

TOWN OF CLARKSTOWN
TOWN BOARD MEETING
February 5, 2013, 8:00 p.m.
Town Hall Auditorium
AGENDA
(*Tentative*)

SALUTE TO THE FLAG

SPECIAL PRESENTATION:

- **Pride of Clarkstown Awards Presentation**

PUBLIC HEARING:

- Adoption of Updated Town Official Map Pursuant to Town Law, Section 273.

CLERK CALLS THE ROLL

PUBLIC COMMENTS REGARDING AGENDA ITEMS:

(Limited to 3 minutes per person)

RESOLUTIONS:

1. Authorizing the following Personnel Changes:
 - a) Resignation (Retirement): William C. Sherwood, Police Officer, Clarkstown Police Dept.
 - b) Appointment (Temporary): William J. Cunnane, Police Officer, Clarkstown Police Dept.
 - c) Appointment (Temporary): Aaron D. Gould, Police Officer, Clarkstown Police Dept.
 - d) Appointment (Temporary): Michael G. Graham, Police Officer, Clarkstown Police Dept.
 - e) Appointment (Temporary): Henry Mendez, Police Officer, Clarkstown Police Dept.
 - f) Appointment (Temporary): Steven Quinones, Police Officer, Clarkstown Police Dept.
 - g) Appointment (Temporary): Matthew J. Sheehy, Police Officer, Clarkstown Police Dept.
 - h) Appointment (Temporary): Matthew E. Usefof, Police Officer, Clarkstown Police Dept.
 - i) Appointment (Permanent): Robert J. McDermott, Police Officer, Clarkstown Police Dept.
 - j) Resignation (Retirement): Rosalie Amicucci, Administrative Aide, Planning Dept.
 - k) Appointment (Promotional/Provisional): Diane Papenmeyer, Administrative Aide, Planning Dept.
 - l) Reallocation of Environmental Resource Specialist from Grade 30 to Grade 33 – Denied.
2. Authorizing the Purchasing Agent to Advertise for the following:
 - a) Bid #8-2013 – 2013 Roadway Resurfacing Program
 - b) Bid #9-2013 – 2013 Concrete Curb and Sidewalk Replacement
 - c) Bid #10-2013 – Maple Road Drainage Improvements
 - d) Bid #11-2013 – Two (2) Trailer Mounted Generators
 - e) Bid #12 -2013 – Two (2) Trailer Mounted Led Light Towers
3. Authorizing the Supervisor to Enter into an Agreement with the County of Rockland for Reimbursement for MACTAC Training Courses as per 2008 SHSP Homeland Security Grant.

4. Authorizing Installation of a Street Light in front of 26 Highland Avenue, West Nyack.
5. Authorizing Acceptance of Easements for Ingress, Egress and Construction and Maintenance of Sewer Pump Stations.
6. Granting Certificates of Registration:
 - 13-20 – Turco Golf, Inc.
 - 13-21 – Danny Clapp Landscaping, Inc.
 - 13-22 – First Rate Landscaping & Construction, Inc.
 - 13-23 – JD Backhoe Service, Inc.
 - 13-24 – Dutra Excavating & Sewer, Inc.
 - 13-25 – Angel Landscaping, Inc.
7. Authorizing Capital Account for Data Processing Technology Improvements.
8. Amending Town Board Resolution #463-2012 for Bid #35-2012 – Ridge Road Culvert By-Pass.
9. Amending Resolution Nos. 180-2011 and 572-2011 Authorizing Additional Engineering Services Concerning Denver Drive Drainage Improvements.
10. Amending Resolution No. 416-2009 Authorizing the Supervisor to Enter into an Intermunicipal Agreement with the County of Rockland, through the Rockland County Sewer District.
11. Defaulting Performance Bond on the Davies Farm LLC, Phase II Subdivisin, Congers (Tax Map 35.18-1-5, 6,7,11,12& P/O 4)
12. Authorizing Settlement of Tax Certiorari Regarding C&M 345 North Main Street, LLC (Tax Map 34.19-1-6)
13. Adopting SEQRA Determination 131 Germonds Road.
14. Authorizing the Supervisor to Provide an Undertaking in Connection with Permits Issued by the New York State Department of Transportation.
- **ADDITIONAL TENTATIVE RESOLUTIONS:**

