



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NY WORKS II ENVIRONMENTAL RESTORATION PROJECT
APPLICATION FOR PARTICIPATION
Chapter 54, Laws of 2013



ABOUT THIS APPLICATION – Chapter 54, Laws of 2013 (the “Law of 2013”), provided New York Works funding for services, expenses, and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law of 2013 allows the New York State Department of Environmental Conservation (DEC) to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide ten percent of the total project costs (hereinafter referred to as “NYWII ERP Agreement”). DEC will consider entering agreements with municipalities who own properties to complete ERP remediation projects for sites with a DEC approved Record of Decision (ROD). The municipality must complete and submit this application to request such consideration.

Applicant Information

NAME OF MUNICIPALITY

Town of Hempstead

FED. ID # 11600192

NAME OF INDIVIDUAL AUTHORIZED TO SIGN APPLICATION

Kate Murray

TITLE OF AUTHORIZED INDIVIDUAL

Supervisor

ADDRESS

One Washington Street

CITY/TOWN

Hempstead

ZIP CODE 11550

PHONE (516) 489-5000

FAX (516) 538-2908

E-MAIL kmurray@tohmail.org

Site Information

ERP SITE NO.

E130150

SITE NAME

Elmont-546 Hempstead Turnpike-aka-Elmont Welding

SITE ADDRESS

546 Hempstead Turnpike

CITY/TOWN

Elmont

ZIP CODE 11003

COUNTY

Nassau

SIZE (ACRES) 3,039 sq. ft.

LATITUDE (degrees/minutes/seconds) 40° 42' 28.64" N

073° 42' 28.79" W

LONGITUDE (degrees/minutes/seconds)

1. DO THE SITE BOUNDARIES CORRESPOND TO TAX MAP METES AND BOUNDS? IF NO, PLEASE ATTACH A METES AND BOUNDS DESCRIPTION OF THE SITE IF ONE IS COMPLETED.
2. IS THE SITE IN A DESIGNATED BROWNFIELD OPPORTUNITY AREA PURSUANT TO GENERAL MUNICIPAL LAW 970-R? IF YES, IDENTIFY AREA, (NAME) _____
3. IS THE SITE LISTED ON THE NYS REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES? IF YES, FILL IN CURRENT REGISTRY SITE NUMBER AND CLASSIFICATION.
REGISTRY SITE # _____
CLASSIFICATION _____

☒ YES ☐ NO

☐ YES ☒ NO

☐ YES ☒ NO

FOR DEPARTMENT USE ONLY:

ERP SITE NO:

ERP SITE T&A CODE:

PROJECT MANAGER:

Applicant Eligibility Information

1. OTHER THAN ACTIVITIES RELATED TO A PREVIOUS ERP STATE ASSISTANCE CONTRACT (SAC) FOR THIS SITE, HAS THE APPLICANT GENERATED, TRANSPORTED OR DISPOSED OF, OR ARRANGED FOR OR CAUSED THE GENERATION, TRANSPORTATION OR DISPOSAL OF, HAZARDOUS WASTE OR PETROLEUM ON THE SITE? ☐ YES ☒ NO
2. HAS THE APPLICANT UNDERTAKEN, OR INTEND TO UNDERTAKE, ANY INDEMNIFICATION OBLIGATION RESPECTING A PARTY RESPONSIBLE UNDER LAW FOR THE REMEDIATION OF THE SITE? ☐ YES ☒ NO
3. HAS THE APPLICANT LEASED THE SITE TO ANOTHER PARTY THAT GENERATED, TRANSPORTED OR DISPOSED OF, OR THAT ARRANGED FOR OR CAUSED THE GENERATION, TRANSPORTATION OR DISPOSAL OF HAZARDOUS WASTE OR PETROLEUM ON THE SITE? IF YES, CHECK ONE OF THE FOLLOWING:
 - a. ☐ THE APPLICANT DID NOT KNOW THAT SUCH OTHER PARTY GENERATED, TRANSPORTED OR DISPOSED OF, OR ARRANGED FOR OR CAUSED THE GENERATION, TRANSPORTATION OR DISPOSAL OF SUCH HAZARDOUS WASTE OR PETROLEUM.
 - b. ☐ THE APPLICANT KNEW THAT SUCH OTHER PARTY GENERATED, TRANSPORTED OR DISPOSED OF, OR ARRANGED FOR OR CAUSED THE GENERATION, TRANSPORTATION OR DISPOSAL OF SUCH HAZARDOUS WASTE OR PETROLEUM AND DID NOT TAKE ACTION TO REMEDIATE OR CAUSE THE REMEDIATION OF SUCH HAZARDOUS WASTE OR PETROLEUM.
 - c. ☐ THE APPLICANT KNEW THAT SUCH OTHER PARTY GENERATED, TRANSPORTED OR DISPOSED OF, OR ARRANGED FOR OR CAUSED THE GENERATION, TRANSPORTATION OR DISPOSAL OF SUCH HAZARDOUS WASTE OR PETROLEUM AND TOOK ACTION TO REMEDIATE OR CAUSE THE REMEDIATION OF SUCH HAZARDOUS WASTE OR PETROLEUM.
4. THE APPLICANT MUST OWN THE SITE. ATTACH A COPY OF THE DEED, ATTORNEY CERTIFICATION OF PROOF OF OWNERSHIP, AND, IF THE APPLICANT HAS OBTAINED ONE WITHIN THE PAST YEAR, A TITLE REPORT.

