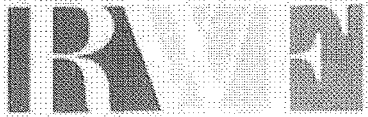


#9



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

Attorney-Client Privileged
MEMORANDUM

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

FROM: MARK C. TAYLOR, ATTORNEY FOR THE TOWN

RE: SETTLEMENT OF TAX CERTIORARI (2021, 2022 and 2023);
BANTY REALTY NEWBURGH, LLC
(1287 NYS ROUTE 300)
OUR FILE NO. 800.24

DATE: FEBRUARY 23, 2024

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

ATTORNEYS

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

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

COUNSEL

Stewart P. Glenn
Mary Fern Breheny
Stephen P. Duggan, III
John K. McGuirk
(1942-2018)

OF COUNSEL

Craig F. Simoni

Enclosed are copies of a letter from Cathy Drobny, Esq. of E. Stewart Jones, Hacker Murphy regarding the above referenced proposed settlement, a proposed Consent Judgment and charts showing the approximate claimed refund amounts and the approximate refunds that will be due from the taxing jurisdictions under the proposed settlement of the above referenced real property tax assessment appeal. The subject property contains the Super 8 Motel on Route 300. Also enclosed is a map showing the location of the tax parcel which is the subject of the proceedings which contains a branch bank.

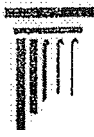
The settlement provides that the 2021 assessed value remains the same, and for reductions in assessed value of \$400,000 from \$1,650,000 to \$1,250,000 for both 2022 and 2023. Attorney Drobny's letter indicates that the provisions of RPTL Section 727 will apply, holding the Assessed Value at \$1,250,000 for the 2024, 2025 and 2026 assessment rolls, subject to the statutory exceptions.

The chart indicates that the refund liability for the Town (including Highway but not including special districts and the Fire District) will be approximately \$12,477.41 versus claimed refund liability of approximately \$65,554.93. Orange Lake Fire District, which has a standing request to be informed of all settlements will have a refund liability of approximately \$3,459.68. The attorneys for the Newburgh Enlarged City School District have already signed the Consent Judgment.

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

MCT/sel
Enc.

cc: Lisa M. Vance Ayers, Town Clerk
Molly Carhart, Assessor (via e-mail)
Joseph P. Pedi, Receiver of Taxes (via e-mail)
Ronald Clum, Town Accountant (via e-mail)
Cathy L. Drobny, Esq. (via e-mail)



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

February 6, 2024

Please send all mail to:

SCHENECTADY

MAIN OFFICE:
28 SECOND STREET
TROY, NY 12180

200 HARBORSIDE DRIVE, SUITE 300
SCHENECTADY, NY 12305

511 BROADWAY
SARATOGA SPRINGS, NY 12866

41 STATE STREET, SUITE 604-05
ALBANY, NY 12207

PHONE: (518) 274-5820
FAX: (518) 274-5875

www.joneshacker.com

VIA E-MAIL - mtaylor@riderweiner.com

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

RE: Banta Realty Newburgh, LLC v. Town of Newburgh
Index Nos. EF005271-2021, EF004018-2022 & EF004715-2023
Our File No. 5018.033

Dear Mark:

Attached please find the proposed Consent Judgment relative to the above-referenced proceedings. There are currently three years pending (2021, 2022 and 2023).

The subject parcel is the Super 8 Motel located at 1287 Route 300, tax map #95-1-14,222. It is a +/- 25,156 sq. ft. hotel with 107 rooms, a conference room and business facilities. The 2021, 2022 and 2023 assessed values are \$1,650,000. The FMV ranges from \$5,840,708 in 2021 to \$7,642,400 in 2023.

After review of the Profit and Loss statements and tax returns, this settlement was negotiated. The proposed settlement does not reduce the 2021 FMV, reduces the 2022 FMV to \$5,060,729 (AV \$1,250,000) and the 2023 FMV to \$5,789,717 (AV \$1,250,000). Pursuant to RPTL §727, the 2023 assessed value will be held for 2024, 2025, and 2026 subject to the statutory exceptions.

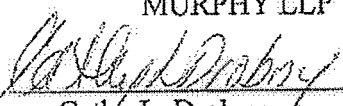
I have attached for your review a copy of the refund liability charts, which show the potential liability versus the proposed settlement refund liability.

