



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
April 7, 2016
6:00 PM

Engineering/Ingeniería

1. 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)

Council Request for Action

2. 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)

Council Request for Action

Finance/Finanza

3. 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)

Council Request for Action

4. \$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)

Council Request for Action

Information Technology (IT) Department

5. 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)

Council Request for Action

Planning and Economic Development/Planificación y Desarrollo Económico

6. 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)

Council Request for Action

7. Resolution and 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)

Council Request for Action

8. 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)

Council Request for Action

Old Business Discussion/ Discusion de Negocios Viejos

9. 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

Discussion Items/Temas de Discusión

10. Civil Service
(Mayor Kennedy)

Executive Session/ Sesión Ejecutiva

11. Pending Litigation

RESOLUTION NO.: _____ - 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

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[NYS Water Grants](#)



The New York State Water Infrastructure Improvement Act of 2015 provided \$200 million in grant funding over three state fiscal years, including \$75 million for 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 - Drinking Water](#)
- [NYS Water Grants Application Instructions - Drinking Water](#)
- [NYS Water Grants - Frequently Asked Questions](#)
- [DWSRF Hardship Financing Policy](#)
- [DWSRF Intended Use Plan](#)
- [DWSRF Project Listing Form](#)
- [DWSRF Financing Application](#)
- [MWBE Construction Bid Packet](#) and [MWBE Non-Construction Bid Packet](#)
- [Smart Growth Assessment Form](#)
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NYS Water Grants Drop Box

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CONNECT WITH US





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.

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
<u>New York State EFC</u>	<u>NYS Water Grant</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

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.

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

Dear Ms. Weiss:

Contact:
Joshua LaPlante

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.

Phone:
518-250-7316

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.

Email:
joshua.laplante@arcadis.com

Our ref:
660004881.0008

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 Dubois Street and includes reconstruction of the roadway and sidewalks as well as separation of the existing combined sewers. New storm and sanitary sewers will 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.

Ms. Lorraine Weiss
March 22, 2016

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.

A handwritten signature in black ink, appearing to read 'Josh LaPlante', with a stylized, cursive script.

Joshua LaPlante
Project Engineer

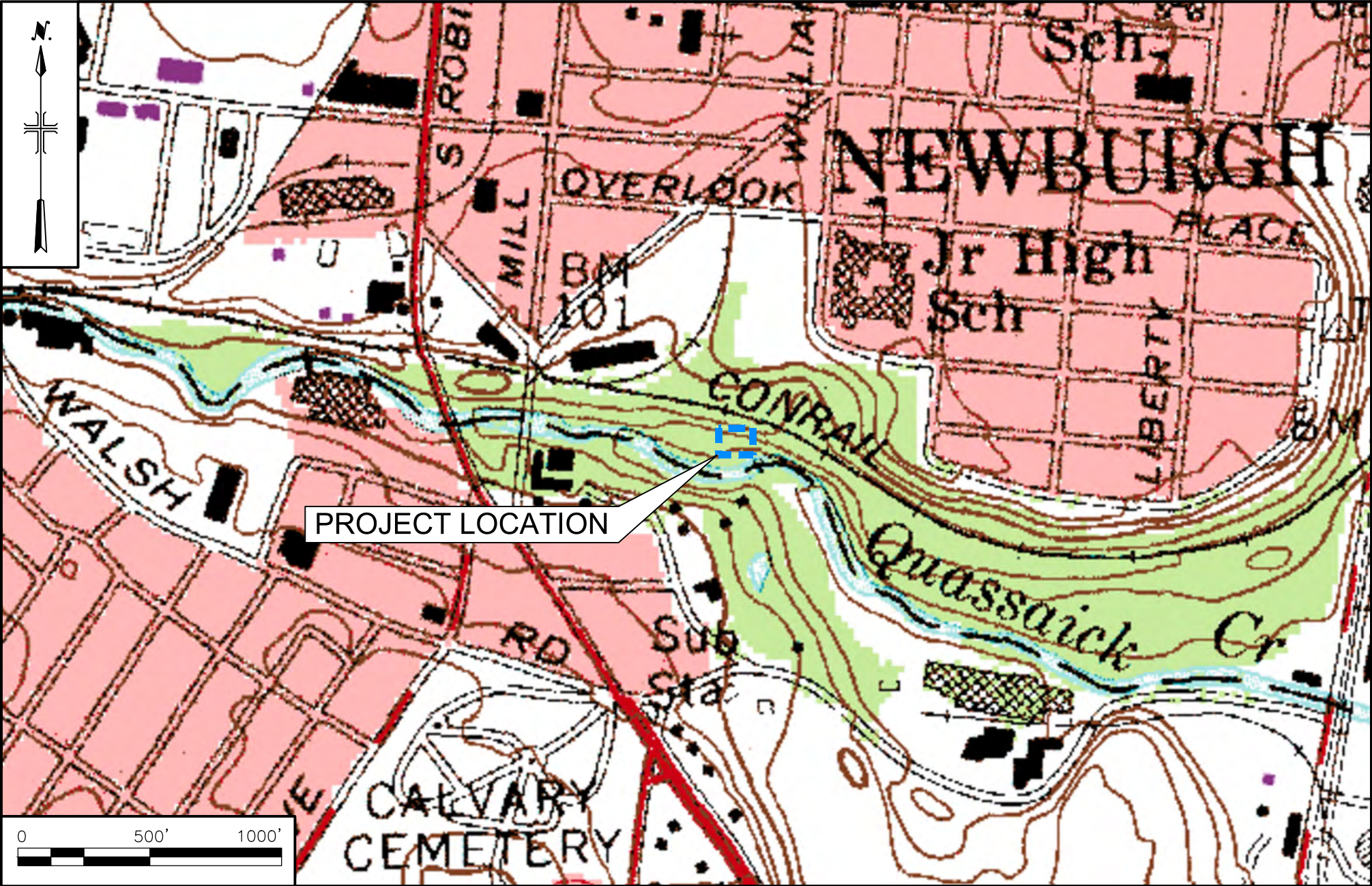
Copies:

