware host servers which have been in service for 6 years and are at the end of their useful life with 3 new Dell PowerEdge R730XD servers; and

WHEREAS, Dell Financial Services has offered the City of Newburgh a 60-month lease agreement, a copy of which is attached hereto, at a total cost of $21,305.37, with a $1.00 purchase option at the end of the lease term, to provide the 3 new servers for the more efficient conduct of government business; and

WHEREAS, the funding for the equipment lease shall be derived from A.1680.0205; and

WHEREAS, this Council has reviewed and determined that entering into such lease agreement would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached 60-month lease agreement for 3 new Dell PowerEdge R730XD servers with Dell Financial Services at a total cost of $21,305.37 to provide for the more efficient conduct of government business.

RESOLUTION NO.: 87 - 2016

OF

APRIL 11, 2016

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY KNOWN AS 63 CARSON AVENUE (SECTION 45, BLOCK 7, LOT 5) AND 66 CARSON AVENUE (SECTION 45, BLOCK 6, LOT 30) AT PRIVATE SALE TO SHAYLA SELLERS AND ROBERT GRUNNAH FOR THE AMOUNT OF $20,000.00

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell 63 Carson Avenue and 66 Carson Avenue, being more accurately described as Section 45, Block 7, Lot 5 and Section 45, Block 6, Lot 30, respectively, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyers for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH,** such sums are to be paid on or before July 11, 2016, being ninety (90) days from the date of this resolution; and

Property address	Section, Block, Lot	Purchaser	Purchase Price
63 Carson Avenue	45 – 7 – 5	Shayla Sellers	$20,000.00
66 Carson Avenue	45 – 6 – 30	Robert Grunnah	

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions Sale
63 Carson Avenue, City of Newburgh (45-7-5)
66 Carson Avenue, City of Newburgh (45-6-30)

STANDARD TERMS:

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid school taxes for the tax year of 2015-2016, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2015-2016, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE**. **The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of $250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration**.
6. Notice is hereby given that the properties lie within the East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
7. Notice is hereby given that the properties are vacant and unoccupied. These parcels are being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the properties and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
8. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed

by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.

9. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
10. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
11. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office on or before July 11, 2016. *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of $250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchaser agrees that he shall <u>not</u> be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
14. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
15. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
16. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.
18. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has

no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 88 - 2016

OF

APRIL 11, 2016

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO 36-38 CHAMBER, LLC TO THE PREMISES KNOWN AS 36 CHAMBERS STREET (SECTION 30, BLOCK 5, LOT 37)

WHEREAS, on January 31, 2007, the City of Newburgh conveyed property located at 36 Chambers Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 5, Lot 37, to 36-38 Chamber, LLC ; and

WHEREAS, by Resolution No.: 45-2007 of March 26, 2007, the City Council authorized a subsequent conveyance to a Limited Partnership known as 36-38 Chamber Manager, LP; and

WHEREAS, 36-38 Chamber Manager, LP is currently in the process of selling the Limited Partnership and the buyer, by its attorney, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5 and 6 of the aforementioned deed.

RELEASE OF COVENANTS AND

RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN ($10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 36 Chambers Street, Section 30, Block 5, Lot 37 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5 and 6 in a deed dated January 31, 2007, from THE CITY OF NEWBURGH to 36-38 Chamber, LLC, recorded in the Orange County Clerk's Office on February 5, 2007 in Liber 12358 of Deeds at Page 1276 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed

Dated: _____, 2016

THE CITY OF NEWBURGH

By: _____
Michael G. Ciaravino, City Manager
Pursuant to Res. No.: _____- 2016

STATE OF NEW YORK)
)ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL G. CIARAVINO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

_____

RESOLUTION NO. 89 - 2016

OF

APRIL 11, 2016

A RESOLUTION AUTHORIZING THE EXTENSION OF TIME TO CLOSE TITLE ON THE PROPERTY LOCATED AT 205 BROADWAY (SECTION 35, BLOCK 2, LOT 19) SOLD AT PRIVATE SALE TO WEI LOU

WHEREAS, the Council of the City of Newburgh, New York, by Resolution No. 7-2016 of January 11, 2016, authorized the sale of 205 Broadway (Section 35, Block 2, Lot 19) to Wei Lou; and

WHEREAS, the purchaser is attempting to secure a standard form policy of title insurance and further legal proceedings are required to secure said title insurance; and

WHEREAS, pending the resolution of the legal proceedings, the purchaser is requesting an extension of time to close; and

WHEREAS, this Council has determined that granting the requested extension would be in the best interests of the City of Newburgh and its future development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 205 Broadway is hereby authorized until December 31, 2016.

RESOLUTION NO.: 90-2016

OF

APRIL 11, 2016

A RESOLUTION APPROVING THE CONSENT JUDGMENT AND AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI PROCEEDINGS AGAINST THE CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NOS. 6582-2011, 6155-2012, 5374-2013, 4944-2014 and 5162-2015 INVOLVING SECTION 32, BLOCK 2, LOT 1.11 (RITE AID OF NEW YORK #1302)

WHEREAS, Rite Aid of New York #1302 has commenced tax certiorari proceedings against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2011-2012, 2012-2013, 2013-2014, 2014-2015 and 2015-2016 tax assessment years bearing Orange County Index Nos. 6582-2011, 6155-2012, 5374-2013, 4944-2014 and 5162-2015; and

WHEREAS, it appears from the recommendation of the City Assessor, Joanne Majewski, and Richard B. Golden, Esq. of Burke, Miele & Golden, LLP, Special Counsel for the City of Newburgh in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the City would involve considerable expense with the attendant uncertainty of the outcome, and that settlement of the above matters as more fully set forth below is reasonable and in the best interests of the City; and

WHEREAS, Rite Aid of New York #1302 is willing to settle these proceedings without interest, costs or disbursements, in the following manner:

1- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2016-2017 as tax map number 32-2-1.11 be set at an assessed value of $1,181,484.
2- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2017-2018 as tax map number 32-2-1.11 be set at an assessed value of $1,181,484.
3- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2018-2019 as tax map number 32-2-1.11 be set at an assessed value of $1,181,484.

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above, and the attached Order and Stipulation of Settlement are hereby accepted pursuant to the provisions of the General City Law and other related laws.

BE IT FURTHER RESOLVED, that Michael G. Ciaravino, City Manager of the City of Newburgh; Joanne Majewski, Assessor of the City of Newburgh; Richard B. Golden, Esq. on behalf of Burke, Miele & Golden, LLP, and Eric D. Ossentjuk, Esq. of Catania, Mahon, Milligram & Rider, PLLC, as Special Counsel, be and they hereby are designated as the persons for the City who shall apply for such approval pursuant to the aforesaid laws.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

In the Matter of

RITE AID OF NEW YORK #1302,

ORDER

Petitioner,

-against-

THE ASSESSOR AND THE BOARD OF ASSESSMENT REVIEW OF THE CITY OF NEWBURGH AND THE CITY OF NEWBURGH, COUNTY OF ORANGE, NEW YORK,

Respondents.