We recommend that the Town Board authorizes us to enter into this settlement as proposed. Please place this matter on the agenda for the next Newburgh Town Board meeting for approval. Once the Resolution passes, please let me know and I will sign the Consent Judgment.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

E. STEWART JONES HACKER
MURPHY LLP

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

CLD:kah

Attachments

cc: Molly Carhart, Assessor
Gilbert Piaquadio, Supervisor

At an IAS Term of the Supreme Court of the State of New York held in and for the County of Orange, at 285 Main Street, Goshen, New York on the ____ day of _____, 202__.

PRESENT: Hon. E. Loren Williams, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the Matter of the Application of
BANTA REALTY NEWBURGH, LLC

CONSENT JUDGMENT

Petitioner,

Index Nos.: EF005271-2021
EF004018-2022
EF004715-2023

- against -

TOWN OF NEWBURGH, a Municipal Corporation, its ASSESSOR and its BOARD OF ASSESSMENT REVIEW,

Respondents.

For Review of the Assessment of Certain Real Property under Article 7 of the Real Property Tax Law.

-----X

The above petitioner having heretofore served and filed Petitions and Notices to review the tax assessments fixed by the Town of Newburgh for the 2021, 2022 and 2023 assessment rolls, upon certain real property located in the Town of Newburgh, Orange County, New York, and designated as Tax Map No. 95-1-14.222 (1287 Route 300) on the Official Assessment Map of the Town of Newburgh, and

The petitioner having appeared by Stenger, Diamond, & Glass, LLP, Karen E. Hagstrom, Esq., the respondents having appeared by E. Stewart Jones Hacker Murphy, LLP, Cathy Drobny, Esq., Attorney for the Town of Newburgh, and the intervenor-respondent having appeared by Shaw, Perelson, May & Lambert, LLP, Ira S. Levy, Esq., and the parties having made their

settlement, it is hereby

ORDERED, that the assessments on the property referred to herein, be and the same are hereby reduced, corrected and fixed for the 2021, 2022 and 2023 assessment rolls as follows:

DESCRIPTION (Tax Map No.): 95-1-14.222 (1287 Route 300)

<u>Assessment Roll</u>	<u>Original Assessment</u>	<u>Settlement Assessment</u>	<u>Amount of Reduction</u>
2021	1,650,000	1,650,000	0
2022	1,650,000	1,250,000	400,000
2023	1,650,000	1,250,000	400,000

, and it is further

ORDERED, that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite of said entries, that the same has been corrected by the authority of this Order, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the ORANGE COUNTY COMMISSIONER OF FINANCE, for Tax Map No. 95-1-14.222 (1287 Route 300), the amounts of Orange County taxes and ad valorem Special District Taxes, if any, paid by the petitioner as taxes against the said erroneous assessments in the excess of what the taxes would have been had the said assessments made in the aforesaid years been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, notwithstanding any other provision herein to the contrary, interest shall be waived in the event that payment is made within sixty (60) days from the date of service of this Order with notice of entry, and it is further,

ORDERED, that there shall be audited, allowed and paid to the petitioner by the NEWBURGH ENLARGED CITY SCHOOL DISTRICT, for Tax Map No. 95-1-14.222 (1287 Route 300), the amount of School taxes, and Library taxes if applicable, paid by the petitioner as taxes against the said erroneous assessments in the excess of what the taxes would have been had the said assessment made in the aforesaid years been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, notwithstanding any other provision herein to the contrary, interest shall be waived in the event that payment is made within sixty (60) days from the date of service of this Order with notice of entry, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the Orange County Commissioner of Finance or the Town of Newburgh, for Tax Map No. 95-1-14.222 (1287 Route 300), the amount of Town, Special District and any other ad valorem taxes paid by the petitioner as taxes against the said erroneous assessments in the excess of what the taxes would have been had the said assessments made in the aforesaid years been determined by this Order, together with interest thereon from the date of payment thereof as provided by statute, provided, however, notwithstanding any other provision herein to the contrary, interest shall be waived in the event that payment is made within sixty (60) days from the date of service of this Order with notice of entry, and it is further,

ORDERED, that unless paid within sixty (60) days from service of this Order and of the Audit and Demand for payment all tax refunds are to be made with statutory interest from the date the taxes indicated herein were paid, pursuant to Section 726 of the Real Property Tax Law of the State of New York, and it is further