GENERAL PUBLIC COMMENTS:

(Limited to 3 minutes per person)

*****PLEASE NOTE*****

Additional items may be added to this agenda

*****To View Actual Resolutions, go to Town Clerk's Website, Click on Legal Matters*****

PH

RESOLUTION ADOPTING THE OFFICIAL MAP
OF THE TOWN OF CLARKSTOWN

WHEREAS, the Town Board of the Town of Clarkstown, by Resolution adopted on December 4, 2012, provided for a public hearing to be held on February 5, 2013 at 8:00 p.m., or as soon thereafter as possible, to consider adoption of an updated Official Map of the Town of Clarkstown, pursuant to §273 of Town Law, and

WHEREAS, by Resolution adopted on December 4, 2012, the Town Board directed that the matter be referred to the Rockland County Commissioner of Planning and the Clarkstown Planning Board for report and recommendation, which recommendations have been received and which the Town Board has considered in making their decision herein, and

WHEREAS, notice of said public hearing was duly published and posted as required by law, and said public hearing was duly held at the time and place specified in said notice, and

WHEREAS, the Clarkstown Planning Board considered the matter at its regularly scheduled meeting on January 9, 2013 and, by memo dated January 10, 2013, recommended adoption of the updated digital Official Map of the Town of Clarkstown, and

WHEREAS, the Rockland County Department of Planning recommended approval of amending the Official Map, by letter dated January 31, 2013, subject to the following:

1. A map date being added to each of the components and the composite Official Map, which the Town has done,
4. Consider demapping three segments shown as rights-of-way along Grant and Morton Avenues, which the Town shall take under advisement, and

WHEREAS, the Rockland County Department of Planning also recommended that the Town consider the following when making changes to the Official Map:

2. Identify existing or paper street road segments proposed to be abandoned,
 3. Consider requiring removal of obstacles from rights-of-way,
 5. Consider preserving some segments or paper streets for recreational areas, such as trails or pocket parks,
- and

WHEREAS, the Town has, and will continue to consider, the County's comments in future map amendments, and

WHEREAS, the Town Board of the Town of Clarkstown has received a report dated January 25, 2013, pursuant to SEQRA, from Jose Simoes, Principal Town Planner, which states that this matter is a Type II action under Part 617 of the SEQRA regulations which will not have a significant impact on the environment and no further review is necessary, which the Board considered in making their decision herein;

NOW, THEREFORE, be it

RESOLVED, that based upon the report of Jose Simoes, Principal Town Planner, dated January 25, 2013, acting as staff to the Town Board as lead agency, the Town hereby determines

that this is a Type II action under Part 617 of the SEQRA regulations and shall not have any significant impact on the environment, and be it

FURTHER RESOLVED, that pursuant to Town Law Section 273, the proposed amended Official Map of the Town of Clarkstown is hereby adopted, and be it

FURTHER RESOLVED, that the GIS Coordinator for the Town of Clarkstown is hereby authorized and directed to amend the Official Map as set forth herein.

Dated: February 5, 2013

TB 02-05 TA RES Adopt Official Map-pm

Awm

1A

RESOLVED, that the resignation of William C. Sherwood,
59 Round Hill Road, Washingtonville, New York - Police
Officer - Clarkstown Police Department - is hereby accepted
effective and retroactive to January 17, 2013.