Index Number
2011-6582
2012-6155
2013-5374
2014-4944
2015-5162

Petitioner, having commenced tax assessment review proceedings against Respondents pursuant to Article 7 of the Real Property Tax Law relating to City of Newburgh tax map parcel 32-2-1.11 (657 Broadway), and the parties having executed a Stipulation of Settlement providing for the voluntary settlement and discontinuance of these proceedings;

NOW, THEREFORE, based upon the terms of the Stipulation of Settlement, it is

ORDERED, that the said proceedings be and the same hereby are discontinued with prejudice, on the merits; and it is further

ORDERED, the above identified proceedings for tax assessment review for tax year 2011-12 through 2015-16, be settled based upon the terms of the Stipulation of Settlement dated _____, 2016; and it is further

ORDERED, that the balance of the terms of the Stipulation dated _____ , 2016 are incorporated by reference in this Order.

Dated: , 2016

At: Goshen, New York

ENTER:

_____
HON. CATHERINE M. BARTLETT
SUPREME COURT JUSTICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

In the Matter of

RITE AID OF NEW YORK #1302,

Petitioner,

-against-

THE ASSESSOR AND THE BOARD OF ASSESSMENT REVIEW OF THE CITY OF NEWBURGH AND THE CITY OF NEWBURGH, COUNTY OF ORANGE, NEW YORK,

Respondent.

STIPULATION OF SETTLEMENT

Index Number
2011-6582
2012-6155
2013-5374
2014-4944
2015-5162

This matter having been commenced by Notice of Petition and Petition for Review of Tax Assessment for assessment years 2011-12 through 2015-16, and the parties having reached a stipulation in settlement of these proceedings;

NOW, THEREFORE, it is hereby stipulated and agreed by and between the parties hereto and their respective attorneys that these proceedings be and hereby are settled upon the following terms and conditions:

1. The proceedings pursuant to Article 7 of the Real Property Tax Law by Petitioner against Respondents and currently pending in this Court, namely those relating to City of Newburgh tax map parcel 32-2-1.11 (657 Broadway) and bearing Orange County Index Nos. 6582-2011, 6155-2012, 5374-2013, 4944-2014, and 5162-2015 as set forth below are hereby discontinued with prejudice, on the merits.

2. The parties stipulate and agree to revised tax assessments for the referenced parcel as follows:

32-2-1.11 (643 Broadway)

Assessment Year	Original Assessment	Revised Assessment	Amount of Reduction
2011-12	$1,424,900	$1,424,900	$0
2012-13	$1,424,900	$1,424,900	$0
2013-14	$1,424,900	$1,424,900	$0
2014-15	$1,424,900	$1,424,900	$0
2015-16	$1,424,900	$1,424,900	$0
2016-17	$1,424,900	$1,332,400	$92,500
2017-18	-	$1,332,400	-
2018-19	-	$1,332,400	-

3. These revised and corrected assessments shall be administered in accordance with the provisions of Section 726 and 727 of the Real Property Tax Law.

_____
Michael G. Ciaravino
City Manager
Dated:

_____
STEVEN E. NAGENGAST, ESQ.
Janata, LaCap & Associates, PC
Attorney for the Petitioner
Dated:

_____
Joanne Majewski
Assessor
Dated:

_____
RICHARD B. GOLDEN, ESQ.
Burke, Miele & Golden, LLP
Attorney for Respondents (2011, 2012, 2013)
Dated:

_____
ERIC D. OSSENTJUK, ESQ.
Catania, Mahon, Milligram & Rider, PLLC
Attorney for Respondents (2014, 2015)
Dated:

RESOLUTION NO. ___91_____ - 2016

OF

APRIL 11, 2016

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF SUSAN WHITFIELD AGAINST THE CITY OF NEWBURGH IN THE AMOUNT OF $225,000.00

WHEREAS, Susan Whitfield brought a claim against the City of Newburgh; and

WHEREAS, the parties reached an agreement for the payment of the settlement of the claim in the amount of Two Hundred Twenty-Five Thousand and 00/100 ($225,000.00) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorney is hereby authorized to settle the claim of Susan Whitfield in the total amount of Two Hundred Twenty-Five Thousand and 00/100 ($225,000.00) Dollars, and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

RESOLUTION NO.: ____92_____ - 2016

OF

APRIL 11, 2016

A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF REAL PROPERTY KNOWN AS 17 SPRING STREET (SECTION 39, BLOCK 5, LOT 8) AT PRIVATE SALE TO NORTHERN HIGHLIFE, LLC

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real Property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, Northern Highlife, LLC, the former owner of 17 Spring Street, being more accurately described as Section 39, Block 5, Lot 8 on the official tax map of the City of Newburgh, has requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase this property, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against this property at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 17 Spring Street, Section 39, Block 5, Lot 8, to Northern Highlife, LLC be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of $15,724.42, no later than April 30, 2016; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

RESOLUTION NO.: ____93_____ - 2016

OF

APRIL 11, 2016

A RESOLUTION TO AUTHORIZE THE RE-PURCHASE OF REAL PROPERTY KNOWN AS 215 WASHINGTON STREET (SECTION 38, BLOCK 2, LOT 24.12) AND 225 WASHINGTON STREET (SECTION 38, BLOCK 2, LOT 20) AT PRIVATE SALE TO RESA REAL ESTATE, INC.

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real Property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, Resa Real Estate, Inc., the former owners of 215 Washington Street and 225 Washington Street, being more accurately described as Section 38, Block 2, Lot 24.12 and Section 38, Block 2, Lot 20, respectively, on the official tax map of the City of Newburgh, have requested to re-purchase the property at private sale; and

WHEREAS, the City Council of the City of Newburgh has determined that it would be in the best interests of the City of Newburgh to allow the former owner to re-purchase the properties, without the need for litigation and subject to any liens, encumbrances or mortgages of record that existed against the properties at the time the City of Newburgh took title in the tax foreclosure proceeding, provided that all taxes, interest and penalties owed are paid expeditiously;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 215 Washington Street, Section 38, Block 2, Lot 24.12, to Resa Real Estate, Inc. be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of $245,341.18, no later than April 30, 2016; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the sale of 225 Washington Street, Section 38, Block 2, Lot 20, to Resa Real Estate, Inc. be and hereby is confirmed and that the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of all past due tax liens, together with all interest and penalties accruing thereon, and all currently due taxes and charges are paid, in full, for a total amount of $41,099.42, no later than April 30, 2016; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcels are not required for public use.

The City of Newburgh
Office of the Corporation Counsel

City Hall – 83 Broadway
Newburgh, New York 12550

Michelle Kelson
Corporation Counsel

Tel. (845) 569-7335
Fax. (845) 569-7338

Timothy W. Kramer
Assistant Corporation Counsel

MEMORANDUM

TO: Judith L. Kennedy, Mayor
Genie Abrams, Councilwoman
Regina Angelo, Councilwoman
Torrance Harvey, Councilman
Cindy Holmes, Councilwoman
Karen Mejia, Councilwoman
Hilary Rayford, Councilwoman
Michael G. Ciaravino, City Manager

FROM: Michelle Kelson, Corporation Counsel

RE: Central Hudson Purchase of Poles/Wiring and Easement Agreement

DATE: March 31, 2016

At the March 14, 2016 Council meeting, the City Council voted to table Resolution No. 65-2016 authorizing the sale of utility poles and related equipment to Central Hudson pending a referral to and review by the Conservation Advisory Council:

1. The proposed transaction documents, including the utility easement, was referred to the Conservation Advisory Council (CAC) for review. The CAC reviewed the documents and provided written comments and concerns to the Corporation Counsel on March 18, 2016 addressing the environmental conditions of the land on which the poles are sited. A copy of the CAC comment memorandum is attached for review. Subsequently, the CAC advised me that it decided that it was opposed to the CH purchase and easement transaction in its entirety.

