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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 (2020);
ROSETON GENERATING, LLC. (RIVER ROAD)
OUR FILE NO. 800.24

DATE: JANUARY 22, 2020

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ATTORNEYS

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(1906-1968)
Elliott M. Weiner
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COUNSEL

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

OF COUNSEL

Craig F. Simon
Irene V. Villacci

Enclosed are a proposed Stipulation of Settlement negotiated by the Town's special tax certiorari counsel, Pat Seely of E. Stewart Jones, Hacker Murphy, for the above referenced case. The attorneys for the Marlboro School District will also be signatories to the Stipulation and Mr. Seely advises the School Board has already approved the settlement. The Order and Judgment to be submitted by Judge Bartlett is also enclosed,

A corrected January tax bill with figures modified to reflect the reduced Assessed Value established by the settlement will be issued upon the Board's and Judge's approval of the settlement. Attached is a sheet reflecting the adjustments. (Note that on the current tax bill, a reduced Assessed Value matching the stipulated Assessed Value was already used for Water 1 and Water 2, so there may be no adjustment for those charges.)

Also enclosed for the Town Board's consideration is a draft resolution authorizing the settlement.

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

ROSETON GENERATING, LLC

Petitioner,

-against-

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

Respondents.

Pursuant to Article 7 of the Real Property Tax Law

MARLBORO CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

**STIPULATION OF
SETTLEMENT**

Index No.: EF003912-2020
Assessment Year: 2020

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, who are the attorneys for all parties of record in the above entitled special proceeding, that the above entitled proceeding is settled and compromised as follows:

FIRST: For the Assessment Roll years 2020 through 2024, the undersigned parties hereby agree that the Taxable Assessed Value of Tax Map Parcel # 9-1-25.1-1, shall be reduced to \$27,672,200.

SECOND: The industrial waste exemption on Tax Map Parcel # 9-1-25.1-1, in the amount of \$12,891,500, shall remain in place for the Assessment Roll years 2020 through 2024, such that the aggregate Assessed Values of the aforementioned Tax Map Parcel shall be \$40,563,700.

THIRD: In consideration for the assessment revision set forth herein, this proceeding shall be discontinued on the merits and without costs as to either party against the other, subject to payment of appropriate refunds of excess principal taxes, without statutory interest, by the various taxing units made subject of subsequent paragraphs.

FOURTH: The officer or officers having custody of the 2020 assessment roll of the Town of Newburgh, and of any tax rolls upon which the above-mentioned assessment, as found in the year 2020, and any taxes levied or to be levied thereon, have been entered, shall forthwith correct the entry with respect to said real property of Petitioner, in such a way as to effect the amendment, revision and reduction hereinbefore provided with respect to said assessment roll.

FIFTH: Petitioner shall forthwith recover from the Town of Newburgh, and all other taxing entities using the previously unrevised 2020 assessment roll of said Town, including the County of Orange, and the Marlboro Central School District, and any applicable special, sewer, fire or highway districts, the various principal amounts, if any, paid to each such taxing unit as and for excess taxes for the tax year or period in which said assessment roll was, is, or is to be used, without statutory interest, all in accordance with local refunding procedures established and provided for such cases except that petitioner shall waive all refunds from the Marlboro Central School District above \$300,000.

SIXTH: As specified above, the proper officers of all such taxing units, including the Town of Newburgh, the County of Orange, and the Marlboro Central School District, and any affected special districts, shall forthwith audit, allow, pay and refund to petitioner, in care of its counsel of record, the principal amounts of excess taxes paid as aforesaid, said refund being made in the form of check or draft payable to "Hinckley, Allen & Snyder LLP as attorneys for

Roseton Generating, LLC" as sole payee, and said refund shall be tendered to counsel for the Petitioner at his office address set forth at the foot of this agreement no later than July 31, 2021.

SEVENTH: This agreement shall be subject to the provisions of Real Property Tax Law §727.

EIGHTH: An order in accordance with the terms of this stipulation may be entered herein by either party. Upon due notice of subsequent entry, this proceeding shall be thereupon discontinued on the merits, without costs or refunds in favor of either party as against the other, subject to compliance with the provisions made part hereof. Either party may move this Court on notice to the other for any relief it shall deem appropriate for the construction or enforcement of this stipulation.

NINTH: Each party to this Settlement hereby represents and warrants that it has the power, authority and right to enter into this Settlement and to carry out and perform the terms thereof.

TENTH: The Court shall retain jurisdiction over this proceeding, including any litigation to enforce this settlement

DATED: January 19, 2021

HINCKLEY, ALLEN & SNYDER, LLP



James J. Barriere, Esq.
30 South Pearl St., Suite 901
Albany, New York 12207
(518) 396-3120

Attorneys for the Petitioner

DATED: _____

**E. STEWART JONES HACKER MURPHY
LLP**

Patrick L. Seely, Jr., Esq.
28 2nd Street
Troy, New York 12180
(518) 730-7270

Attorneys for the Respondents

DATED: _____

**THOMAS, DROHAN, WAXMAN, PETIGROW
& MAYLE, LLP**

Daniel Petigrow, Esq.
2517 Route 52
Hopewell Junction, New York 12533
(845) 592-7000

Attorneys for the Intervenor

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

ROSETON GENERATING, LLC

Petitioner,

-against-

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

Respondents.