Jason Morris, City of Newburgh

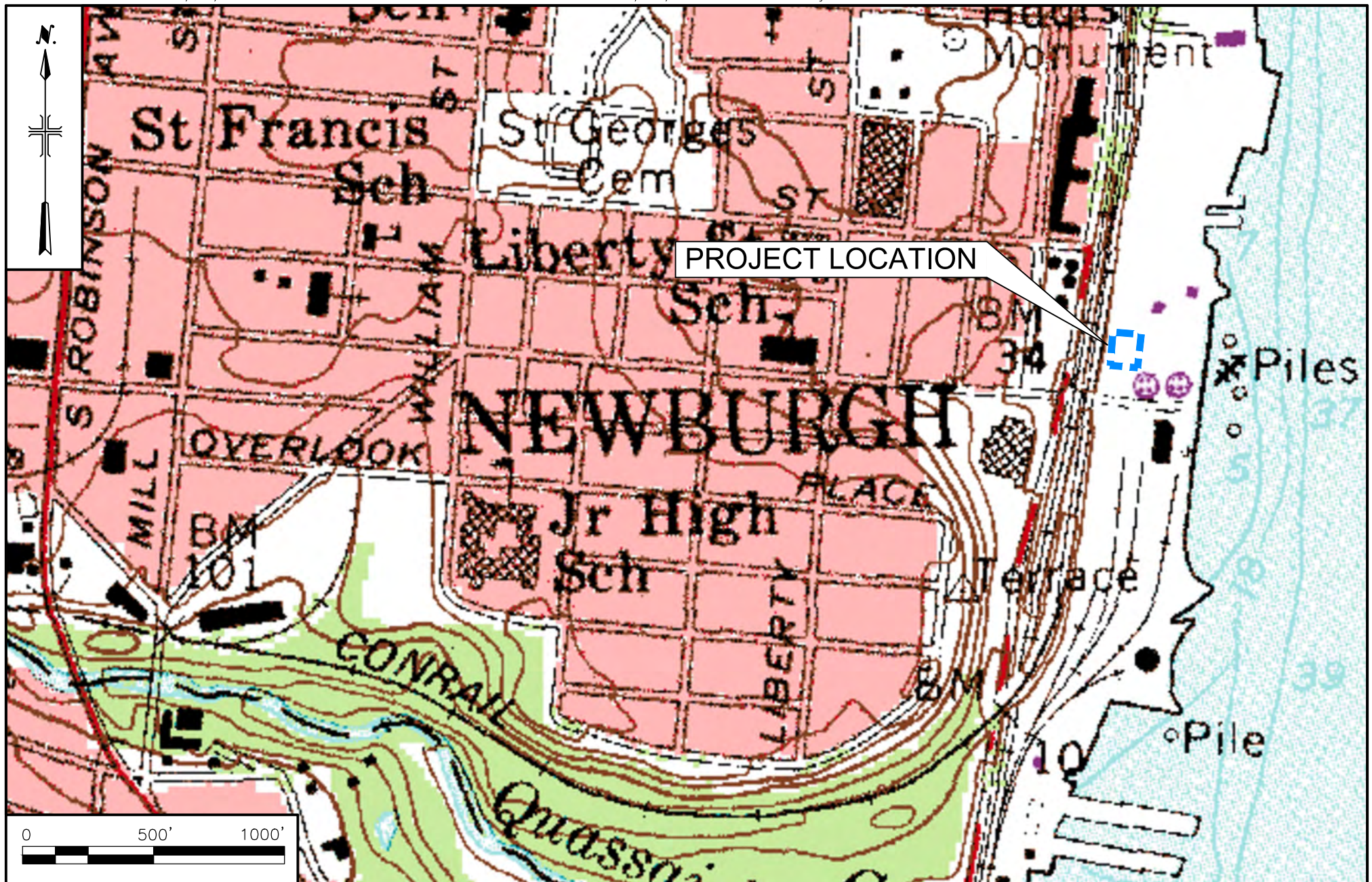
Harry Nelson, NYS EFC

Robert Ostapczuk, Arcadis

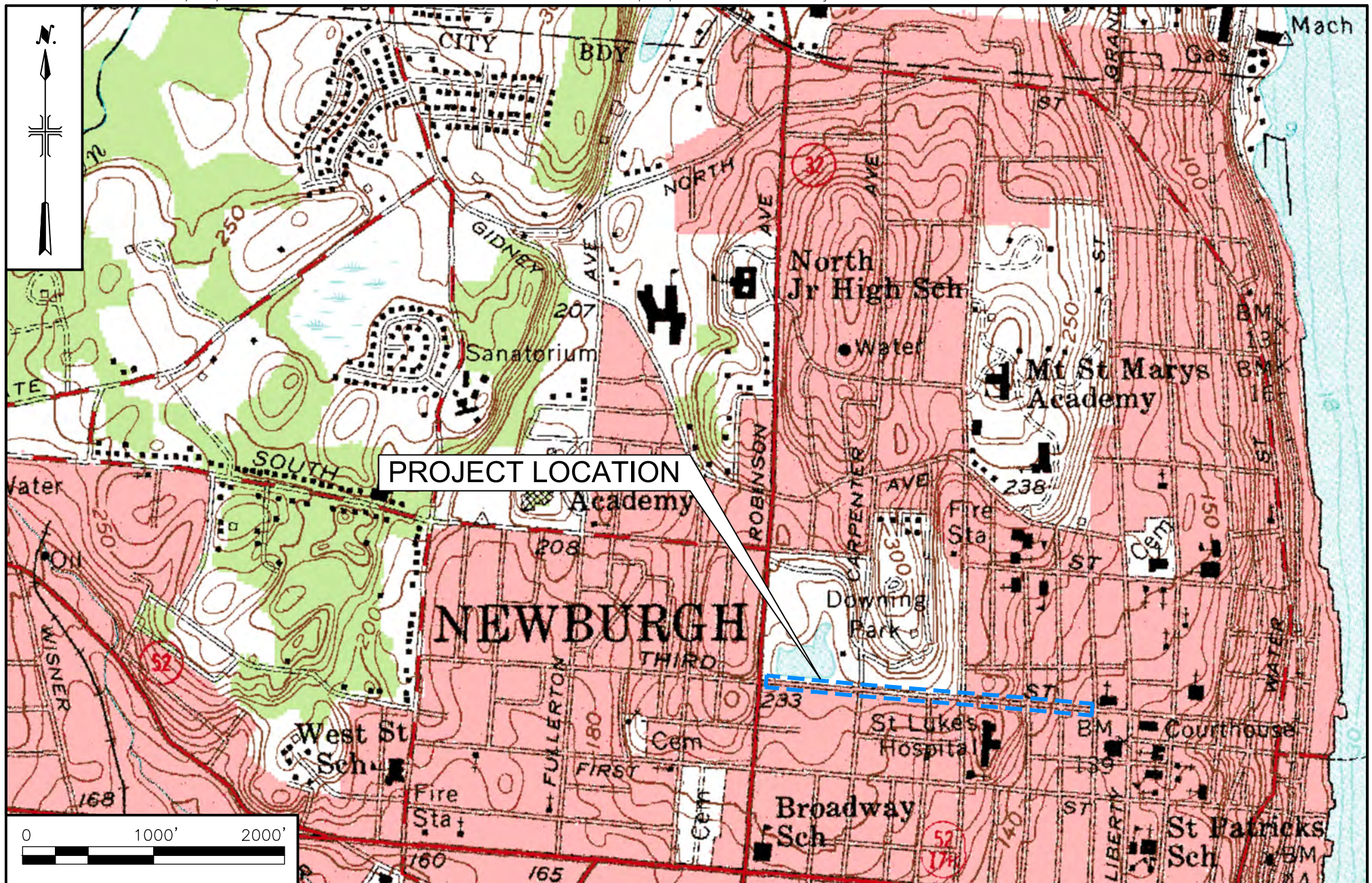
Enclosures

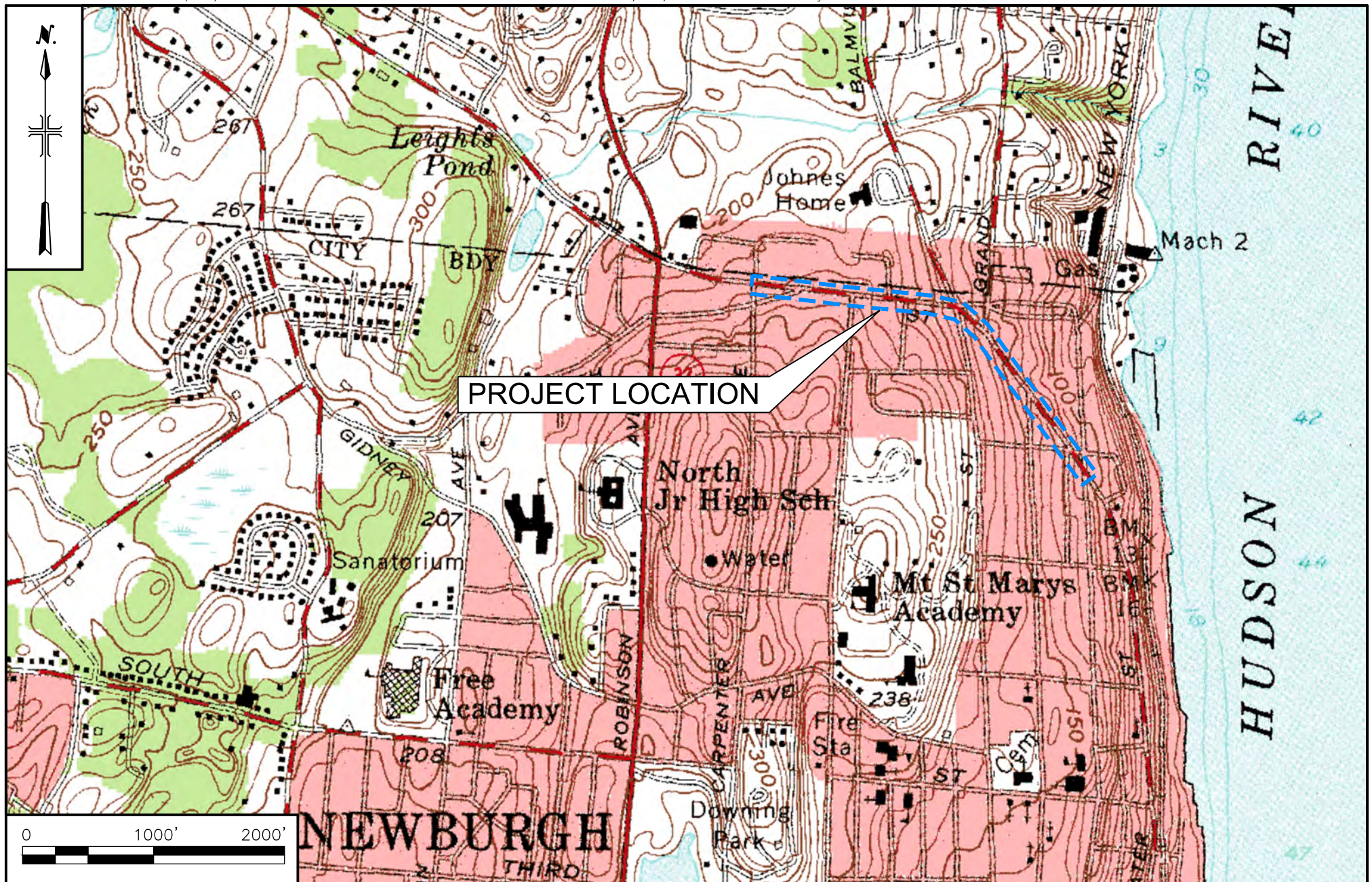


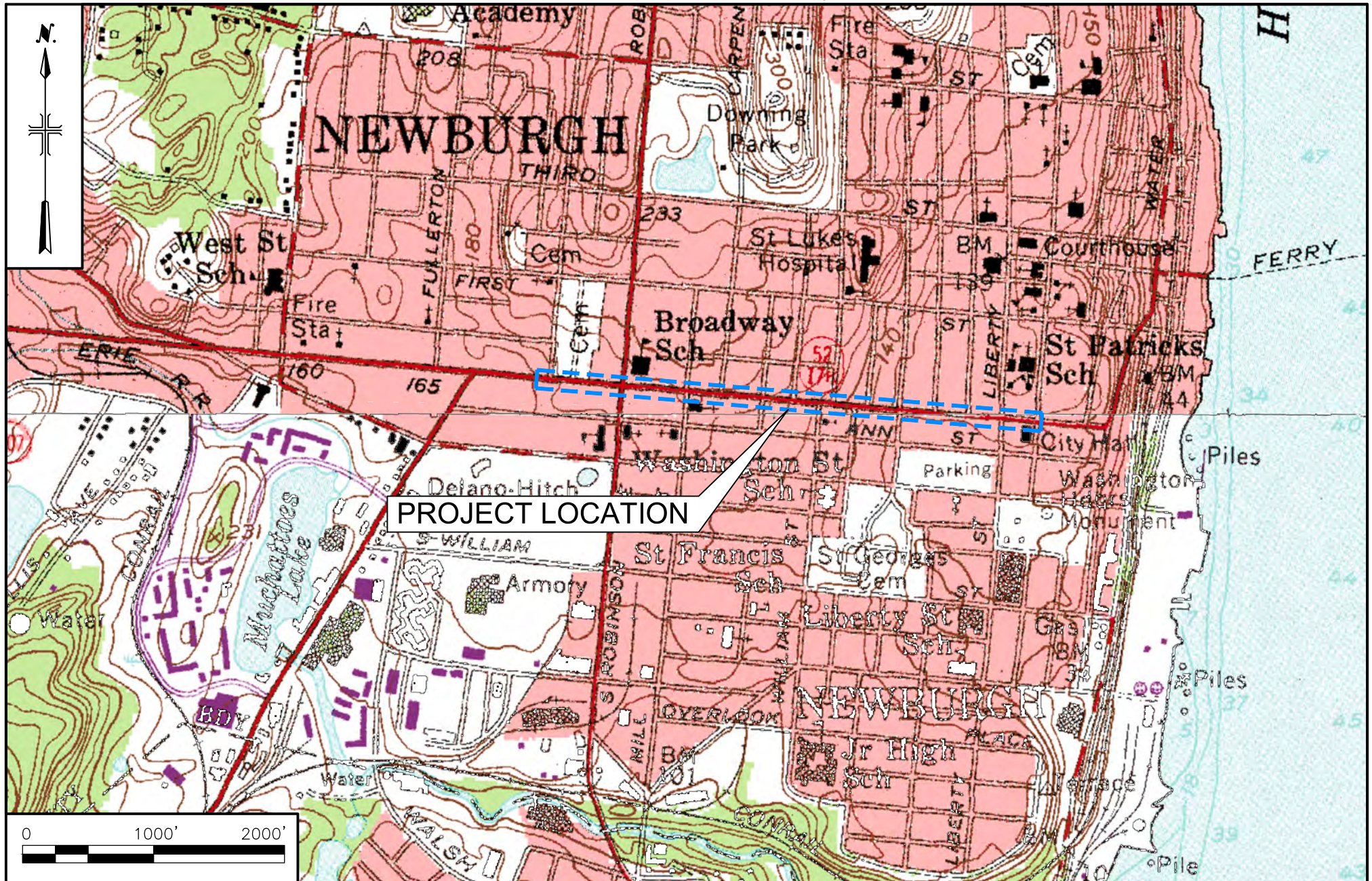












Project: Regulator No. 2 Upgrades



Photo 1 – Regulator No. 2 Site

Project: South Water Street Sewer Separation

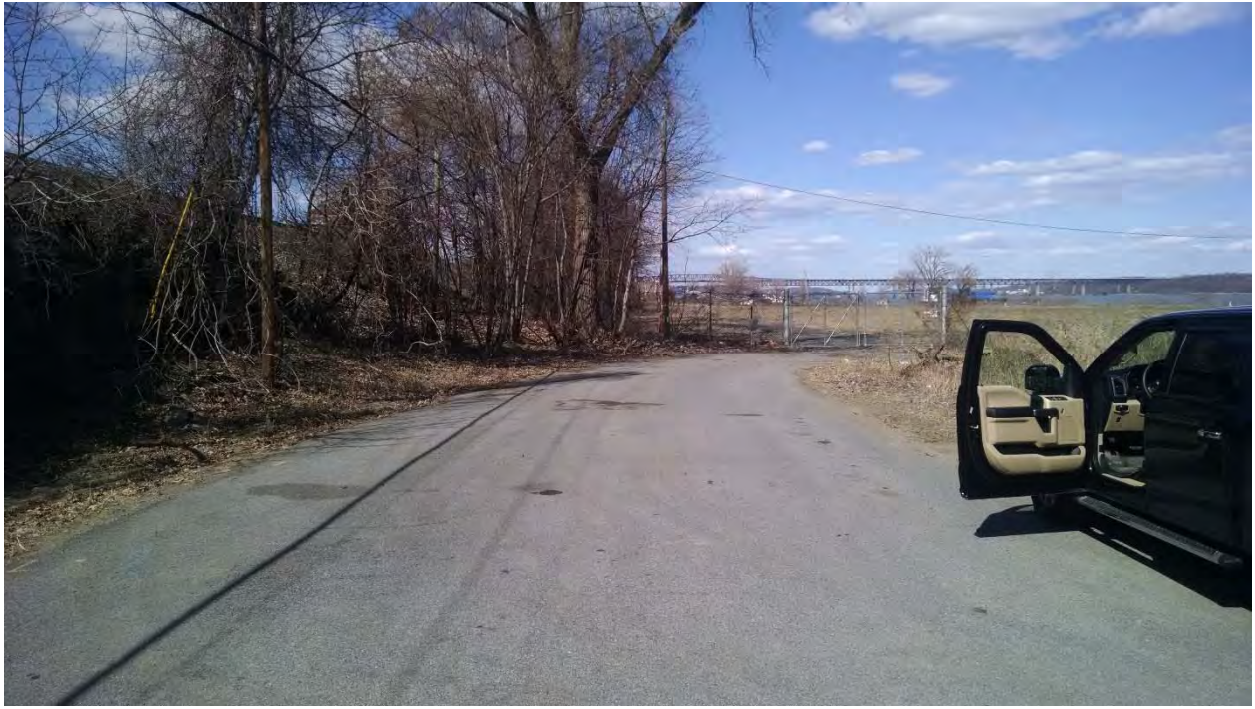


Photo 1 – River Street looking north



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

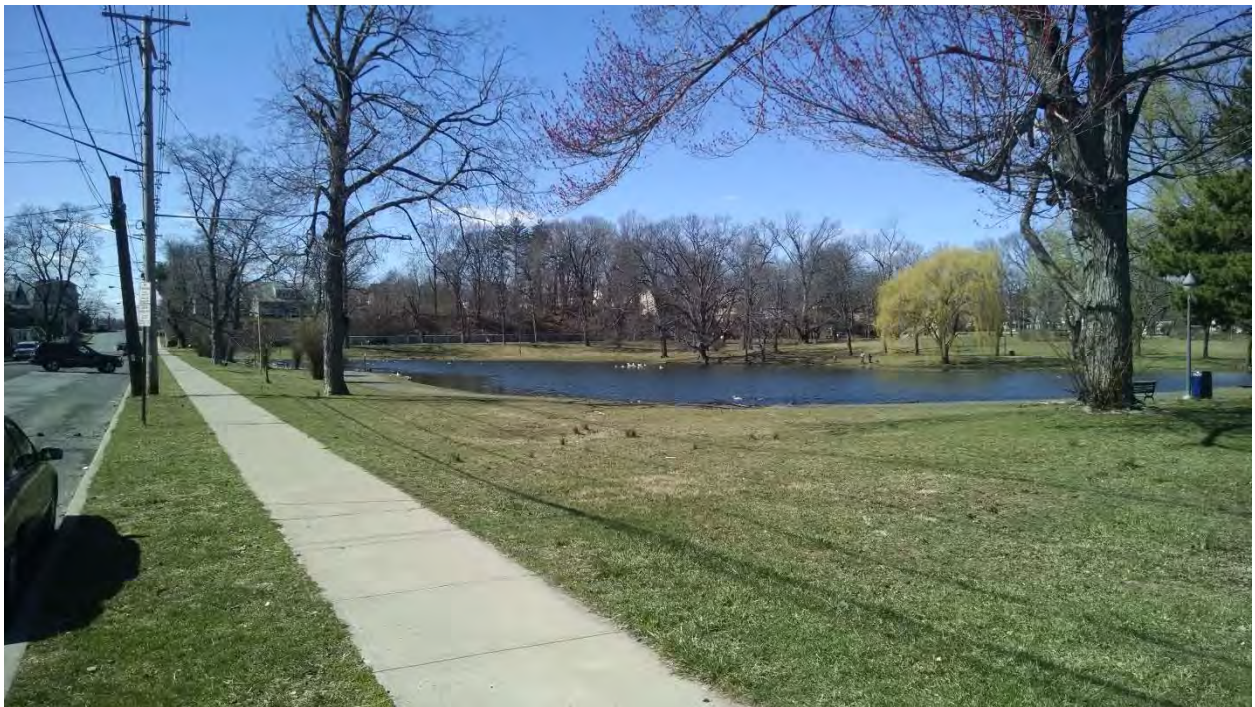


Photo 2 – West side of Downing Pond

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

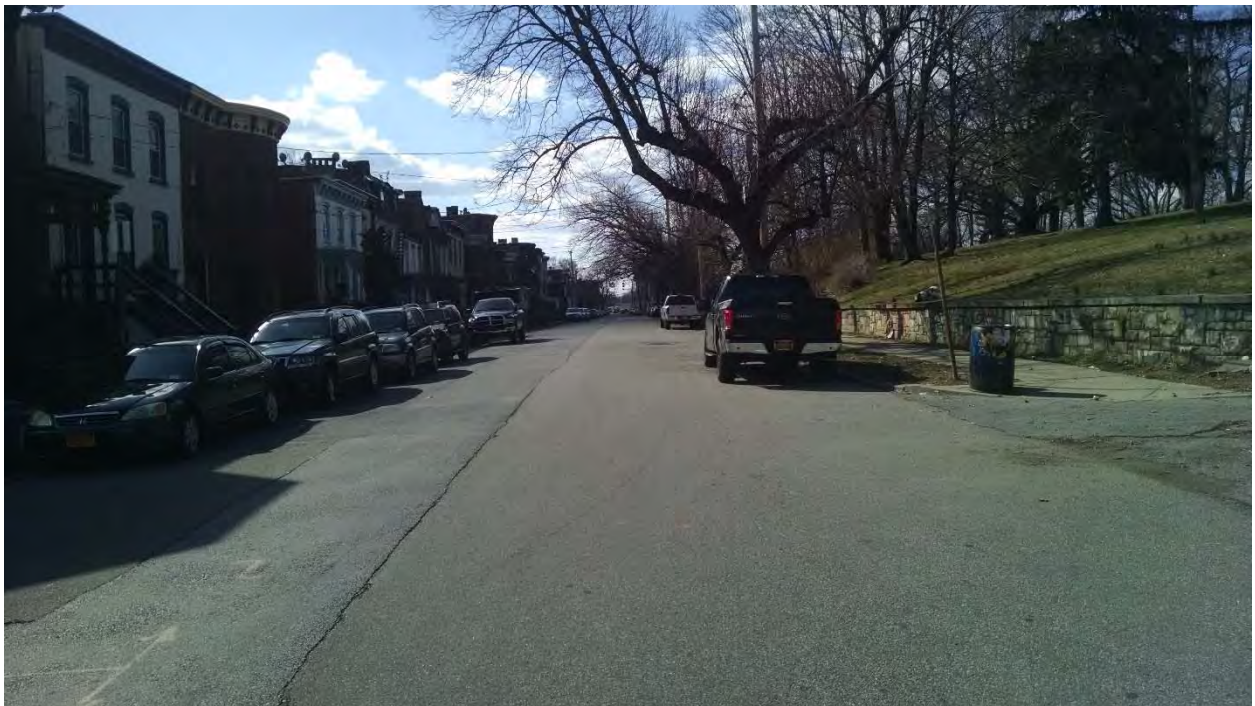


Photo 4 – Third Street @ City Terrace looking west



Photo 5 – Third Street @ Dubois Street looking east

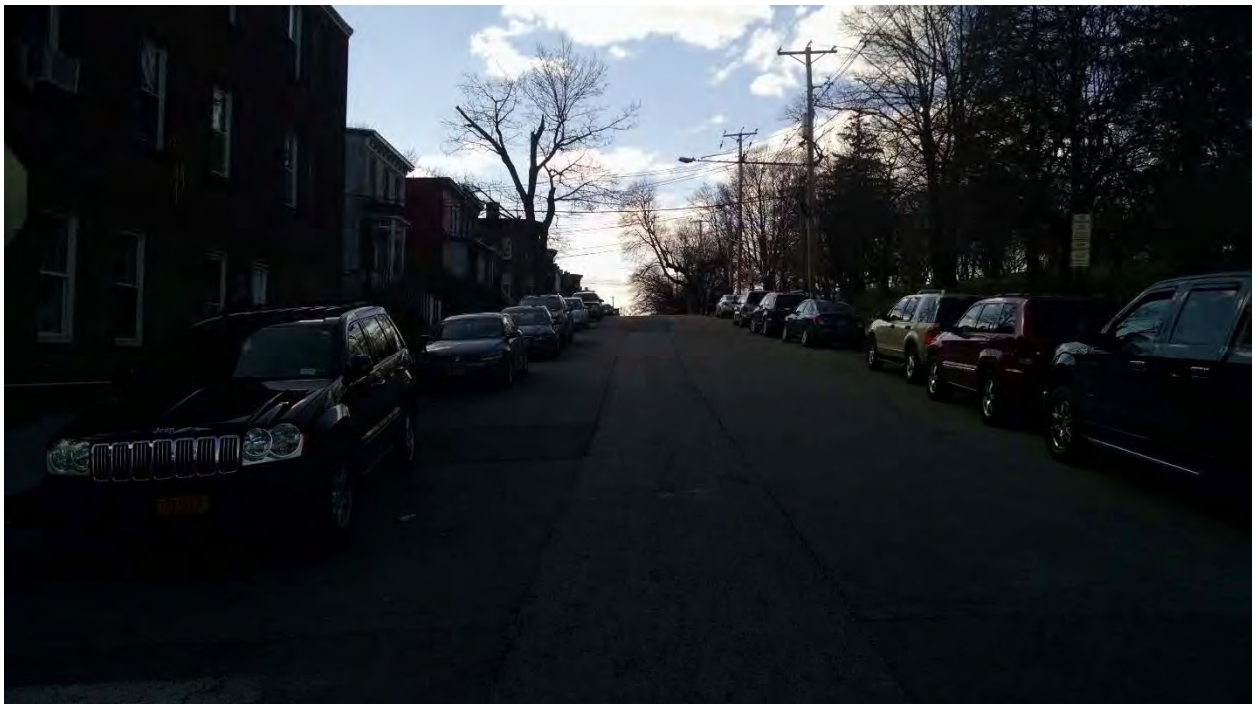