2. I proposed revisions easement language to Central Hudson to address the environmental concerns raised in the written comments by the CAC. Central Hudson (CH) responded with comments to the proposed revised easement language. A revised easement in redline format is attached for review.

3. I also conducted more research into federal and state regulation of utility rights-of-way and maintenance easements and had further discussions with CH staff. Please be aware that public utilities, including electrical and telecommunications utilities, are subject to both Federal and State regulation, which in most cases precludes further regulation by local units of government. You may recall that a significant power outage occurred in August 2003 and affected electrical service to the entire northeastern United States. It was determined that the outage was the result of tree limbs coming into contact with transmission lines in Ohio that caused the significant disruption of service. Afterwards, the federal and state governments implemented regulations requiring public utilities to meet certain standards for tree and vegetation management in order to maintain utility transmission facilities. The New York State Public Service Commission (NYSPSC) requires electric utilities to file long-range vegetation management plans to manage their transmission facilities. The vegetation management plans must comply with standards for the width of rights-of-way and maintenance easements; standards for tree height, tree maintenance and tree trimming; standards for the management of other vegetation, including regulations for use of chemical control. Attached is the FAQ page from the NYSPSC website for Tree Trimming and Vegetation Management.

4. Central Hudson has a Long Range Vegetation Management Plan that was reviewed and approved by the NYPSC. The plan it outlines the various practices that CH follows for clearing techniques along transmission corridors. CH follow what the industry calls an Integrated Vegetation Management Program (IVM) which is an industry best practice. You can find more information in the U.S. Environmental Protection Agency (USEPA) website. The CH IVM Program addresses herbicide application and compliance with all NYS and Federal regulations related to its use. Only USEPA approved herbicides are used and notifications to property owners prior to chemical use as required by NYS pesticide regulations, which are known as Category 6 for utility ROWs. CH notes that for distribution ROW's such as the one at issue in the City, herbicides are applied on a much smaller scale. Typical maintenance involves cut and stump treat which requires very little chemical application. As a reference, the amount of chemical concentrate per acre applied on transmission corridors as reported to the NYSPSC during 2015 for this technique it was only .08 gallons per acre, which is very small chemical usage. There would be more exposure to chemicals from a public swimming pool or golf course than from utility ROW management practices.

5. The pole line on the Ellis Avenue parcels was installed in 1999 and is approximately 17 years old. It is nearly 1/3 of the way through its useful life of 60 years. Replacement of the pole line using today's costs would equate to approximately $125,000. Selling this pole line will provide a number of benefits to the City of Newburgh such as no maintenance costs and repair costs to the poles and equipment in the event of an outage and the timely restoration of service if an interruption were to occur. Also, the pole line will become subject to taxation after the next taxable status date following the sale. The taxable value is determined by utility appraisals sent to the City Assessor by the NYS. CH estimates that between the value of this pole line and the installation of equipment at the Ellis Ave tower, the incremental property

taxes to be received by the City are approximately $17,500 annually. This is in addition to the $42,297.80 purchase price paid to the City for the pole line.

The above information is intended to assist the City Council in determining whether to authorize the sale of the utility poles and related equipment and grant the access and maintenance easement to Central Hudson.

MICHELLE KELSON

MK/ar
Attachments

Conservation Advisory Council | City of Newburgh, New York
123 Grand Street, Newburgh, New York, 12550
Phone: (845) 569-7366 www.cityofnewburgh-ny.gov/conservation-advisory-council

Council Members:
Richard Harper, Chairman
C. Kippy Boyle
Deborah Dresser
Gail Fulton
Karen McCarthy
Phil Prinzivalli
Chuck Thomas

Comments on Resolution 65, 2016

Sale of Utility Poles and Granting of Easement to Central Hudson

The CAC is witnessing extreme pressures on the City's Natural Resources, from our drinking water and its watershed, to our open spaces. We are reviewing not only the current picture, but the potential future consequences of any actions the City might take. The City must preserve its assets, not give them away. These are some initial comments. We have not fully reviewed the proposed Pilgrim Pipeline lateral extension which would run through Snake Hill, and possibly converge with other utilities.

1. See "***Natural Areas and Wildlife in Your Community - A Habitat Summary Prepared for the City and Town of Newburgh May 2014.***" Snake Hill is a Natural Habitat. It is a special overlay district in the City's Zoning. The City must preserve its assets, not give them away.

2. How is Verizon a part of this sale? CH and Verizon have a 'cooperative agreement' of their own? So we're really giving an easement to Verizon? Shouldn't we have a separate easement agreement for Verizon?

3. Are we giving CH the right to construct, excavate, etc. underground conduits, pipes, mains and ducts for future uses and purposes? Or to their assigns and lessees? Costs to be adjusted at the expense of the entity causing such damage?

    a. **we recommend limiting rights of use for underground utilities**
    b. **if CH or their lessees make 3rd party agreements to install underground gas pipes, City should not be giving away its rights!**

4. Are we giving them the unilateral right to remove trees and vegetation . outside the easement, in their sole judgment, without consulting the City?

5. Are we giving them the right to use chemical means of brush and vegetation control?

6. Are we giving CH the right to determine the exact easement lines (30' easement – 15' on either side from pole)? (in some cases, a 15 foot-wide line would allow clear-cutting of extreme drop-off, potentially washing away the hillside)

    a. **The City should be able to approve the easement lines**
    b. **Easement lines should be staked and visible**

7. Again See "***Natural Areas and Wildlife in Your Community - A Habitat Summary Prepared***

for the City and Town of Newburgh May 2014."

a. There are 2 endangered species on Snake Hill: Ebony Spleenwort and Wild Columbine.
b. There can be NO planting of 'lawn grass or 'ornamental shrubs'. Only Native Plants would be allowed to be introduced. The integrity of the natural habitat must be preserved.

In consideration of the sum of $1.00 and other valuable considerations, the receipt whereof from Central Hudson Gas & Electric Corporation, a domestic corporation having its principal office (residence) at 284 South Avenue, Poughkeepsie, New York and **Verizon New York, Inc.**, a domestic corporation having its principal office (residence) at **140 West Street, New York, NY** is hereby acknowledged, the undersigned hereby grant(s) and convey(s) unto said corporation(s), and each of them, their respective successors, assigns and lessees (hereinafter collectively referred to as the "Corporations"), an easement for any use relating to the electric, gas, or communication industry, including, but not limited to, the installation, operation and maintenance of overhead and/or underground electric, gas or communication facilities and excluding facilities related to the petroleum industry, which easement shall be 30 feet in width throughout its extent, in, upon, under, over and across the lands of the undersigned, including roads and highways thereon and adjacent thereto, situated in the City of Newburgh, County of Orange, State of New York.

Said easement shall

be located in, along, and/or adjacent to both sides of Grantor's access road; said access road extends from the end of Ellis Avenue in a generally southwesterly direction to a communications tower currently located on Grantor's parcel. Together with the rights for guying facilities and service extensions to be located outside of the stated easement width.