Pursuant to Article 7 of the Real Property Tax Law

MARLBORO CENTRAL SCHOOL DISTRICT,

Intervenor-Respondent.

**ORDER AND
JUDGMENT**

Index No.: EF003912-2020
Assessment Year: 2020
Hon. Catherine M. Bartlett,
AJSC

Upon reading and filing the Stipulation of counsel submitted herein, and upon due consideration and deliberation having approved of the terms and conditions thereof,

NOW, on consent of all the attorneys of record for the parties, be it and it hereby is

ORDERED, that the above-entitled 2020 proceeding shall be discontinued, consistent with the decretal paragraphs of this Order; and it is further

ORDERED, that the assessments made by the Assessor of the Town of Newburgh for the year 2020 against the property of the Petitioner, be, and the same hereby are, adjusted, revised and reduced to the extent that the final valuations therein shall be corrected to be stated as follows: For the Assessment Roll years 2020 through 2024, the Assessed Value of Tax Map Parcel # 9-1-25.1-1, shall be reduced to \$27,672,200; and it is further

ORDERED, that the industrial waste exemption on Tax Map Parcel # 9-1-25.1-1, in the amount of \$12,891,500, shall remain in place for the Assessment Roll years 2020 through 2024, such that the total Assessed Value of the aforementioned Tax Map Parcel, shall be \$40,563,700; and it is further

ORDERED, that the officer or officers having custody of the tax rolls containing said assessments, and of any tax roll upon which the above-mentioned assessments, as found in the year 2020, and any taxes levied or to be levied thereon, have been entered, shall forthwith correct the entries with respect to said real property of Petitioner, in such a way as to effect the amendments, revisions and reductions hereinbefore provided with respect to said respective assessments; and it is further

ORDERED, that the Petitioner shall forthwith recover from the Town of Newburgh and all other taxing entities using the previously unrevised assessment roll of said Town, including the County of Orange, and the Marlboro Central School District, and any special districts so affected, as specified in the parties' Stipulation of Settlement the various principal amounts paid to each such taxing unit as and for excess taxes for the tax year or levy period in which said assessment roll was, is, or is to be used, without statutory interest; and it is further

ORDERED, that the proper officers of all such taxing units, including the Town of Newburgh, the County of Orange, and the Marlboro Central School District, and any affected special districts, shall forthwith audit, allow, pay and refund to petitioner, in care of its counsel of record, the principal amounts of excess taxes paid as aforesaid, without interest, said refunds being made in the form of check or draft payable to "Hinckley, Allen & Snyder LLP as attorneys

for Roseton Generating, LLC” as sole payee and said refunds shall be tendered to counsel for the Petitioner at his office address no later than July 31, 2021; and it is further

ORDERED, that the amendment, reduction and revision set forth herein are subject to the provisions of Real Property Tax Law §727; and it is further

ORDERED, that any party to this proceeding may make application, upon notice to the Court, to any Justice of the Judicial District of this Court for such other, further and different relief as may be necessary and proper to enforce or construe the provisions of this order; and it is further

ORDERED, that upon each taxing unit’s compliance with the terms of this Order, the above-entitled proceedings shall be discontinued on the merits, without costs, disbursements or fees to any party as against the other.

DATED: _____, 2021

At Goshen, New York

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

Roseton

Year	Parcel Number	Taxable Value	Reduced Taxable Value	Eq. Rate	Difference	Tax Rate	Return Liability
2020	9-1-25.1-1	\$ 38,872,200	\$27,672,200	29.95%	\$11,200,000	County Town	\$ 132,944.00 \$ 121,744.00
Refund						Highway Fire-MI Sn Dist	\$ 53,200.00 \$ 48,720.00 \$ 44,576.00

?
 reduced
 as used
 for water
 1 & 2 calls

DRAFT

At a meeting of the Town Board of the Town of Newburgh, held at the Town Hall, 1496 Route 300 or by videoconference pursuant to the Governor's Executive Orders, in the Town of Newburgh, Orange County, New York on the ___h day of January, 2021 at 7:00 o'clock p.m.

PRESENT:

Gilbert J. Piaquadio, Supervisor

Elizabeth J. Greene, Councilwoman

Paul I. Ruggiero, Councilman

James E. Manley, Councilman

Anthony R. LoBiondo, Councilman

RESOLUTION OF TOWN BOARD
AUTHORIZING SETTLEMENT OF
PROCEEDINGS UNDER ARTICLE
7 OF THE REAL PROPERTY
TAX LAW:
SBL #9-1- 25.1-1
ROSETON GENERATING, LLC
(1008 RIVER ROAD)
INDEX NUMBER EF003912-2020

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

WHEREAS, Roseton Generating, 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 an electricity generating station and related improvements located on a parcel of land at 1008 River Road (Section 9-Block 1-Lot 25.1-1 on the tax assessment roll for the tax year 2020; and

WHEREAS, special counsel to the Town, E. Stewart Jones Hacker Murphy, LLP, has negotiated a settlement of the proceeding with the Petitioner, the terms of which are embodied in a proposed Stipulation of Settlement 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, papers and payments 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.