Photo 6 – Third Street @ Dubois Street looking west

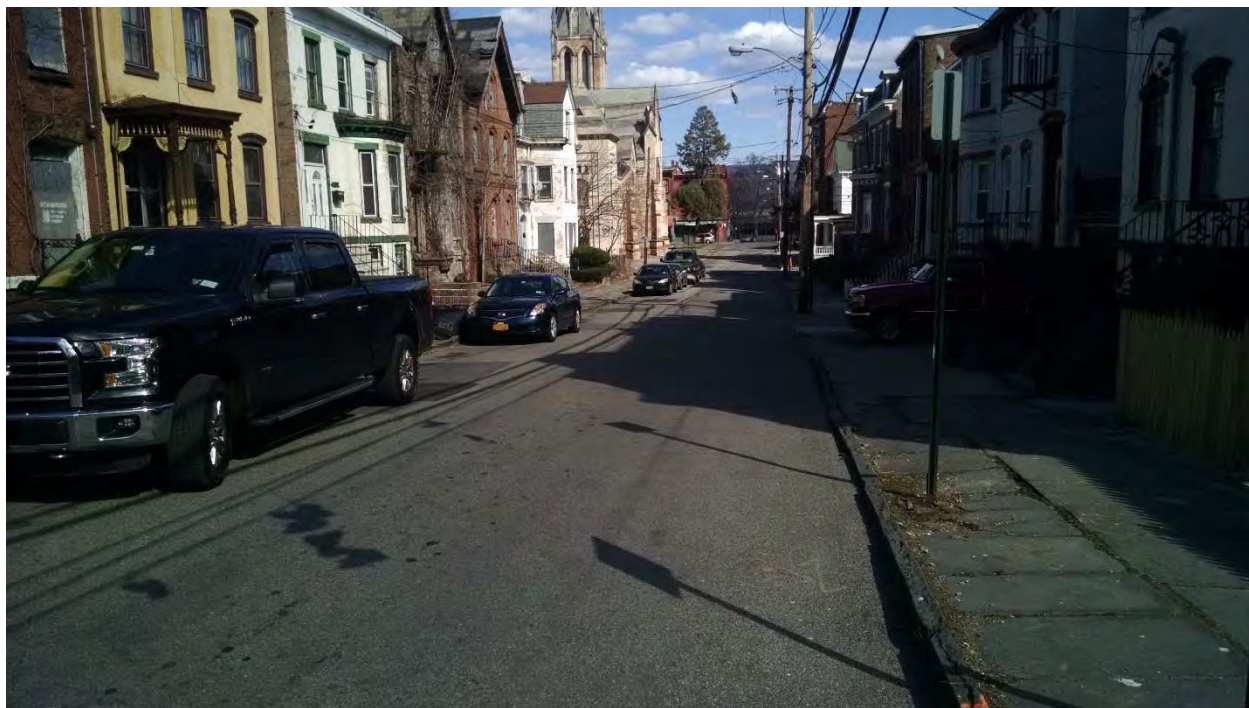


Photo 7 – Third Street @ Lander Street looking east

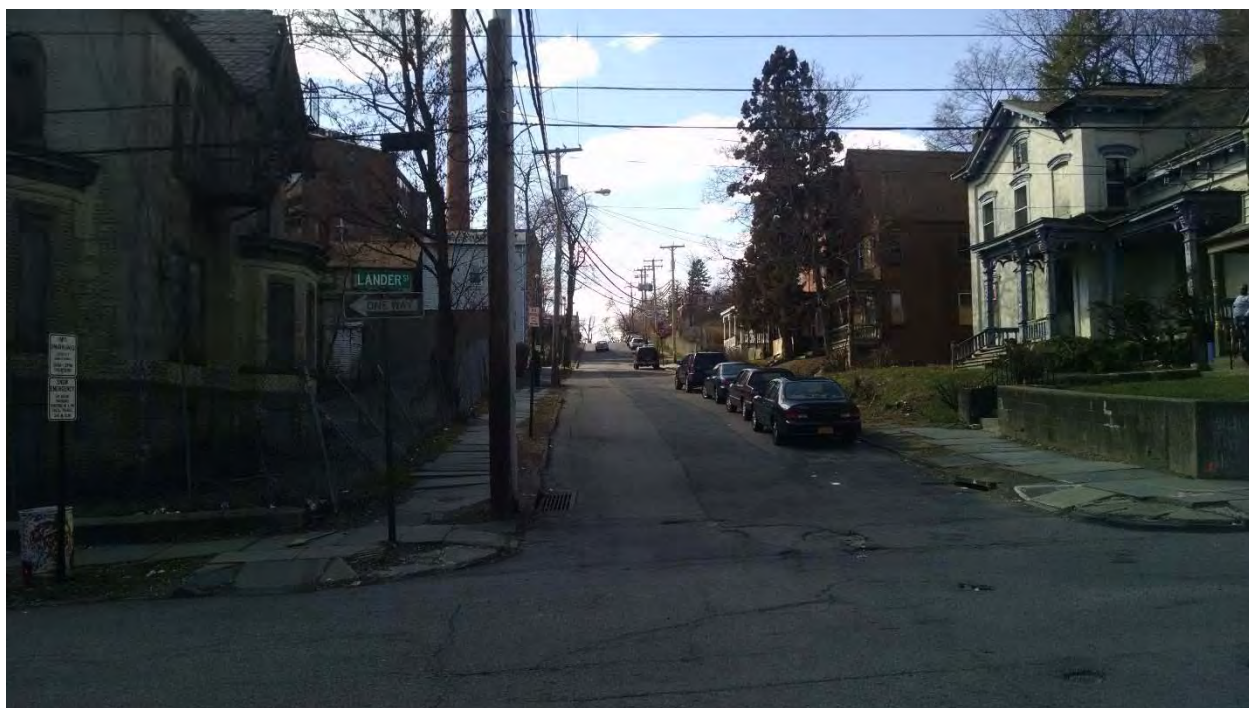


Photo 8 – Third Street @ Lander Street looking west

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



Photo 1 – Leroy Place @ Grand Street looking northwest

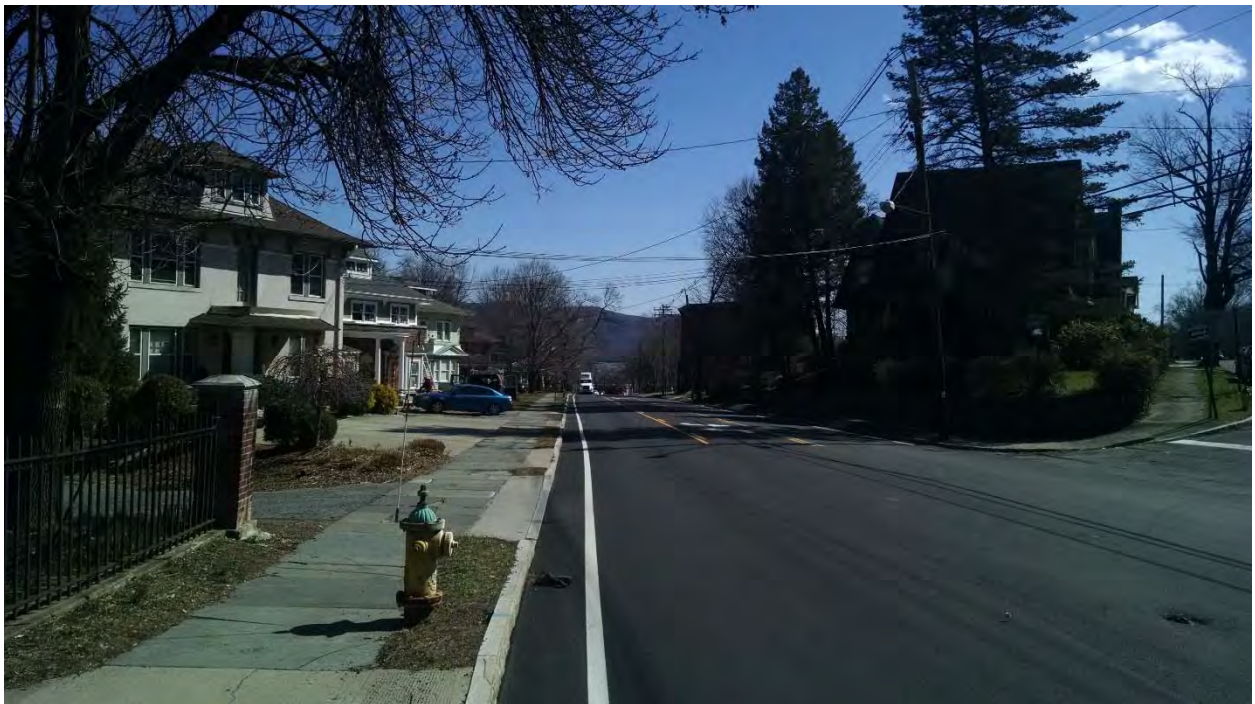


Photo 2 – Leroy Place @ Grand Street looking southeast



Photo 3 – Leroy Place @ Liberty Street looking east

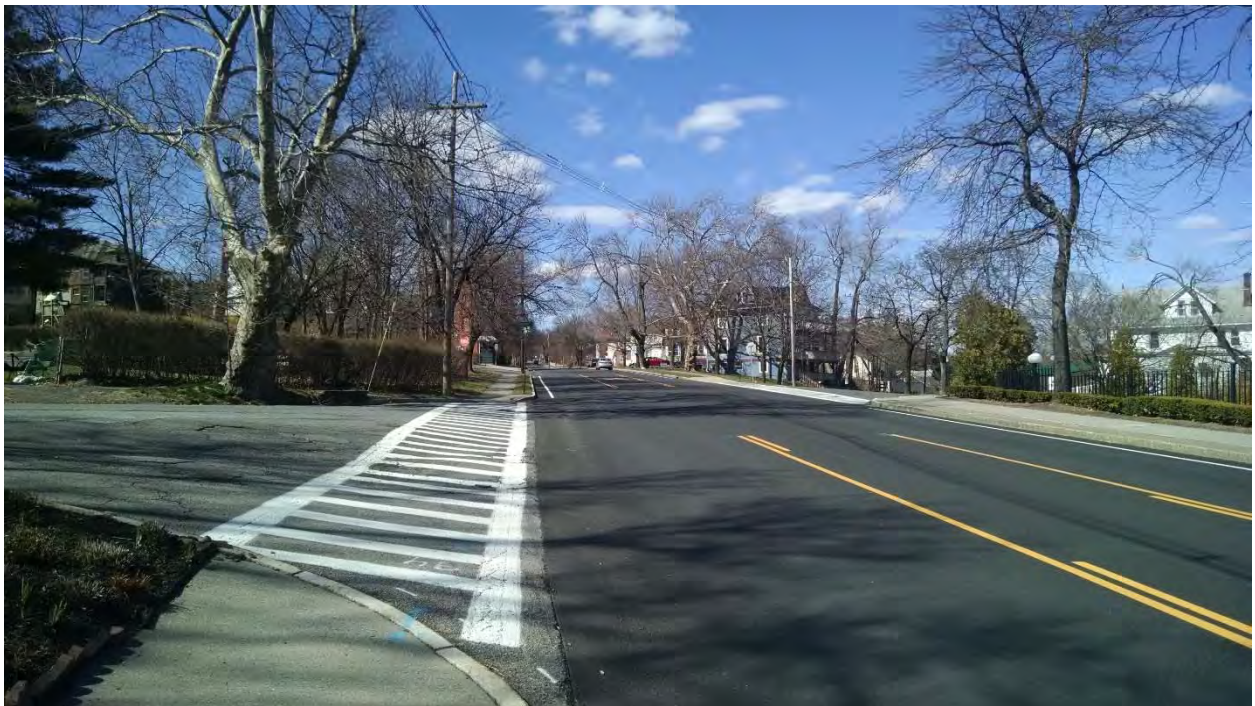


Photo 4 – Leroy Place @ Montgomery Street looking northwest



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

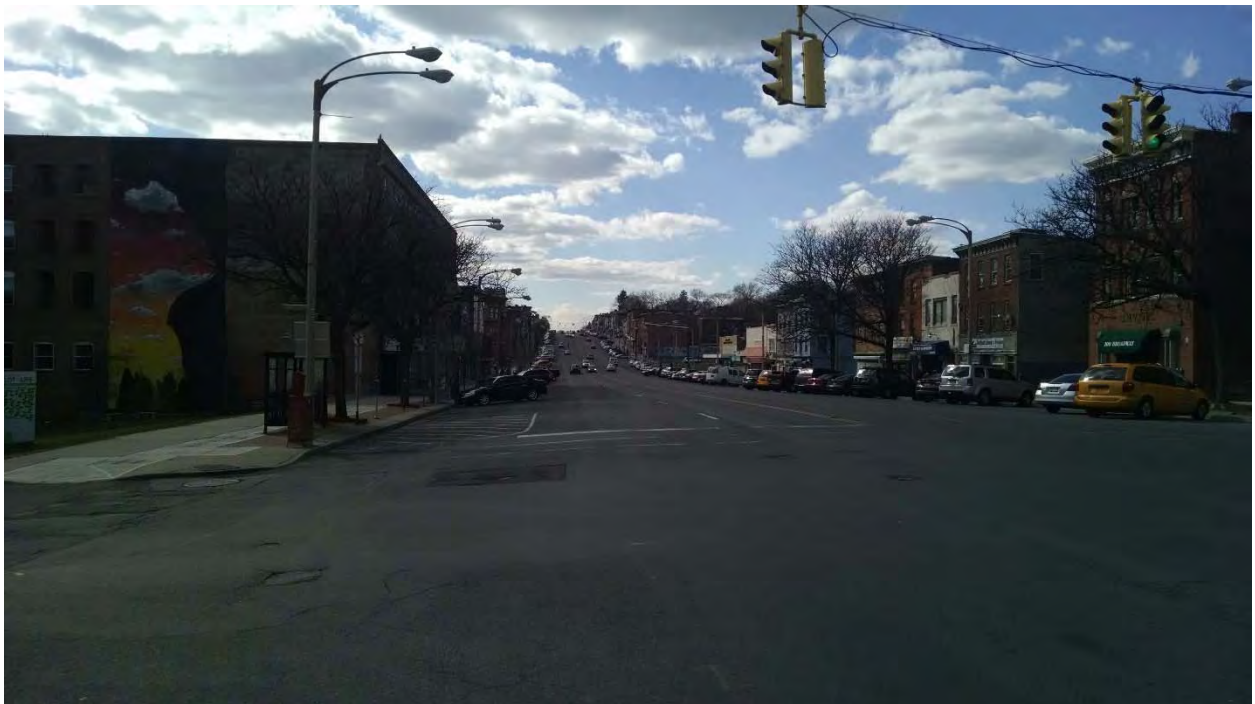


Photo 2 – Broadway @ Liberty Street looking west



Photo 3 – Broadway @ Robinson Avenue looking east