ORDERED, that all tax refunds hereinabove directed to be made by respondent, the Orange

County Commissioner of Finance, the Town of Newburgh, the Newburgh Enlarged City School District, and/or any of the various taxing authorities, be made by check or draft payable to the order of Stenger, Diamond, & Glass, LLP, as attorneys for the petitioner, who is to hold the proceeds as trust funds for appropriate distribution, and who is to remain subject to the further jurisdiction of the Court in regard to its attorney's lien, pursuant to Judiciary Law Section 475, and it is further

ORDERED, that to the extent any taxes or assessments are unpaid and have already been billed for the Town, School, County and special districts in accordance with the original assessed valuations, the officer or officers having custody of the assessment rolls and/or the tax rolls shall forward to the property owner a new bill or bills, taxing said property owner on the basis of the final total assessed valuation as stipulated herein, and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

Dated: Goshen, New York
_____, 202__

E N T E R,

HON. E. LOREN WILLIAMS, J.S.C.

Signing and entry of the within
Order is hereby Consented to:


STENGER, DIAMOND & GLASS, LLP

BY: _____
KAREN E. HAGSTROM, ESQ.
Attorneys for Petitioner
1136 Route 9
Wappingers Falls, NY 12590
(845) 298-2000
khagstrom@sdeglaw.com

E. STEWART JONES HACKER MURPHY, LLP

BY: _____
CATHY L. DROBNY, ESQ.
Attorney for Town Respondents
200 Harborside Dr #300
Schenectady, NY 12305
(518) 274-5820
cdrobny@joneshacker.com

SHAW, PERELSON, MAY & LAMBERT, LLP

BY:  _____
IRA S. LEVY, ESQ.
Attorney for Intervenor-Respondent
Newburgh Enlarged City School District
115 Stevens Avenue
Valhalla, NY 10595
(914) 741-9870
ilevy@shawperelson.com

Town of Newburgh v. Banta Realty, 1237 Route 300

Year	Parcel Number	Assessed Value	Claimed Assessed Value	Eq. Rate	FMV	Claimed FMV	Difference AV and Claimed AV	Tax Rate	Refund Liability
2021	95-1-14-222	\$1,650,000	\$282,500	28.25%	\$5,840,708	\$1,000,000	\$1,367,500	County	12,1292 \$ 16,586.68
								Town	10.8445 \$ 14,829.85
								Highway	4.7344 \$ 6,474.29
								Orange lk fire	4.2357 \$ 5,792.32
								Consol It	0.3629 \$ 496.27
								Consol wtr 1	1.4627 \$ 2,000.24
								Consol wtr 2	2.5292 \$ 3,458.68
								School	71.47331 \$ 97,739.75
								Library	3.521783 \$ 4,816.04
								County	11.0917 \$ 15,561.65
2022	95-1-14-222	\$1,650,000	\$247,000	24.70%	\$6,680,162	\$1,000,000	\$1,403,000	County	10.9134 \$ 15,311.50
								Town	4.6423 \$ 6,513.15
								Highway	0.4071 \$ 571.16
								Newburgh Ambulance	4.3051 \$ 6,040.05
								Orange lk fire	0.4765 \$ 668.53
								Consol It	1.4603 \$ 2,048.80
								Consol wtr 1	2.5304 \$ 3,550.15
								Consol wtr 2	71.391298 \$ 100,161.99
								School	3.589386 \$ 5,035.91
								Library	10.653823 \$ 15,278.65
2023	95-1-14-222	\$1,650,000	\$215,900	21.59%	\$7,642,427	\$1,000,000	\$1,434,100	County	10.63692 \$ 15,254.41
								Town	5.000899 \$ 7,171.79
								Highway	0.41 \$ 587.98
								Newburgh Ambulance	4.34091 \$ 6,229.86
								Orange lk fire	0.495289 \$ 710.29
								Consol It	1.539877 \$ 2,208.34
								Consol wtr 1	2.659789 \$ 3,814.37
								Consol wtr 2	68.550183 \$ 98,307.82
								School	3.543244 \$ 5,061.37
								Library	County
							Town	\$ 45,395.76	
							Highway	\$ 20,159.23	
							Newburgh Ambulance	\$ 1,159.14	
							Orange lk fire	\$ 18,062.24	
							Consol It	\$ 1,875.09	
							Consol wtr 1	\$ 6,257.38	
							Consol wtr 2	\$ 10,823.21	
							School	\$ 296,209.56	
							Library	\$ 14,933.31	