DATED: February 5, 2013
P

1B

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of William J. Cunnane,

NOW, therefore, be it

RESOLVED, that William J. Cunnane, 123 Sleepy Hollow Lane, Congers, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

1c

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Aaron D. Gould,

NOW, therefore, be it

RESOLVED, that Aaron D. Gould, 208 Brittany Court, Valley Cottage, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Michael G. Graham,

NOW, therefore, be it

RESOLVED, that Michael G. Graham, 12 Randy Lane, New City, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

1E

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Henry Mendez,

NOW, therefore, be it

RESOLVED, that Henry Mendez, 7 Orchard Avenue, New City, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

IF

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Steven Quinones,

NOW, therefore, be it

RESOLVED, that Steven E. Quinones, 76 Western Highway, West Nyack, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Matthew J. Sheehy,

NOW, therefore, be it

RESOLVED, that Matthew J. Sheehy, 376 Route 304, Bardonia, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

1H

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Matthew E. Usefof,

NOW, therefore, be it

RESOLVED, that Matthew E. Usefof, 666 Sierra Vista Lane, Valley Cottage, New York, is hereby appointed to the position of (temporary) Police Officer - Clarkstown Police Department (while attending the Police Academy) - at the current 2013 annual salary \$59,398., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

11

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #08200 Police Officer which contains the name of Robert J. McDermott,

NOW, therefore, be it

RESOLVED, that Robert J. McDermott, 19 Hillside Drive, New City, New York, is hereby appointed to the position of (Permanent) Police Officer - Clarkstown Police Department - at the current 2013 annual salary \$71,275., - effective and retroactive to February 4, 2013.

DATED: February 5, 2013

P

RESOLVED, that the resignation (by retirement) of
Rosalie Amicucci, 439 County Club Lane, Pomona, New York -
Administrative Aide (Planning) - Planning Department - is
hereby accepted - effective and retroactive to
January 26, 2013.

DATED: February 5, 2013
P

1K

WHEREAS, in accordance with Article VIII, Section 5 of the labor agreement between the Town of Clarkstown and the Clarkstown Unit of the C.S.E.A., notice of request for a reallocation for the title of Administrative Aide (Planning) grade 22 - Planning Department to be reallocated to a grade 26.

NOW, therefore, be it

RESOLVED, that the Town Board has reviewed the request and determined that the title of Administrative Aide (Planning), in the Planning Department - is hereby reallocated to a grade 26.

FURTHER RESOLVED, that Diane Papenmeyer, 221 Strawtown Road, West Nyack, New York - is hereby appointed (promotional) (provisional) to the position of Administrative Aide (Planning) - Planning Department - at the 2013 current annual salary of \$86,568., effective February 11, 2013.

DATED: February 5, 2013

P

WHEREAS, in accordance with Article VIII, Section (5) of the Labor Agreement between the Town of Clarkstown and the Clarkstown Unit of the C.S.E.A., has received a request from Ronald Haelen for a reallocation of his title of Environmental Resource Specialist grade 30, be reallocated to a grade 33,

NOW therefore, be it

RESOLVED, that the Town Board has reviewed the request of Ronald Haelen's position and has determined that the title of Environmental Resource Specialist, in the Environmental Control Department, is graded correctly as a grade 30 and therefore the request has been denied.

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#8-2013 – 2013 ROADWAY RESURFACING PROGRAM

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED _____ at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

DATE: February 5, 2013

awm

2B

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#9-2013 – 2013 CONCRETE CURB AND SIDEWALK REPLACEMENT

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

DATE: February 5, 2013

awm

2c

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#10-2013 – MAPLE ROAD DRAINAGE IMPROVEMENTS

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

DATE: February 5, 2013

awm

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#11-2013 – PURCHASE OF TWO (2) TRAILER MOUNTED GENERATORS

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

DATE: February 5, 2013

A handwritten signature in cursive script, appearing to read 'AUM', is located in the bottom right corner of the page.

2E

RESOLVED, that the Authorized Purchasing Agent is hereby authorized to advertise for bids for:

BID#12-2013 -- PURCHASE OF TWO (2) TRAILER MOUNTED LED LIGHT TOWERS

Bids to be returnable to the office of the Authorized Purchasing Agent, 10 Maple Avenue, New City, New York at _____ A.M. on TO BE DETERMINED at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Purchasing Department.