Together with the permanent right at all times to have access thereto within the easement and across the remaining premise(s) of the undersigned, and to enter thereon, and to construct, excavate, place, relocate, extend, operate, maintain and to protect, repair, replace and remove, in, over and under the property covered by said easement, such facilities, including, but not limited to, lines or poles, cables, crossarms, wires, guys, braces, underground conduits, pipes, mains and ducts, and all other appurtenances and fixtures adaptable to the present and future needs, uses and purposes of said ~~c~~Corporations, their respective successors, assigns and lessees, and provided that no pipes, conduits or mains shall be installed for the purpose of transporting petroleum or petroleum products in the right of way and easement and further provided that physical damage to the property owned by the undersigned caused solely by said ~~c~~Corporations, their respective successors, assigns or lessees, shall be adjusted at the expense of the person or entity so causing such damage.

Together with the permanent right to also trim, cut, clear cut to ground level and at the election of either Corporation remove at any time such brush, trees and other objects, thereon or on adjacent property of the undersigned, including trees, brush and other objects located outside the easement, as in the sole judgment of either Corporation may fall upon or come in contact with the facilities or may interfere with, obstruct or endanger the construction, operation or maintenance of said rights, facilities and other appurtenances and fixtures or any thereof, which may hereafter be constructed in, over, or across said easement provided that clear cutting, except for a dangerous tree or condition, to ground level outside the easement area is subject to the prior written approval of the City Engineer. Said right shall include the right to use chemical means of brush and vegetation control within the limits of the easement and rights of way where

applicable. Any chemical use shall be in accordance with all Federal and State regulations pertaining to utility right-of-way maintenance.

The exact location of said easement and lines is to be as determined by said corporations having regard to the origin, general direction and destination of said facilities and the requirements of said corporations.

Reserving unto the undersigned the right to only plant and cultivate native plants, lawn grasses and low growing ~~ornamental~~ shrubs within said easement, and the right to cross and recross said easement, provided that any such cultivation and/or use of said easement shall not in the sole judgment of said Corporations interfere with, obstruct or endanger any of the rights granted as aforesaid and provided that no house, shed, garage, outbuilding, pool, road, driveway or other structures or above or in ground improvements shall be erected, constructed placed, installed, or located and no excavating, mining or blasting shall be undertaken or performed within the limits of said easement without the prior written consent of said Corporations.

This easement and the provisions hereof shall be binding upon and inure to the benefit of the heirs, legal representatives, successors, assigns and lessees of the undersigned and said Corporations, respectively.

Department of Public Service

Tree Trimming and Vegetation Management

Tree Trimming, Tree Removal and Vegetation Management

Electric system reliability is of primary concern to the Public Service Commission. Unfortunately, system outages can impact the reliability of New York State's electric power grid. System outages can be triggered by individual component failures resulting in potential serious consequences in terms of economic, personal and societal losses that may be suffered by the public and communities affected in a blackout or extended power outage.

Major disturbances in electric service can result from fallen tree limbs and overgrown vegetation coming in contact with transmission and distribution lines. In New York, reliable power delivery depends upon the competent maintenance and operation by utilities of over 15,000 miles of electric transmission facilities within the state. Under state law, the Public Service Commission is charged with ensuring safe and reliable operation of the state's electric grid.

The blackout that disrupted electric service to the entire northeastern United States in August 2003 was caused by tree limbs coming in contact with transmission lines in Ohio thereby causing major power failures.

Utility Vegetation Management Plans

In order to help ensure the highest degree of electric system reliability for the benefit of New York State's residents, electric utilities are required to file with the Public Service Commission long-range vegetation management plans to effectively manage transmission facility right-of-way corridors they rent or own in order to minimize

power outages due to encroaching tree limbs or overgrown vegetation on utility right-of-ways. The Public Service Commission requirements for vegetation management extend only to property controlled by the utility via fee or easement.

The utilities' plans support and require an integrated approach to managing vegetation within a financially and environmentally prudent framework intended to maintain a high degree of reliability of the New York's electric grid. For more information on New York State utilities' vegetation management plans, please contact or visit:

Central Hudson
1-800-527-2714
http://www.centralhudson.com/residential/treesandelectrical.html
[external link]

Con Edison
1-800-643-1289
http://www.coned.com/publicissues/treeguide_intro.asp [external link]

Orange and Rockland
1-877-434-4100
http://www.oru.com/energyandsafety/vegetationmanagement/index.html
[external link]

National Grid
1-800-642-4272
http://www.nationalgridus.com/non_html/shared_safety_tree.pdf
[external link]

Rochester Gas and Electric
1-800-743-2110
http://www.rge.com/UsageAndSafety/electricalsafety/treesandpowerlines.html
[external link]

New York State Electric and Gas
1-800-572-1111
http://www.nyseg.com/UsageAndSafety/electricalsafety/treesandpowerlines.html
[external link]

Frequently Asked Questions

Q. Does the federal government require transmission owners or electric utilities to address issues related to vegetation management and electric facilities?

A. Yes. Federal agencies have taken steps to minimize tree contacts with electric facilities in utility right-of-ways. The North American Electric Reliability Corporation's (NERC) FAC 003-1 vegetation standard requires

vegetation management planning for bulk transmission line (200kV and above) and for lower voltage lines deemed "critical." more

The Federal Energy Regulatory Commission [external link] (FERC) has been actively holding utilities accountable and assessing fines of hundreds of thousands dollars for failing to maintain vegetation growth in and near right-of-ways. more

Q. Does New York State require electric utilities to address issues related to vegetation management and electric facilities?

A. Yes. Under 16 NYCRR, Part 84 of the Public Service Commission's rules and regulations and the Commission's order in Case 04-E-0822 (53 kb, 30 page, PDF) provide the framework for how each utility develops and implements its long-range vegetation management plan for the utilities'
right-of ways. The state's requirement for utilities' long-range plans requires vegetation management planning in right-of-way corridors for transmission facilities comprised of 34 kV and above, except where located entirely on public streets or roads in right-of-way corridors.

Central to the Public Service Commission's longstanding policies on appropriate right-of-way management is the comprehensive and routine treatment of each right-of-way corridor, with the establishment of treatment cycles that ensure each right-of-way is revisited on a periodic basis. Upon treatment, all tall-growing or "undesirable" vegetation is removed along the entire designed right-of-way corridor. Through this regime, "desirable" (i.e., low growing) vegetation is enhanced. Reliability and the environment are preserved at the lowest feasible nominal cost.

The right-of-way maintenance program of each utility is reviewed and assessed annually by Staff of the Public Service Commission. This review includes a field inspection of a portion of each utility's right-of-way system, a tree-caused outage assessment, and a trends analysis. Annual right-of-way management expenditures, staffing levels, acres treated per year, danger tree (i.e., trees with cracks or decay in proximity of a utility right-of-way) removal, herbicide use and complaint handling are also analyzed.

Q. Why must utilities perform right-of-way vegetation management activities such as tree trimming?

A. For electric power to be provided to customers, it must first be transmitted from the sources of generation to the places of distribution and consumption. Reliable power delivery in New York depends upon

the competent maintenance and operation by utilities of over 15,000 miles of electric transmission facilities.