Town of Newburgh v Bania Realty - 1287 Route 300 Settlement

Year	Parcel Number	Assessed Value	Reduced Assessed Value	Eq. Rate	FMV	Reduced FMV	Difference AV and Reduced AV	Tax Rate	Refund Liability
2021	95-1-14-222	\$1,650,000	\$1,650,000	28.25%	\$5,840,708	\$5,840,708	\$0	County	12.1292 \$
								Town	10.8445 \$
								Highway	4.7344 \$
								Orange lk fire	4.2357 \$
								Consol lt	0.3629 \$
								Consol wtr 1	1.4627 \$
								Consol wtr 2	2.5292 \$
								School	71.47331 \$
								Library	3.521783 \$
								County	11.0917 \$
2022	95-1-14-222	\$1,650,000	\$1,250,000	24.70%	\$6,680,162	\$5,060,729	\$400,000	County	10.9134 \$
								Town	4.6423 \$
								Highway	0.4071 \$
								Newburgh Ambulance	1.722.04 \$
								Orange lk fire	0.4765 \$
								Consol lt	1.4603 \$
								Consol wtr 1	2.5304 \$
								Consol wtr 2	71.391298 \$
								School	3.589386 \$
								Library	10.653823 \$
2023	95-1-14-222	\$1,650,000	\$1,250,000	21.59%	\$7,842,427	\$5,789,717	\$400,000	County	10.63692 \$
								Town	5.000899 \$
								Highway	0.41 \$
								Newburgh Ambulance	1.737.64 \$
								Orange lk fire	0.495289 \$
								Consol lt	1.539877 \$
								Consol wtr 1	2.659769 \$
								Consol wtr 2	68.550183 \$
								School	3.543244 \$
								Library	8.698.21 \$
County	8.620.13 \$								
								Town	3.857.28 \$
								Highway	326.84 \$
								Newburgh Ambulance	3.459.68 \$
								Orange lk fire	388.72 \$
								Consol lt	1,200.07 \$
								Consol wtr 1	2,076.07 \$
								Consol wtr 2	55,976.59 \$
								School	2,853.05 \$
								Library	



SECTION 80 - Subject First

PLAT 178
TRACED



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

Municipality of Newburgh

SWIS:	334600	Tax ID:	95-1-14.222
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Tax Map ID / Property Data

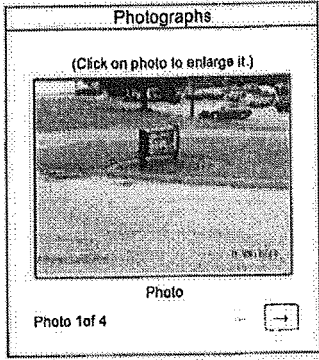
Status:	Active	Roll Section:	Taxable
Address:	1287 Route 300		
Property Class:	415 - Motel	Site Property Class:	415 - Motel
Ownership Code:			
Site:	Com 1	In Ag. District:	No
Zoning Code:	-	Bldg. Style:	Not Applicable
Neighborhood:	41126 -	School District:	Newburg
Property Description:	LI 2 Valley Ventures Inc Sub 4763		
Total Acreage/Size:	5.13	Equalization Rate:	----
Land Assessment:	2023 - \$346,800	Total Assessment:	2023 - \$1,650,000
Full Market Value:	2023 - \$7,642,400		
Deed Book:	13147	Deed Page:	872
Grid East:	609818	Grid North:	974265
Bank Code:	N/A		

Special Districts for 2023

Description	Units	Percent	Type	Value
AM010-Newburgh Ambulance	0	0%		0
FD030-Orange lk fire	0	0%		0
LT004-Consol It	0	0%		0
WD001-Consol wtr 1	0	0%		0
WD002-Consol wtr 2	0	0%		0

Land Types

Type	Size
Primary	23,275.00 sq ft
Secondary	200,188.00 sq ft



Documents

No documents found for this parcel

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

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

Municipality of Newburgh

SWIS:	334600	Tax ID:	95-1-14.222
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Ownership Information

Name	Secondary Name	Address
Banta Realty Newburgh, LLC		842 Main St Poughkeepsie NY 12601