DATE: February 5, 2013

awm

RESOLUTION AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ROCKLAND FOR REIMBURSEMENT FOR MACTAC TRAINING COURSES AS PER 2008 SHSP HOMELAND SECURITY GRANT

WHEREAS, the County of Rockland has tendered a contract award to the Town of Clarkstown Police Department for reimbursement for instructor overtime during MACTAC training courses at the Police Academy in the amount of \$27,000.00, in accordance with the 2008 SHSP Homeland Security Grant Program;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an agreement with the County of Rockland, in a form approved by the Town Attorney, to obtain instructor overtime reimbursement in the amount of \$27,000.00 for MACTAC training courses at the Police Academy.

Dated: February 5, 2013

TB 02-05 TA RES County Agree-PD Reimbursement-MACTAC Training-pm

awm

WHEREAS, a resident of Highland Avenue, West Nyack, in the Town of Clarkstown has requested that street lighting be installed to improve the safety and welfare of the community; and

WHEREAS, a physical survey of the surrounding property directly affected by this proposed lighting was conducted by the Department of Environmental Control; and

WHEREAS, the Department of Environmental Control has requested and has received a proposal from Orange and Rockland Utilities indicating the cost involved to provide electric facilities on pole #59752/40080;

NOW, THEREFORE BE IT RESOLVED, that the Town of Clarkstown hereby accepts the proposal from Orange and Rockland Utilities, Inc. for street lighting at the following location:

In front of house # 26 Highland Avenue, West Nyack
(Install one (1) each - 5,800 lumen 70 watt sodium vapor street light)

AND BE IT FURTHER RESOLVED, that the installation of this municipal street light shall be at no cost to the Town of Clarkstown, and that an annual charge for basic fuel delivery, which charge shall include maintenance of this street lighting equipment will be at \$12.42 per month for each sodium vapor fixture, plus market supply charge, fuel adjustment charge, which shall be charged to Acct. #SL 5182 461.

Dated: February 5, 2013

awm

RESOLUTION AUTHORIZING ACCEPTANCE OF EASEMENTS FOR INGRESS,
EGRESS AND CONSTRUCTION AND MAINTENANCE OF SEWER PUMP
STATIONS

WHEREAS, in accordance with the recommendations of the Director of the Department of Environmental Control of the Town of Clarkstown and H2M Group, engineering consultant for the Town of Clarkstown, the Town wishes to accept and record easements deemed necessary to allow for ingress and egress and for construction and maintenance of pump stations and other sanitary sewer purposes in connection with the Sewer Pump Station Upgrade Project in the Town of Clarkstown;

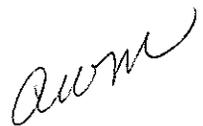
NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to accept any easements necessary to further the completion of said Project and directs the Town Attorney to record said easements in the Rockland County Clerk's Office, and be it

FURTHER RESOLVED, that the fees for recording these easements shall be a proper charge to Account No. H 8760-409-0-84-9, which fees shall be reimbursed to the Town of Clarkstown by the Rockland County Sewer District No. 1, and be it

FURTHER RESOLVED, that this resolution shall be retroactive to January 17, 2013.

Dated: February 5, 2013



**RESOLUTION GRANTING CERTIFICATES OF REGISTRATION
PURSUANT TO SECTION 236-48 OF THE TOWN CODE**

WHEREAS, the following have applied for a Certificate of Registration pursuant to Section 236-48 of the Town Code of the Town of Clarkstown:

TURCO GOLF, INC.
212 Orange Avenue
Suffern, New York 10901
Dennis Turco, President

DANNY CLAPP LANDSCAPING, INC.
P.O. Box 222
West Nyack, New York 10994
Daniel Clapp, President

FIRST RATE LANDSCAPING & CONSTRUCTION, INC.
32 Peck Street
West Haverstraw, NY 10993
Stacey E. Heminover, President