Over 90 percent of the tree-caused outages on transmission right-of-ways occurred when a tree growing along the edge or outside of the right-of-way fell. Many of these outages are tied to various types of minor storm events, including wind, rain, and snow.

Q. Are the state's utilities permitted to use herbicides within the right-of-way corridors for vegetation management?

A. Yes. Herbicides that are used in a utility right-of-way corridor have been approved by the federal Environmental Protection Agency and the state Department of Environmental Conservation. Herbicides provide the most efficient and effective way to remove unwanted plants from the rights-of-way in a manner that is least disruptive to the environment.

Q. May a landowner manage the utilities' right-of-way on their own?

A. Generally utilities do not allow for this to occur due to a number of issues such as safety, liability and federal regulations. However, the utilities do support compatible uses of the right-of-way activities such as agricultural uses.

Q. Who do I call if I have a complaint with how the utility is conducting vegetation management work on my land or the land that the company owns?

A. A utility is interested in hearing from landowners if there is a problem. Prior to vegetation management work in a right-of-way by a utility, you should receive notification (with a name and phone number to call) indicating that work will be taking place in and around your area. If that does not happen and you need assistance, first contact your utility.

If there is not a satisfactory resolution concerning the disputed matter by your utility related to vegetation management in your area, you may then contact the New York State Public Service Commission's Office of Consumer Services at 1-800-342-3377 or file a complaint by visiting www.dps.ny.gov.

Q. What if a utility trims or removes a tree or vegetation outside of the company's right-of-way or fails to clean up debris after trimming or removing trees from the utility's right-of-way?

A. Although utilities' vegetation management activities are limited to right-of-way corridors they control through fee or easement, occasionally contractors hired by utilities have trimmed or removed trees that were not within the utility right-of-way, or have failed to clean up trimmed branches, logs or chips. In such instances, it is recommended you contact the utility.

If the disputed matter cannot be resolved to your satisfaction, you may then contact the New York State Public Service Commission's Office of Consumer Services at 1-800-342-3377 or file a complaint by visiting www.dps.ny.gov.

Q. Are there minimum height and width requirements for vegetation growth near utility right-of-ways?

A. As falling trees or limbs into transmission lines are a primary source of tree-caused power failures, below are guidelines for tree planting and height clearances from the center of the utility right-of-ways:

- Trees planted 30 feet to 60 feet from transmission line right-of-ways should not exceed 15 feet in height;
- Trees planted 60 feet to 90 feet away from transmission line right-of-ways should not exceed 25 feet in height; and
- Trees planted 90 feet to 120 feet away from transmission line right-of-ways should not exceed 60 feet in height.

Q. Does planting or removing trees and shrubs present a safety hazard whether or not the activity occurs outside of a utility right-of-way?

A. With proper planning, landowners can avoid potential problems of interacting with utilities' underground facilities and avoid a serious accident, injury or costly property damage while performing outdoor planting projects.

Before beginning your planting project, contact Dig Safely, New York at 811 or 1-800-962-7962 at least two (2) working days, but not more than 10 (ten) working days, so as not to disrupt any underground electric, telephone, sewer, cable or natural gas lines. For more information, please visit: www.digsafelynewyork.com [external link]

Q. Are they any potential dangers working on house projects near overhead transmission or distribution lines?

A. Potential hazardous situations exist if you work on house projects near overhead power lines. Common household products such as aluminum siding, pipes, tools, lumber, gutters and ladders conduct electricity and contact with these items near overhead power lines could cause serious injury or even death. Before performing house projects near overhead power lines, contact your utility.

Customer Assistance Staff of the New York State Department of Public Service (Department) will actively work with the utilities and impacted

land owners whenever the Department becomes aware of instances requiring customer assistance to remedy matters related to utility vegetation management in right-of-ways.

Prior to contacting the New York State Department of Public Service, it is recommended that a landowner first contact the utility and attempt to resolve the issue. If the vegetation management issue cannot be resolved to your satisfaction, a landowner may file a complaint with the New York State Department of Public Service by calling 1-800-342-3377, 8:30 am to 4:00 pm, Monday through Friday or by filing a complaint by visiting www.dps.ny.gov.

You may need Adobe Acrobat to read the pdf files.

See other web pages in the category: Other

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Department of Public Service

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RESOLUTION NO.: 65 - 2016

OF

MARCH 14, 2016

A RESOLUTION AUTHORIZING THE SALE OF UTILITY POLES AND ATTACHED EQUIPMENT AND THE GRANTING OF AN EASEMENT ON PROPERTY KNOWN AS 75 TEMPLE AVENUE (SECTION 42, BLOCK 1, LOT 8), 205-215 ELLIS AVENUE (SECTION 50, BLOCK 1, LOT 5.1) AND ES TEMPLE AVENUE (SECTION 50, BLOCK 1, LOT 5.2) TO CENTRAL HUDSON ELECTRIC AND GAS CORP.
FOR THE AMOUNT OF $42,297.80

WHEREAS, The City of Newburgh is the owner of certain utility poles, wire, appurtenances and attachments thereto, located on and adjacent to Ellis Avenue property identified as 75 Temple Avenue, 205-215 Ellis Avenue and ES Temple Avenue, and more accurately described as Section 42, Block 1, Lot 8, Section 50, Block 1, Lot 5.1 and Section 50, Block 1, Lot 5.2, respectively, on the official Tax Map of the City of Newburgh (the "Property"); and

WHEREAS, Central Hudson Electric and Gas Corp. ("Central Hudson") has made a proposal to purchase the utility poles and the attached equipment located on the Property from the City for the purchase price of $42,297.80; and

WHEREAS, the sale of the utility poles and equipment will require a purchase and sale agreement between the parties and an easement over the property for the purpose of future access and maintenance; and

WHEREAS, this Council finds that entering into an agreement to sell the utility poles and equipment on the Property to Central Hudson and granting an easement for access and maintenance is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that the City Manager be and he hereby is authorized to execute the attached Purchase and Sale Agreement and Easement, in substantially the same form as attached hereto and made part hereof with other provisions as Corporation Counsel may require, with Central Hudson Electric and Gas Corp. for the sale of utility poles, wire, appurtenances and attachments thereto, located on and adjacent to Ellis Avenue property identified as 75 Temple Avenue, 205-215 Ellis Avenue and ES Temple Avenue for the purchase price of $42,297.80.

AGREEMENT FOR SALE OF POLE PLANT

AGREEMENT for Sale of Pole Plant (hereinafter referred to as this **"AGREEMENT"**) made on the _____ day of_____, 2016 by and between **CITY OF NEWBURGH,** Orange County, New York, a municipal corporation maintaining its office at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as **"CITY"**) and **CENTRAL HUNDSON GAS & ELECTRIC** with an address of 284 South Avenue, Poughkeepsie, New York 12601 (hereinafter referred to as **"PURCHASER"**).