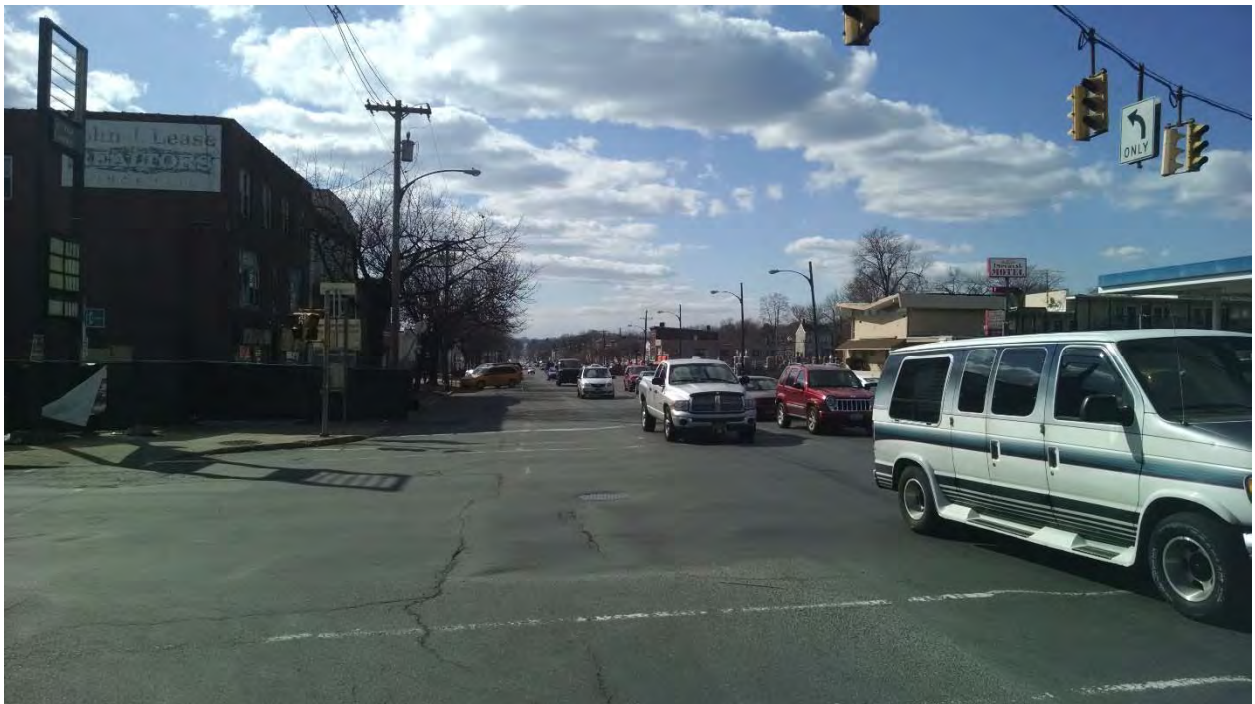


Photo 4 – Broadway @ Robinson Avenue looking west



Photo 5 – Broadway @ William Street looking east

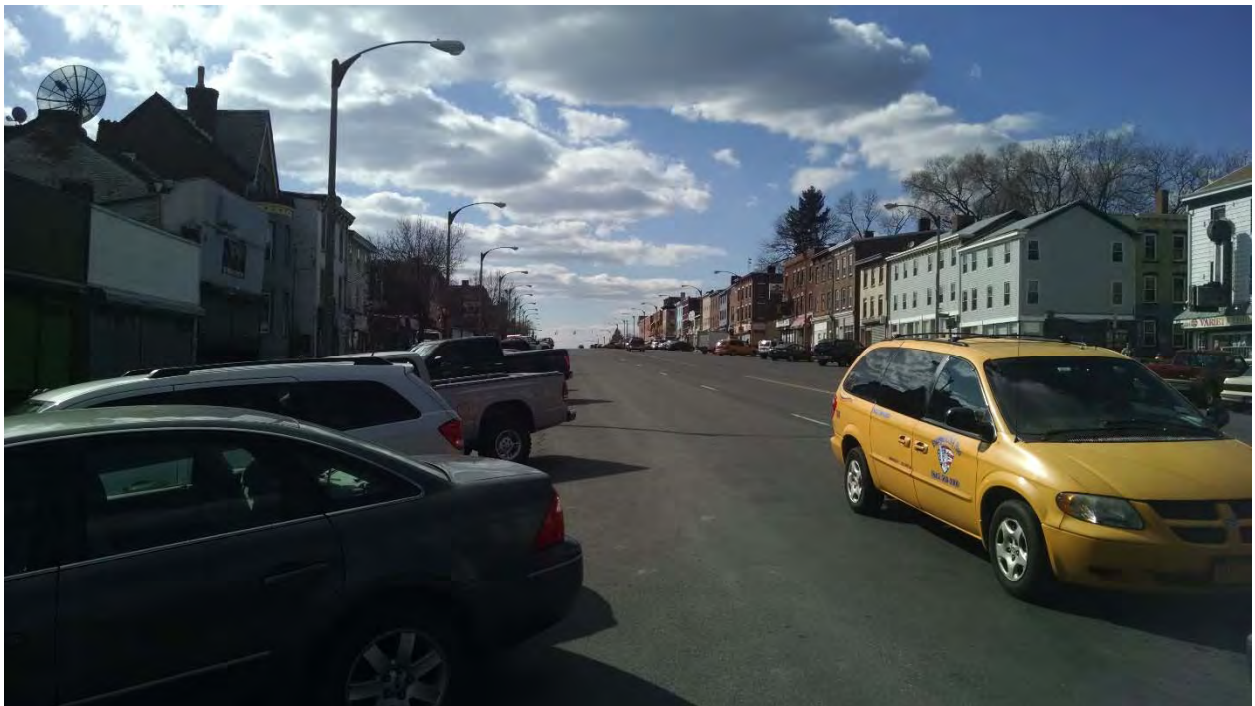


Photo 6 – Broadway @ William Street looking west

RESOLUTION NO.: _____ - 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.

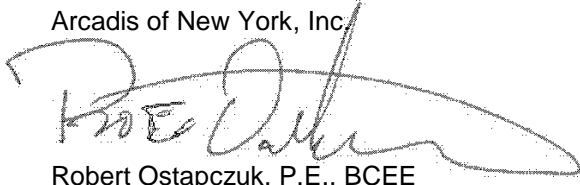
Based on the planning level budgets prepared during the development of the LTCP the City is required, by Order on Consent, to complete \$12.5M in for planning, engineering and construction costs for Phases I through IV. Please note that the work proposed herein for Phases III and IV are only for planning 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.

Mr. Jason Morris, P.E.
March 24, 2016

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.