JD BACKHOE SERVICE, INC.
P.O. Box 342
Sparkill, NY 10976
Joseph D'Auria, President

DUTRA EXCAVATING & SEWER, INC.
10 Stone Hollow Road
Montvale, NJ 07645
Michael Dutra, President

ANGEL LANDSCAPING INC.
50 Rennert Lane
Bardonia, New York 10954
Miguel Arias, Owner

NOW, THEREFORE, be it
RESOLVED, that the Town Board hereby authorizes the issuance of a Certificate

of Registration to:

- 13-20 TURCO GOLF, INC.
- 13-21 DANNY CLAPP LANDSCAPING, INC.
- 13-22 FIRST RATE LANDSCAPING & CONSTRUCTION, INC.
- 13-23 JD BACKHOE SERVICE, INC.

13-24 DUTRA EXCAVATING & SEWER, INC.
13-25 ANGEL LANDSCAPING INC.

DATED: FEBRUARY 5, 2013

TB 02-05-13 TA RES Certificate of Registration Sewers-sk

alwm

RESOLUTION AUTHORIZING CAPITAL ACCOUNT FOR DATA PROCESSING
TECHNOLOGY IMPROVEMENTS

WHEREAS, the Director of Automated Systems has advised that a number of Town Hall and Police Department technology improvements are need to replace outdated Network, Engineering Imaging, Police Mobil Data Communications, Mobile Switching and Standby Emergency Power Components, and

WHEREAS, the Director of Automated Systems has further advised that software enhancements to the Police Department electronic document notification system are necessary to verify and enhance staff communication, and

WHEREAS, these technical improvements will utilize state of the art software and hardware components that will further improve network performance during critical field operational environments as well as improve standby power stability;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby authorizes the Director of Automated Systems to proceed with the necessary technological improvements, and be it

FURTHER RESOLVED, the total cost for the project shall not exceed \$179,690.00 without further authorization of the Board and shall constitute a proper charge to Capital Account No. H 8766-409-0-89-1, and be it

FURTHER RESOLVED, that it is the intention of the Town Board to fund this project with the issuance of serial bonds.

Dated: February 5, 2013

TB 2-5 DP Res Tech Impr--rds

awm

RESOLUTION AMENDING TOWN BOARD RESOLUTION 463-2012 FOR BID #35-2012; RIDGE ROAD CULVERT BY-PASS

WHEREAS, Town Board Resolution 463-2012 awarded bid #35-2012; Ridge Road Culvert By-Pass to Victor P. Zugibe, Inc., and

WHEREAS, additional work, based upon unforeseen field conditions, was required to complete the project as follows:

- 1. Install (6) 8-10 ft Green Giant arborvitaes
- 2. Pump 36 yards of flowable fill into existing 64"x43" CMP pipe to be abandoned
- 3. Construct additional concrete inlet headwall
- 4. Provide and install 20 lf of Redi-Rock retaining wall
- 5. Provide and install additional 15 lf of 64" x 43" CMP
- 6. Provide and install additional 100 lf of 15" HDPE drainage pipe,

and

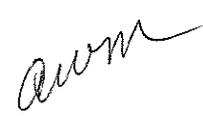
WHEREAS, a change order request for the additional work was submitted by Victor P. Zugibe, Inc. for the additional work in the amount of \$19,862.62, and

WHEREAS, the change order has been reviewed by the Department of Environmental Control and found acceptable in terms of scope and price;

NOW, THEREFORE, BE IT RESOLVED that the allowance for this project be increased from \$200,100.00 to \$219,962.62 to reflect the additional cost of the change order, and

BE IT FURTHER RESOLVED that this shall continue to be a proper charge to Account No. H -8765-400-409-0-88-16.