W I T N E S S E T H :

WHEREAS, CITY is the owner of certain utility poles, wire, appurtenances and attachments thereto, located on and adjacent to Ellis Avenue in the **City of Newburgh, Orange County, New York (SBL: 42-1-8, 50-1-5.1-1, and 50-1-5.1-2)** and more specifically described on **Schedule 1** of the Bill of Sale (the "Bill of Sale") attached hereto as **Exhibit "A"** (hereinafter referred to collectively, as the **"PROPERTY"**); and

WHEREAS, CITY is desirous of selling the **PROPERTY** to **PURCHASER**, and **PURCHASER** is/are desirous of purchasing the **PROPERTY** from **CITY**, and **CITY** and **PURCHASER**, in consideration of their respective agreements herein, do contract and agree as follows:

1. **AGREEMENT TO SELL.** Subject to all of the terms and conditions of this **AGREEMENT**, **CITY** shall convey to **PURCHASER** and **PURCHASER** shall purchase and acquire from **CITY**, upon execution of the Bill of Sale and contemporaneously with the conveyance of the **EASEMENT** set forth in **Section 2** herein, the Property.

2. **GRANT OF EASEMENT.** Subject to all of the terms and conditions of this Agreement, **CITY hereby** agrees to grant to **PURCHASER** an easement and right-of-way (hereinafter collectively referred to as the **"EASEMENT"**) encumbering certain property located in the City of Newburgh, Orange County, New York, in the form attached hereto as **Exhibit "B"**.

3. **PURCHASE PRICE.** The purchase price for the **PROPERTY** is Forty-Two Thousand Two Hundred Ninety-Seven and 80/100 Dollars **($42,297.80)**. This purchase price shall be paid in cash, Purchaser's corporate check, or by certified check or official bank check, in U.S. Dollars, simultaneously with the delivery of the **EASEMENT** and Bill of Sale conveying the **PROPERTY** to **PURCHASER** as set forth herein.

4. **RECORDING.** **PURCHASER** shall promptly file the **EASEMENT** for recordation with the Orange County Clerk. **PURCHASER** shall pay all costs in connection with the recordation of the **EASEMENT**.

5. **NON-DISCRIMINATION.** **PURCHASER** agrees for itself, its lessees, successors and assigns, and the **DEED** shall contain covenants on the part of the **PURCHASER** for itself, its

lessees, successors and assigns, that **PURCHASER**, its lessees, successors and assigns shall not discriminate in the rental or use of the **PROPERTY** or the rehabilitation thereof upon the basis of race, color, religion, sex, handicap or national origin. Such covenants shall be permanent covenants to run with the land enforceable by **CITY** to the fullest extent permitted by law and equity.

6. **CONFLICT OF INTEREST.** No member, official, or employee of the **CITY** shall have any personal interest, direct or indirect, in the **AGREEMENT** nor shall any such members, official, or employee participate in any decision relating to the **AGREEMENT** which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested. No members, official, or employee of the **CITY** shall be personally liable to the **PURCHASER** or any lessee or any successor in interest in the event of any default or breach by the **CITY** or for any amount which may become due to the **PURCHASER** or lessee or successor on any obligations under the terms of this **AGREEMENT**.

7. **BROKERS.** The parties hereto agree that any and all fees for brokerage commissions, if any, shall be the sole obligation of **PURCHASER**. The **CITY** represents and warrants to **PURCHASER** that it has not engaged or dealt with any brokers in connection with this transaction.

8. **NO WAIVER OF RIGHTS OR REMEDIES.** The rights and remedies of the parties to the **AGREEMENT,** whether provided by law or by the **AGREEMENT**, and the exercise by any part of any one or more remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, or of any of its remedies to any default or breach, by the other party. No waiver made by any party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the **AGREEMENT** shall be considered a waiver of any of the rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party. No such waiver shall be valid unless it is in writing duly signed by the party waiving the right or rights.

9. **NOTICES.** A notice or communication under this **AGREEMENT** either party to the other shall be sufficiently given or delivered if dispatched by certified mail, return receipt requested, and

(a) in the case of notice or communication to the **PURCHASER** is addressed as follows: **Central Hudson Gas & Electric Corporation, 284 South Avenue, Poughkeepsie, New York 12601 - Attention: Director-Real Property Services;**

and

(b) in the case of notice or communication to the **CITY** is addressed as follows: **City of Newburgh, c/o Corporation Counsel, City Hall, Second Floor, 83 Broadway, Newburgh, NY 12550.**

10. **DEFAULT.** If the **CITY** shall default in the performance of its obligations under this **AGREEMENT**, **PURCHASER** shall have the right to either (i) terminate this **AGREEMENT** by notifying the **CITY** of such termination, or (ii) pursue any and all rights and remedies available at law or in equity, including, but not limited to, specific performance.

11. **MERGER.** It is understood and agreed by the parties hereto that this **AGREEMENT** contains the entire agreement between the parties and all prior negotiations, statements, or representations are merged herein, and the parties acknowledge each to the other that they have not made or relied upon any other representations, statements, or agreements except as specifically set forth herein, or incorporated herein by reference. It is agreed by the parties herein that all rights, privileges and benefits contained in all prior and present contracts shall be carried forward without diminishment except as the same may have been previously or herein specifically modified or rescinded.

IN WITNESS WHEREOF, the parties have executed this **AGREEMENT** as of the day and year set forth above.

CITY OF NEWBURGH

By: _____
Michael G. Ciaravino
City Manager
Per Res. No.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: _____
Anthony S. Campagiorni
Vice President - Business Development and Governmental Affairs

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

On the day of _____, 2016, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael G. Ciaravino, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or the person on behalf of which the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
)ss:
COUNTY OF DUTCHESS)

On the day of December, 2015, before me, the undersigned, a Notary Public in and for said state, personally appeared Anthony S. Campagiorni, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person on behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

BILL OF SALE

CITY OF NEWBURGH ("City"), a municipal corporation, maintaining its office at City Hall, 83 Broadway, Newburgh, NY 12550 ("Seller"), in consideration of Ten Dollars ($10.00) and other good and valuable consideration, does hereby bargain, sell, transfer, convey and assign to CENTRAL HUDSON GAS & ELECTRIC CORPORATION ("Central Hudson"), a New York corporation, having its principal office at 284 South Avenue, Poughkeepsie, New York 12601 ("Purchaser"), all of Seller's right, title and interest in and to all of the fixtures, fittings, machinery, apparatus, tools and equipment (collectively, the "Equipment") identified and set forth on Schedule 1 hereto, which Equipment is presently used in connection with the distribution of electric service along a portion of Ellis Avenue in the City of Newburgh, Orange County, New York, said portion being more particularly described and illustrated on Exhibit B hereto (the "Property").

Seller hereby sells, transfers, conveys and assigns the Equipment to Purchaser in its "AS IS, WHERE IS, WITH ALL FAULTS" condition, without any representations or warranties, expressed or implied.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the _____ day of _____, 2016.