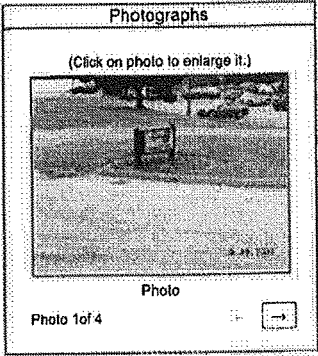
Sale Information

Sale Date	Price	Property Class	Sale Type	Prior Owner
2/9/2011	\$0	415 - Motel	Land & Building	Banta, Realty 2001
	Value Usable	Arms Length	Deed Book	Deed Page
	No	No	13147	872

Sale Date	Price	Property Class	Sale Type	Prior Owner
1/30/2001	\$4,738,000	415 - Motel	Land & Building	Newburgh, Motel
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	5452	183

Historic Deed Information

Book	Page	Prior Printkey
13147	872	
5452	183	



Documents

No documents found for this parcel

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

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300, in the Town of Newburgh, Orange County, New York on the ___th day of February, 2024 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

Scott M. Manley, Councilman

Anthony R. LoBiondo, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY

TAX LAW:

SBL #95-1- 14.222

BANTA REALTY NEWBURGH, LLC
(1287 ROUTE 300)

INDEX NUMBER 2021-EF005271,
2022-EF004018 AND 2023-EF004715

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

WHEREAS, Banta Realty Newburgh, LLC (the "Petitioner") has instituted proceedings under Article 7 of the Real Property Tax Law by which Petitioner seeks to obtain judicial review and reduction of the assessment of real property in the Town of Newburgh, Orange County, New York, consisting of a motel and related improvements located on a parcel of land at 1287 Route 300, Section 95-Block 1-Lot 14.222 on the tax assessment rolls for the tax years 2021, 2022 and 2023; and

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

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

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

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

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

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

Elizabeth J. Greene, Councilwoman voting

Paul I. Ruggiero, Councilman voting

Scott M. Manley, Councilman voting

Anthony R. LoBiondo, Councilman voting

Gilbert J. Piaquadio, Supervisor voting

The resolution was thereupon declared duly adopted.

#10C

Record & Return to:

Attn: Newburgh Town Clerk
Town Clerk's Office
1496 Route 300
Newburgh, New York 12550

**STORMWATER MANAGEMENT FACILITY EASEMENT
AND MAINTENANCE AGREEMENT**

THIS STORMWATER MANAGEMENT FACILITY EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is made as of this ___ day of _____, 2024 (the "Effective Date"), by and between **MATRIX NEWBURGH ROUTE 17K DEVELOPMENT, LLC**, New York limited liability company having an address at c/o Matrix Development Group, Forsgate Drive, CN4000, Cranbury, New Jersey 08512 (hereinafter the "Developer") and the **TOWN OF NEWBURGH**, a municipal corporation of the State of New York, with principal offices located at 1496 Route 300, Newburgh, New York, 12550 (hereinafter the "Town"), Developer and Town are sometimes hereinafter referred to individually as a "Party" and, collectively, as the "Parties."

WITNESSETH:

WHEREAS, Developer is the fee owner of that certain real property located along Route 17K, in the Town of Newburgh, County of Orange, State of New York, identified as "Proposed Lot A" on that certain subdivision plat entitled "Lot Line Change Matrix I-84 Distribution Center" prepared by Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C., dated _____, 202_ and filed in the Orange County Clerk's Office on _____, 2024, as Map No. _____ (the "Subdivision Plat"), which property is more particularly described as set forth in Schedule "A" attached hereto and made a part hereof (the "Site"); and

WHEREAS, Developer has received final site plan approval from the Town Planning Board by resolution dated November 16, 2023 and filed with the Town Clerk on December 20, 2023 (the "Final Approval Resolution"), allowing it to develop on the Site a new 595,900-square foot office/warehouse and other site improvements including stormwater controls, utility lines (water, sewer, electric, gas, etc.), car parking spaces, trailer/truck storage spaces, loading docks, dark-sky compliant lighting, signage and landscaping to be known as "Matrix I-84 Distribution Center" (the "Project")

WHEREAS, the Town and Developer desire to enter into this Agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Town for the Project (the "Stormwater Control Measures"); and

WHEREAS, the Town and the Developer desire that the Stormwater Control Measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components.