DATED: February 5, 2013



9

RESOLUTION AMENDING RESOLUTION NOS. 180-2011 AND 572-2011
AUTHORIZING ADDITIONAL ENGINEERING SERVICES CONCERNING
DENVER DRIVE DRAINAGE IMPROVEMENTS

WHEREAS, by Resolution Nos. 180-2011 and 572-2011, adopted on April 5, 2011 and October 18, 2011, respectively, the Town Board authorized an agreement, as amended, with the H2M Group to provide engineering services to prepare contract documents for repair and/or replacement of an existing drainage culvert under Denver Drive to address flooding, and

WHEREAS, as a result of the evaluation of the subject area, it was determined that the existing culvert would have to be replaced and a temporary construction easement and a permanent easement would be required for said replacement; and

WHEREAS, the Town Board has received a proposal from H2M Group, dated January 18, 2013, to revise the original scope of work to include review of the existing design plans and determine the exact location of the easements required for construction and installation of the drainage system and the First Deputy Director of Environmental Control has reviewed the proposal and finds it acceptable in terms of scope and price;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to enter into an amended agreement, in a form approved by the Town Attorney, with H2M Group, 254 South Main Street, Ste 500, New City, New York 10956, to perform additional engineering services to assist the Town in obtaining said easements in connection with replacing the Denver Drive culvert, and be it

FURTHER RESOLVED, that the fees for the additional services shall not exceed \$3,400.00 without further authorization from the Town Board, bringing the total amount authorized to \$39,750.00, and be it

FURTHER RESOLVED, that said fees shall be a proper charge to Account No. H 8762-409-0-86-7.

Dated: February 5, 2013

TB 02-05 TA RES H2M Agree-amend (2) Denver Drive culvert-pm

AWM

RESOLUTION AMENDING RESOLUTION NO. 416-2009 AUTHORIZING THE SUPERVISOR TO ENTER INTO A INTERMUNICIPAL AGREEMENT WITH THE COUNTY OF ROCKLAND, THROUGH THE ROCKLAND COUNTY SEWER DISTRICT, CONCERNING PUMP STATION AND COLLECTION SYSTEM UPGRADE PROJECT

WHEREAS, by Resolution No. 416-2009, adopted August 4, 2009, the Town Board authorized the Supervisor to enter into an Intermunicipal Agreement with the County of Rockland ("County"), through the Rockland County Sewer District No. 1 (RCSD #1), to cooperate in the upgrade of certain pump stations and sewer lines located within the Town of Clarkstown (the "Pump Station and Collection Upgrade Project") whereby the Town of Clarkstown ("Town") would operate pump stations and oversee the engineering, design, and construction of the Pump Station and Collection Upgrade Project, and that the County of Rockland would reimburse the Town of Clarkstown for construction and engineering costs of the Project in an amount not to exceed \$10,000,000.00 and will lease the pump stations and sewer lines from the Town for a period of thirty years; and

WHEREAS, H2M Group has prepared Amendment No. 1 to the engineering report to include sewer upgrades on Main Street and Long Clove Road in New City, New Haven Avenue and Lake Nanuet Park in Nanuet, and North Greenbush Road in West Nyack, and

WHEREAS, Amendment No. 1 to the engineering report includes a revised cost estimate increasing the project amount by \$1,000,000.00, and

WHEREAS, the Board of Sewer Commissioners of RCSD #1 has approved Amendment No. 1 of the engineering report increasing the estimated cost of the Project by \$1,000,000.00, and amendment of the Intermunicipal Agreement with the Town of Clarkstown, and

WHEREAS, the County has provided a First Amendment to said Agreement to provide for an additional reimbursement in the amount of \$1,000,000 for a total estimated project amount not to exceed \$11,000,000.00 for the Project;

NOW, THEREFORE, be it

RESOLVED, that the Supervisor is hereby authorized to sign a First Amendment to the Agreement between the County of Rockland, through the Rockland County Sewer District No. 1, and the Town of Clarkstown, in a form approved by the Town Attorney, for an additional amount of \$1,000,000.00, for a total not to exceed \$11,000,000.00, for the Pump Station and Collection Upgrade Project.

DATED: February 5, 2013

TB 02-05-13 TA RES-County Agreement-Sewer Project Additional Reimbursement-kh

A handwritten signature in cursive script, appearing to read 'AUM', is located in the lower right quadrant of the page.