CITY OF NEWBURGH

By:_____
Name:_____
Title:_____

SCHEDULE 1

Equipment

To Purchase Customer Line from: *City of Newburgh*

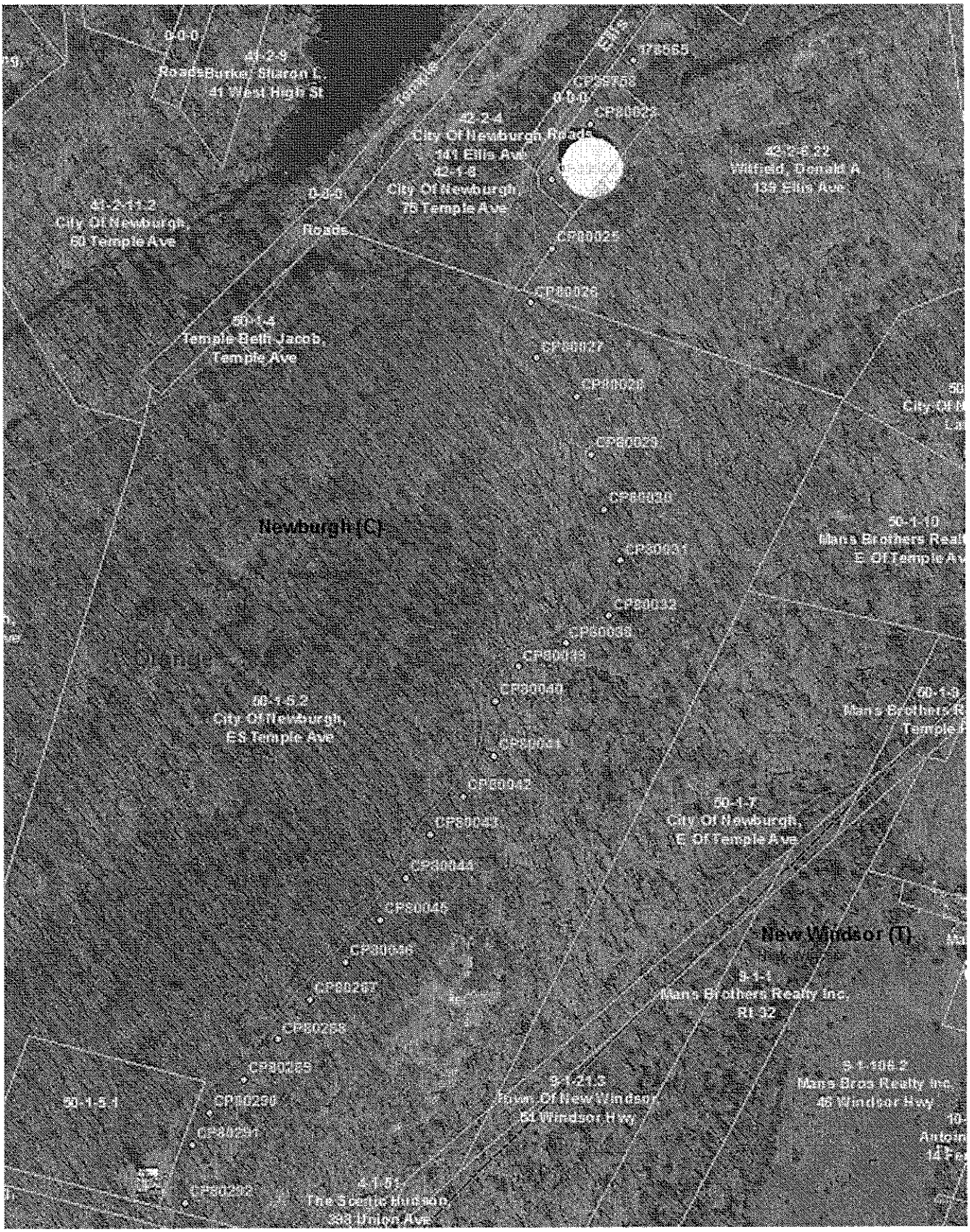
Location: *Ellis Avenue* Town/City of: *Newburgh*

Reason: *For the purpose of running Fiber Cable up to Ellis Ave Tower*

Prepared By: *M. Vaughan* W/O Log # *J840934* Date: *11/04/2015*

Acct. No.	Qty.	Item-Description	Age	Unit Cost	Total Cost	Condition Factor	Depriciated Cost	
364- 00	25	Poles	16	1,255.00	31,375.00	0.846	26,543.25	
364- 00		Crossarms						
364- 00	18	Guys	16	174.00	3,132.00	0.846	2,649.67	
364- 00	18	Anchors	16	361.00	6,498.00	0.846	5,497.31	
364- 00		Pushbrace						
365- 10		Cable						
365- 10	2710	Open Wire	16	2.21	5,989.10	0.793	4,749.36	
365- 10		Cut Outs						
365- 10		Lighting Arrestors						
365- 20		Cable						
365- 20	2710	Open Wire	16	1.33	3,604.30	0.793	2,858.21	
369- 10	0	Service Lateral(s)						
							Total	$42,297.80

EXHIBIT B


0-0-0
41-2-9
Roads Burke, Sharon E.
41 West High St
Temple
Ellis
178565
CP80708
0-0-0
CP80027
42-2-4
City Of Newburgh Roads
141 Ellis Ave
42-1-8
City Of Newburgh
76 Temple Ave
42-2-6.22
Wilfred, Donald A.
139 Ellis Ave
41-2-11.2
City Of Newburgh
60 Temple Ave
0-0-0
Roads
CP80025
CP80029
50-1-4
Temple Beth Jacob
Temple Ave
CP80027
CP80028
CP80029
CP80030
Newburgh (C)
50-1-10
Mans Brothers Realt
E Of Temple Av
CP80031
CP80032
CP80033
CP80039
CP80040
50-1-6.2
City Of Newburgh
E S Temple Ave
CP80041
CP80042
50-1-7
City Of Newburgh
E Of Temple Ave
CP80043
CP80044
CP80045
New Windsor (T)
CP80046
CP80257
9-1-1
Mans Brothers Realty Inc
Rt 32
CP80258
CP80285
9-1-196.2
Mans Bros Realty Inc
48 Windsor Hwy
9-1-21.3
Town Of New Windsor
84 Windsor Hwy
CP80286
CP80291
CP80292
4-1-61
The Scenic Hudson
33 Union Ave

In consideration of the sum of $1.00 and other valuable considerations, the receipt whereof from Central Hudson Gas & Electric Corporation, a domestic corporation having its principal office (residence) at 284 South Avenue, Poughkeepsie, New York and **Verizon New York, Inc.**, a domestic corporation having its principal office (residence) at **140 West Street, New York, NY** is hereby acknowledged, the undersigned hereby grant(s) and convey(s) unto said corporation(s), and each of them, their respective successors, assigns and lessees (hereinafter collectively referred to as the "Corporations"), an easement for any use relating to the electric, gas, or communication industry, including, but not limited to, the installation, operation and maintenance of overhead and/or underground electric, gas or communication facilities which easement shall be 30 feet in width throughout its extent, in, upon, under, over and across the lands of the undersigned, including roads and highways thereon and adjacent thereto, situated in the City of Newburgh, County of Orange, State of New York.

Said easement shall

be located in, along, and/or adjacent to both sides of Grantor's access road; said access road extends from the end of Ellis Avenue in a generally southwesterly direction to a communications tower currently located on Grantor's parcel. Together with the rights for guying facilities and service extensions to be located outside of the stated easement width.

Together with the permanent right at all times to have access thereto within the easement and across the remaining premise(s) of the undersigned, and to enter thereon, and to construct, excavate, place, relocate, extend, operate, maintain and to protect, repair, replace and remove, in, over and under the property covered by said easement, such facilities, including, but not limited to, lines or poles, cables, crossarms, wires, guys, braces, underground conduits, pipes, mains and ducts, and all other appurtenances and fixtures adaptable to the present and future needs, uses and purposes of said corporations, their respective successors, assigns and lessees, and provided that physical damage to the property owned by the undersigned caused solely by said corporations, their respective successors, assigns or lessees, shall be adjusted at the expense of the person or entity so causing such damage.