NOW, THEREFORE, the Town and the Developer agree as follows:

**Town of Newburgh
SBLs
89-1-66; p/o 89-1-69.11; & p/o 86-1-97**

1. This Agreement binds the Town, and the Developer, its successors and assigns to any maintenance provisions depicted in the approved project plans and Stormwater Pollution Prevention Plan which are on file with the Town's Stormwater Management Officer and consist of the following:

- a. Site plans prepared by Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C. and approved by the Town of Newburgh Planning Board in Resolution of Approval for Site Plan, Lot Line Change & Architectural Review Board for the Matrix I-84 Distribution Center (Project # 2022-29) dated November 16, 2023:

Author	Title	Last Revision Date
Langan Engineering	Cover Sheet	October 12, 2023
Langan Engineering	Legends and Notes	October 12, 2023
Langan Engineering	Existing Conditions and Site Removals Plan	October 12, 2023
Langan Engineering	Lot Line Change (1 of 2)	October 12, 2023
Langan Engineering	Lot Line Change (2 of 2)	October 12, 2023
Langan Engineering	Overall Site Plan	October 12, 2023
Langan Engineering	Site Plan (1 of 2)	October 12, 2023
Langan Engineering	Site Plan (2 of 2)	October 12, 2023
Langan Engineering	Emergency Access Route	October 12, 2023
Langan Engineering	Manheim Zoning Analysis	October 12, 2023
Langan Engineering	Truck Turning Movement Plan	October 12, 2023
Langan Engineering	Pavement Plan	October 12, 2023
Langan Engineering	Overall Grading Plan	October 12, 2023
Langan Engineering	Grading Plan (1 of 2)	October 12, 2023
Langan Engineering	Grading Plan (2 of 2)	October 12, 2023
Langan Engineering	Roadway Profile	October 12, 2023
Langan Engineering	Site Section	October 12, 2023
Langan Engineering	Overall Drainage Plan	October 12, 2023
Langan Engineering	Drainage Plan (1 of 2)	October 12, 2023
Langan Engineering	Drainage Plan (2 of 2)	October 12, 2023
Langan Engineering	Drainage Profile (1 of 2)	October 12, 2023
Langan Engineering	Drainage Profile (2 of 2)	October 12, 2023
Langan Engineering	Overall Utility Plan	October 12, 2023
Langan Engineering	Utility Plan (1 of 2)	October 12, 2023
Langan Engineering	Utility Plan (2 of 2)	October 12, 2023
Langan Engineering	Sanitary Sewer Profile	October 12, 2023
Langan Engineering	Water Main Profile	October 12, 2023
Langan Engineering	Phasing Plan	October 12, 2023
Langan Engineering	Erosion & Sediment Control Plan (1 of 2)	October 12, 2023
Langan Engineering	Erosion & Sediment Control Plan (2 of 2)	October 12, 2023

Langan Engineering	Site Details (1 of 2)	October 12, 2023
Langan Engineering	Site Details (2 of 2)	October 12, 2023
Langan Engineering	Water Details	October 12, 2023
Langan Engineering	Sewer Details	October 12, 2023
Langan Engineering	Drainage Details (1 of 2)	October 12, 2023
Langan Engineering	Drainage Details (2 of 2)	October 12, 2023
Langan Engineering	Erosion & Sediment Control Details	October 12, 2023
Langan Engineering	Overall Planting Plan	November 9, 2023
Langan Engineering	Planting Plan (1 of 2)	October 12, 2023
Langan Engineering	Planting Plan (2 of 2)	November 9, 2023
Langan Engineering	Planting Notes & Details	October 12, 2023
Langan Engineering	Overall Site Lighting Plan	October 12, 2023
Langan Engineering	Site Lighting Plan (1 of 2)	October 12, 2023
Langan Engineering	Site Lighting Plan (2 of 2)	October 12, 2023
Langan Engineering	Site Lighting Notes & Details	October 12, 2023
Langan Engineering	Overall Tree Preservation Plan	October 12, 2023
Langan Engineering	Tree Preservation Plan – Tile 1	October 12, 2023
Langan Engineering	Tree Preservation Plan – Tile 2	October 12, 2023
Langan Engineering	Tree Preservation Plan – Tile 3	October 12, 2023
Langan Engineering	Tree Preservation Plan – Tile 4	October 12, 2023
Langan Engineering	Tree Preservation Plan – Tile 5	October 12, 2023
Langan Engineering	Soil Exportation Plan	November 9, 2023

- b. Stormwater Pollution Prevention Plan (“SWPPP”) dated July 10, 2023, last revised October 11, 2023, prepared by Langan Engineering, Environmental, Surveying, Landscaping Architecture and Geology, D.P.C.
- c. Earthwork Operations memorandum, dated December 1, 2023, prepared by Langan Engineering, Environmental, Surveying, Landscaping Architecture and Geology, D.P.C.
- d. Any amendments to documents set forth above that may be approved by the Town and
- e. Supplemental contractor and subcontractor certifications required by the Town’s Municipal Code.