//

**RESOLUTION DEFAULTING PERFORMANCE BOND ON THE
DAVIES FARM LLC, PHASE II SUBDIVISION, CONGERS
(TAX MAP 35.18-1-5, 6, 7, 11, 12 & P/O 4)**

WHEREAS, GLW Developers, LLC obtained approval for the subdivision known as "Davies Farm LLC, Phase II" and as a condition of subdivision approval GLW Developers, LLC., as developer and obligor, provided the Town of Clarkstown with a Letter of Credit No. 2318 from Provident Bank in the principal amount of \$581,884.25, together with its Developer's Performance Bond, to secure completion of the public and other required improvements, and

WHEREAS, Provident Bank amended said Letter of Credit on February 10, 2011 to reflect a firm expiration date of March 1, 2013, and

WHEREAS, the Deputy Director of the Department of Environmental Control has advised that the developer has failed to faithfully complete its obligations during the two (2) year time period pursuant to the terms of the Developer's Performance Bond and that the letter of credit is still required to secure completion of said obligations, and

WHEREAS, the Deputy Director of the Department of Environmental Control has recommended that the developer be declared in default of its Developer's Performance Bond and that all reasonable steps be taken to secure completion of the improvements by drawing against Letter of Credit No. 2318 the full amount of \$581,884.25 to be held pending completion of the remaining items by the developer or, if necessary, by the Town's contractors in the discretion of the Town Department of Environmental Control;

NOW, THEREFORE, be it

RESOLVED, that unless GLW Developers, LLC provides a renewal of Letter of Credit No. 2318 by February 5, 2013 which includes language making said letter of credit automatically renewable consistent with the original Letter of Credit No. 2318, GLW Developers, LLC, as developer and obligor, is hereby declared in default of its Developer's Performance Bond to complete

the public and other required improvements in the Davies Farm LLC, Phase II Subdivision ,and the Town Attorney is hereby authorized and directed to take all necessary steps to obtain funds deemed necessary to complete the required public improvements by drawing against Letter of Credit No. 2318 in the principal amount of \$581,884.25, and be it

FURTHER RESOLVED, that the Director of the Department of Environmental Control is hereby authorized to prepare plans and specifications for completion of the required work and, if necessary, to obtain a contractor or contractors in accordance with all requirements of law to complete the required improvements.

Dated: February 5, 2013

TB 02-05-13 TA RES Davies Farm, Phase II Default-dt

A handwritten signature in black ink, appearing to read 'Clem'.

**RESOLUTION AUTHORIZING SETTLEMENT OF TAX CERTIORARI
REGARDING C&M 345 NORTH MAIN STREET, LLC
(TAX MAP NO.: 34.19-1-6)**

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, C&M 345 North Main Street, LLC against The Town of Clarkstown, its Assessor and Board of Assessment Review of the Town of Clarkstown, Index No(s). 6511/08, 6395/09, 6739/10, 33528/12 , affecting parcel designated as Tax Map 34.19-1-6 and more commonly known as 345 North Main Street, New City, New York for the year(s) 2008/09, 2009/10, 2010/11 and 2012/13, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice pursuant to Section 727 of Real Property Tax Law of the State of New York and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, Tax Certiorari Counsel for the Town of Clarkstown and the attorneys for the Clarkstown Central School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, be it

RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 34.19-1-6 be reduced for the year(s) 2008/09 from \$1,365,800 to \$1,113,100 at a cost to the Town of \$5,151.18;

2. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 34.19-1-6 be reduced for the year(s) 2009/10 from \$1,365,800 to \$1,126,800 at a cost to the Town of \$3,209.06;

3. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 34.19-1-6 be reduced for the year(s) 2010/11 from \$1,365,800 to \$1,072,200 at a cost to the Town of \$4,448.67;

4. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Tax Map 34.19-1-6 be reduced for the year(s) 2012/13 from \$1,365,800 to \$1,150,000 at a cost to the Town of \$4,087.49;

5. Reimbursement for the year(s) 2008/09, 2009/10, 2010/11, and 2012/13 on the parcel described as Tax Map 34.19-1-6, as stated above, be made within sixty (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;

6. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, and be it

FURTHER RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and Tax Certiorari Counsel for the Town of Clarkstown is authorized to sign all documents necessary to effectuate such settlement.