Together with the permanent right to also trim, cut, clear cut to ground level and at the election of either Corporation remove at any time such brush, trees and other objects, thereon or on adjacent property of the undersigned, including trees, brush and other objects located outside the easement, as in the sole judgment of either Corporation may fall upon or come in contact with the facilities or may interfere with, obstruct or endanger the construction, operation or maintenance of said rights, facilities and other appurtenances and fixtures or any thereof, which may hereafter be constructed in, over, or across said easement. Said right shall include the right to use chemical means of brush and vegetation control within the limits of the easement and rights of way where applicable. Any chemical use shall be in accordance with all Federal and State regulations pertaining to utility right-of-way maintenance.

The exact location of said easement and lines is to be as determined by said corporations having regard to the origin, general direction and destination of said facilities and the requirements of said corporations.

Reserving unto the undersigned the right to only plant and cultivate lawn grass and low growing ornamental shrubs within said easement, and the right to cross and recross said easement, provided that any such cultivation and/or use of said easement shall not in the sole judgment of said Corporations interfere with, obstruct or endanger any of the rights granted as aforesaid and provided that no house, shed, garage, outbuilding, pool, road, driveway or other structures or above or in ground improvements shall be erected, constructed placed, installed, or located and no excavating, mining or blasting shall be undertaken or performed within the limits of said easement without the prior written consent of said Corporations.

This easement and the provisions hereof shall be binding upon and inure to the benefit of the heirs, legal representatives, successors, assigns and lessees of the undersigned and said Corporations, respectively.

Signed, sealed and delivered, on ....., ...

In the presence of: *Subscribing Witness Only*

_____

_____
(Sign & Print Name)

_____
(Business Name)

_____ (L.S)
(Sign Name)

_____
(Print Name and Title)

_____ (L.S)
(Sign Name)

_____
(Print Name and Title)

Residing at .....
Number *Street*

.....
Town, City or Village *State*

.....
County

FORM NO. 411 (3/13)

ACKNOWLEDGEMENT OF CONVEYANCE

State of New York)
)ss.:
County of _____)

On the .....day of..... in the year ..... before me, the undersigned, a Notary Public in and for said State, personally appeared ....., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

.....
Notary Public

NEW YORK ALL-PURPOSE ACKNOWLEDGMENT

State of New York)
)ss.:
County of _____)

On the .....day of.....in the year ..... before me, the undersigned, a Notary Public in and for said state, personally appeared ..... , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

.....
Notary Public

CERTIFICATE OF SUBSCRIBING WITNESS

State of New York)
)ss.:
County of _____)

On the .....day of ..... in the year ....., before me, the undersigned, a Notary Public in and for said State, personally appeared....., the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they resides in.....;that he/she/theyknow(s).....
.....to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said .....
..... execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

.....
Notary Public

RIGHT OF WAY

R/W No.....

PD # 033 Town.....

Village.....

City of Newburgh

Granted by

.....

.....

to

Central Hudson Gas & Electric Corporation

Date: _____

Map: A11-109 Line: 4047

Pole No: 197898 - 197922

Work Order #: _____ J#: 840934

SBL: 42-1-8, 50-1-5.1-1 & 50-1-5.1-2

Address of ROW: 75 Temple Ave,
205-215 Ellis Ave, E S Temple Ave

RECORD AND RETURN TO:

Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
Attn: Real Property Services

In consideration of the sum of $1.00 and other valuable considerations, the receipt whereof from Central Hudson Gas & Electric Corporation, a domestic corporation having its principal office (residence) at 284 South Avenue, Poughkeepsie, New York and **Verizon New York, Inc.**, a domestic corporation having its principal office (residence) at **140 West Street, New York, NY** is hereby acknowledged, the undersigned hereby grant(s) and convey(s) unto said corporation(s), and each of them, their respective successors, assigns and lessees (hereinafter collectively referred to as the "Corporations"), an easement for any use relating to the electric, gas, or communication industry, including, but not limited to, the installation, operation and maintenance of overhead and/or underground electric, gas or communication facilities and excluding facilities related to the petroleum industry, which easement shall be 30 feet in width throughout its extent, in, upon, under, over and across the lands of the undersigned, including roads and highways thereon and adjacent thereto, situated in the City of Newburgh, County of Orange, State of New York.

Said easement shall

be located in, along, and/or adjacent to both sides of Grantor's access road; said access road extends from the end of Ellis Avenue in a generally southwesterly direction to a communications tower currently located on Grantor's parcel. Together with the rights for guying facilities and service extensions to be located outside of the stated easement width.

Together with the permanent right at all times to have access thereto within the easement and across the remaining premise(s) of the undersigned, and to enter thereon, and to construct, excavate, place, relocate, extend, operate, maintain and to protect, repair, replace and remove, in, over and under the property covered by said easement, such facilities, including, but not limited to, lines or poles, cables, crossarms, wires, guys, braces, underground conduits, pipes, mains and ducts, and all other appurtenances and fixtures adaptable to the present and future needs, uses and purposes of said ~~e~~Corporations, their respective successors, assigns and lessees, and provided that no pipes, conduits or mains shall be installed for the purpose of transporting petroleum or petroleum products in the right of way and easement and further provided that physical damage to the property owned by the undersigned caused solely by said ~~e~~Corporations, their respective successors, assigns or lessees, shall be adjusted at the expense of the person or entity so causing such damage.

Together with the permanent right to also trim, cut, clear cut to ground level and at the election of either Corporation remove at any time such brush, trees and other objects, thereon or on adjacent property of the undersigned, including trees, brush and other objects located outside the easement, as in the sole judgment of either Corporation may fall upon or come in contact with the facilities or may interfere with, obstruct or endanger the construction, operation or maintenance of said rights, facilities and other appurtenances and fixtures or any thereof, which may hereafter be constructed in, over, or across said easement provided that clear cutting, except for a dangerous tree or condition, to ground level outside the easement area is subject to the prior written approval of the City Engineer. Said right shall include the right to use chemical means of brush and vegetation control within the limits of the easement and rights of way where

applicable. Any chemical use shall be in accordance with all Federal and State regulations pertaining to utility right-of-way maintenance.

The exact location of said easement and lines is to be as determined by said corporations having regard to the origin, general direction and destination of said facilities and the requirements of said corporations.

Reserving unto the undersigned the right to only plant and cultivate native plants, lawn grasses and low growing ~~ornamental~~ shrubs within said easement, and the right to cross and recross said easement, provided that any such cultivation and/or use of said easement shall not in the sole judgment of said Corporations interfere with, obstruct or endanger any of the rights granted as aforesaid and provided that no house, shed, garage, outbuilding, pool, road, driveway or other structures or above or in ground improvements shall be erected, constructed placed, installed, or located and no excavating, mining or blasting shall be undertaken or performed within the limits of said easement without the prior written consent of said Corporations.

This easement and the provisions hereof shall be binding upon and inure to the benefit of the heirs, legal representatives, successors, assigns and lessees of the undersigned and said Corporations, respectively.