2. The Developer shall maintain, clean, repair, replace and continue the Stormwater Control Measures depicted on the approved project plans for the Project, as necessary to ensure optimum performance of the measures to design specifications. The Stormwater Control Measures shall include, but shall not be limited to, the following: drainage ditches,

swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds and other stormwater practices identified in the SWPPP approved by the Town.

3. The Developer shall be responsible for all expenses related to the maintenance of the Stormwater Control Measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
4. The Developer shall provide for the periodic inspection of the Stormwater Control Measures, not less than once a year, to determine the condition and integrity thereof. Such inspection shall be performed by a professional engineer licensed by the State of New York (the "Inspecting Engineer"). The Inspecting Engineer shall prepare and submit to the Town within thirty (30) days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the Stormwater Control Measures. In addition, the Town Engineer or his or her designated representative shall have the right to enter upon the Site at reasonable times and in a reasonable manner upon three (3) days' notice for the purpose of inspection of the Stormwater Control Measures.
5. The Developer shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the Stormwater Control Measures except in accordance with written approval of the Town.
6. The Developer shall undertake necessary maintenance, repairs and replacement of the Stormwater Control Measures at the direction of the Town or in accordance with the recommendations of the Inspecting Engineer.
7. This agreement shall be recorded in the Office of the County Clerk, County of Orange. All rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.
8. If ever the Town determines that the Developer has failed to construct or maintain the Stormwater Control Measures in accordance with the approved project plans or has failed to undertake corrective action specified by the Town or by the Inspecting Engineer, the Town is authorized to enter upon the Site at reasonable times and in a reasonable manner upon three (3) days' notice to undertake such corrective steps as reasonably necessary for the preservation, continuation or maintenance of the Stormwater Control Measures. However, before taking any corrective action, the Town shall give the Developer written notice of the nature of any existing defects. If the Developer fails within thirty (30) days from the date of the notice to commence corrective action or to appeal the matter to the Town Zoning Board of Appeals, the Town may take necessary corrective action, except if there are emergency circumstances set forth in the notice under which the public health, safety or the environment is endangered, then the Town may take corrective action if the Developer fails to commence action within three (3) days of the notice and to diligently prosecute the action to conclusion. The Developer shall reimburse the Town upon demand, within thirty (30) days of receipt of such demand for all actual costs and expenses,

including reasonable attorneys' fees, incurred in enforcing this Agreement and curing a violation. If the Town is not reimbursed within the prescribed time, the Town is authorized to affix the expenses thereof as a lien against the Site. Any work undertaken by the Town shall be performed in a good and workmanlike manner and the Town shall promptly repair any damage to the Site outside the stormwater management system (or to the system itself) caused by the Town's activities.

9. This Agreement shall not be revised or amended except in writing signed by the Town and the Developer (or its successors and assigns).

10. This Agreement is effective on the date first written above.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement effective the day and year first above written.

TOWN OF NEWBURGH

By: _____
Name: Gilbert J. Piaquadio
Title: Supervisor

MATRIX NEWBURGH ROUTE 17K DEVELOPMENT LLC,
a New York limited liability company

By: _____
Name: Donald M. Epstein
Title: Manager

[Acknowledgements Follow]

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

On the ____ day of _____, in the year 202_, before me, the undersigned, personally appeared Supervisor Gilbert J. Piaquadio, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature (s) on the instrument, the individual (s), or the person upon behalf of which the individual (s) acted, executed the instrument.

Notary Public

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

On the ____ day of _____, in the year 202_, before me, the undersigned, personally appeared Donald M. Epstein personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature (s) on the instrument, the individual (s), or the person upon behalf of which the individual (s) acted, executed the instrument.

Notary Public

SCHEDULE "A"

(Legal Description of Property)