Dated: February 5, 2013

TB 2-05-13 TA RES C&M 345 Main Street LLC Settlement-kh

A handwritten signature in black ink, appearing to read 'awm', is located in the lower right quadrant of the page.

**RESOLUTION ADOPTING SEQRA DETERMINATION
131 GERMONDS ROAD**

WHEREAS, the Town of Clarkstown is the owner of a certain parcel of municipal land located at 131 Germonds Road, West Nyack, New York and designated on the Clarkstown Tax Map as 58.07-1-86, and

WHEREAS, by Town Board Resolutions #245-2012 and #646-2012, subdivision work and funding was authorized, and

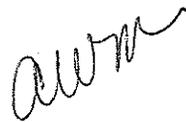
WHEREAS, the Deputy Director of Environmental Control, as agent for the Town Board, has prepared an Environmental Assessment Form (EAF) for the proposed subdivision plat dated 7-26-2012 and designated #3982 as prepared by Atzl, Scatassa & Zigler, P.C., Engineers-Surveyors-Planners, and

WHEREAS, the Deputy Director of Environmental Control has submitted said form and has determined that this action is an unlisted action under 6 NYCRR Part 617 and had rendered his opinion that the action will not have a significant impact on the environment,

NOW, THEREFORE BE IT RESOLVED, that based upon the EAF prepared by the Deputy Director of Environmental Control, acting as staff to the Town Board as lead agency, the Town Board hereby determines that this matter constitutes an Unlisted action under 6 NYCRR Part 617, and that based on review of the EAF and the potential impacts of the proposed action, determines that the proposed action will not have a significant impact on the environment.

Dated: February 5, 2013

TB 02-05 TA RES 131 Germonds Rd SEQRA--jje

A handwritten signature in cursive script, appearing to read 'awm', is located in the lower right quadrant of the page.

RESOLUTION REGARDING AN UNDERTAKING IN CONNECTION
WITH PERMITS ISSUED BY THE NEW YORK STATE
DEPARTMENT OF TRANSPORTATION

WHEREAS, the undersigned TOWN OF CLARKSTOWN (hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within rights-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance, replacement and/or operation of facilities, and

WHEREAS, Permittee's access and operation upon State rights-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of State facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes Alexander J. Gromack, Supervisor, or his designee, to execute and provide a blanket Undertaking in the form annexed hereto with the New York State Department of Transportation, as required with respect to the applications now pending, or to be made by the TOWN OF CLARKSTOWN, to temporarily obstruct, install, construct, maintain, operate or replace any facilities within the bounds of a State highway right-of-way pursuant to Sections 52, 103, 203, and/or 234 of the Highway Law.

Dated: February 5, 2013
TB 02-05 TA RES Undertaking-NYSDOT Agree-pm





UNDERTAKING

For the benefit of

The New York State Department of Transportation

In connection with work affecting state highways

(For use by New York municipalities and federal agencies)

WHEREAS, the undersigned TOWN OF CLARKSTOWN (Municipality, County, Town, City or Village, or any agency of the federal government, hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. Payment & Release of Liens. Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. Indemnity. In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, TOWN OF CLARKSTOWN (Municipality-County, Town, City, Village or federal agency) agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee (attach Resolution of Approval).

<u>Alexander J. Gromack</u> Authorized Agent	_____
<u>Alexander J. Gromack, Supervisor</u> Print Name/Title	Date
<u>10 Maple Avenue</u> Address	<u>(845) 639-2050</u> Phone number
<u>New City, NY 10956</u> Address	_____
	e-mail