A handwritten signature in black ink, appearing to read "R. Ostapczuk", written over a horizontal line.

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. ____ - 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

Error! Unknown document property name.

(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

[About Us](#) [Clean Water SRF](#) [Drinking Water SRF](#) [Finance](#) [NYS Water Grants](#) [Green Grants](#) [Other Programs](#)

[NYS Water Grants](#)



The New York State Water Infrastructure Improvement Act of 2015 provided \$200 million in grant funding over three state fiscal years, including \$75 million for 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 - Drinking Water](#)
- [NYS Water Grants Application Instructions - Drinking Water](#)
- [NYS Water Grants - Frequently Asked Questions](#)
- [DWSRF Hardship Financing Policy](#)
- [DWSRF Intended Use Plan](#)
- [DWSRF Project Listing Form](#)
- [DWSRF Financing Application](#)
- [MWBE Construction Bid Packet](#) and [MWBE Non-Construction Bid Packet](#)
- [Smart Growth Assessment Form](#)
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NYS Water Grants Drop Box

Environmental Facilities Corporation

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Law \(](#)

CONNECT WITH US



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.

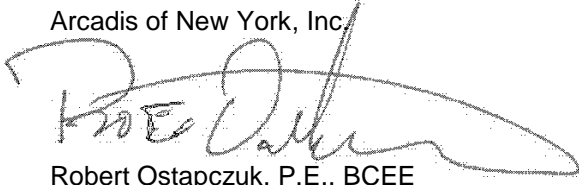
Based on the planning level budgets prepared during the development of the LTCP the City is required, by Order on Consent, to complete \$12.5M in for planning, engineering and construction costs for Phases I through IV. Please note that the work proposed herein for Phases III and IV are only for planning 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.

Mr. Jason Morris, P.E.
March 24, 2016

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.

A handwritten signature in black ink, appearing to read "Robert Ostapczuk", written over a horizontal line.

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. ____ -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

Error! Unknown document property name.

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

Error! Unknown document property name.

RESOLUTION NO.: _____ - 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.: _____ - 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

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
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 not 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.: _____ - 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. _____ - 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.

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 NYSPSC. The plan outlines the various practices that CH follows for clearing techniques along transmission corridors. CH follows 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 ROWs 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

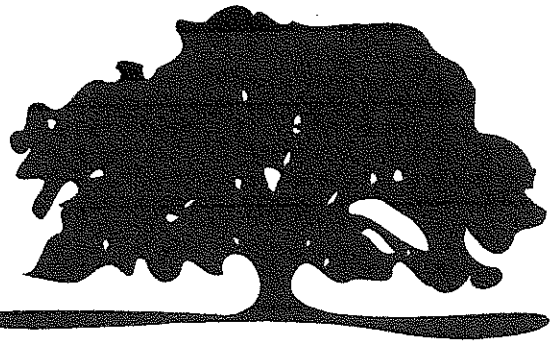
Deborah Dresser

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 eCorporations, 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 eCorporations, 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 there 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.

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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.