Additional Project Information

PLEASE ATTACH THE FOLLOWING INFORMATION TO THE APPLICATION (NOTE: FAILURE TO PROVIDE A RESPONSE WILL RESULT IN NO SCORE IN PRIORITY RANKING FOR THAT CATEGORY):

- CURRENT AND/OR PROPOSED FUTURE USE OF THE SITE (RESIDENTIAL, COMMERCIAL, INDUSTRIAL). THIS USE MUST BE CONSISTENT WITH THE USE OUTLINED IN THE RECORD OF DECISION;
- LIST ANY RESPONSIBLE PARTY COST RECOVERY PAYMENTS, RECEIVED OR ANTICIPATED, AS WELL AS ANY OTHER ACTUAL OR POTENTIAL FUNDING SOURCES FOR THE PROJECT;
 - Note: The State is entitled to its share of the amount recovered from a responsible party for its costs relating to the NYWII ERP Agreement and any prior ERP State Assistance Contract or Agreement for this Site. If any responsible party payments and/or other responsible party consideration become available to the Municipality before, during or after the completion of an environmental restoration project, the Municipality shall disclose with this application to the DEC of such availability, and the DEC shall calculate the State share. If the Municipality fails to make such payment to the State within sixty (60) days of receipt of any responsible party payment, the State may take measures provided for by law.
- THE PROJECT'S ECONOMIC BENEFIT TO THE STATE, AND ANY POTENTIAL FOR PUBLIC OR RECREATIONAL USE OF THE PROPERTY (TO SATISFY THE CRITERIA OF ECL §6-0505, THE APPLICANT MUST DEMONSTRATE THAT THE PROJECT IS INTENDED TO RESULT IN A BENEFIT TO THE ENVIRONMENT AND IN EITHER AN ECONOMIC BENEFIT TO THE STATE OR A PUBLIC RECREATIONAL USE OF THE PROPERTY);
- INFORMATION REGARDING ANY POTENTIAL ISSUES/CONCERNS THAT MAY PRECLUDE FIELD WORK FROM BEGINNING WITHIN 6 MONTHS OF THE APPLICATION APPROVAL DATE. LIKEWISE, PLEASE INDICATE IF THERE ARE NO ANTICIPATED ISSUES/CONCERNS RELATING TO THE ABILITY FOR FIELD WORK TO BEGIN WITHIN 6 MONTHS OF THE APPLICATION APPROVAL.

Remediation Project Information

1. IS THE SITE LOCATED IN AN EMPIRE ZONE WITH A BOUNDARY DESIGNATED AS OF JUNE 29, 2010? ☒ YES ☐ NO
2. HAS ALL OR PART OF THE SITE BEEN VACANT FOR AT LEAST TEN YEARS? ☒ YES ☐ NO
3. IS THE PROPERTY VALUE FOR THE SITE LOWER THAN THE REMEDIAL COST ESTIMATED IN THE ROD? ☐ YES ☒ NO
4. HAS THE APPLICANT SIGNED AN AGREEMENT WITH A PRIVATE PARTY TO REUSE THE SITE ONCE IT IS RESTORED? ☐ YES ☒ NO
5. HAS THE APPLICANT LEGALLY COMMITTED TO A NEW PUBLIC OR RECREATIONAL USE? ☒ YES ☐ NO
6. HAS THE APPLICANT LEGALLY COMMITTED TO CONTINUING THE CURRENT PUBLIC OR RECREATIONAL USE? ☐ YES ☒ NO
7. IS THE APPLICANT AWARE OF OTHER FUNDING SOURCES FOR REMEDIATING THE SITE? IF YES, PROVIDE SOURCE(S) AND DOLLAR AMOUNT IN THE ATTACHED ADDITIONAL PROJECT INFORMATION. ☐ YES ☒ NO
8. IS THE PROPOSED PROJECT LOCATED IN AN ENVIRONMENTAL JUSTICE (EJ) COMMUNITY, OR WILL IT BENEFIT AN EJ COMMUNITY? IF YES, PLEASE PROVIDE A BRIEF DESCRIPTION OF HOW THE PROJECT WILL BENEFIT MINORITY OR LOW-INCOME POPULATIONS THAT EXPERIENCE DISPROPORTIONATE ADVERSE ENVIRONMENTAL IMPACTS SUCH AS POLLUTION FROM MULTIPLE INDUSTRIAL FACILITIES, SUB-STANDARD WATER QUALITY, CONCENTRATED DIESEL EMISSIONS FROM BUS DEPOTS, OR OTHER HEAVY VEHICLE TRAFFIC, ADVERSE HEALTH EFFECTS RELATED TO ENVIRONMENTAL IMPACTS (HIGH ASTHMA), LACK OF ACCESS TO GREEN BENEFITS SUCH AS OPEN SPACE, ENVIRONMENTAL EDUCATION OR PARKS, OR OTHER SUCH IMPACTS. ☒ YES ☐ NO
9. DOES THE PROJECT ALIGN WITH THE REGIONAL STRATEGIES OF A REGIONAL ECONOMIC DEVELOPMENT PLAN? IF YES, DOCUMENT BY EITHER OBTAINING A RECOMMENDATION FROM THE REGIONAL ECONOMIC COUNCIL, STATING THAT THE PROPOSED PROJECT ALIGNS WITH PRIORITIES OF THE ECONOMIC DEVELOPMENT PLAN DEVELOPED BY THE COUNCIL, OR ATTACHING AND INCLUDING IN THE APPLICATION A SUPPLEMENTAL NARRATIVE DESCRIBING THE ECONOMIC BENEFITS OF THE PROPOSED PROJECT AND HOW THE PROJECT ALIGNS WITH THE STRATEGIES OF THE REGIONAL ECONOMIC PLAN. ☒ YES ☐ NO

Municipality Certification

The undersigned, on behalf of the applicant, does hereby certify that:

- All statements made for the purpose of requesting participation in a NYWII ERP Agreement, wherein the DEC undertakes an ERP on behalf of the Applicant, for the proposed project are either set out in full in this application or are set out in full in exhibits attached to this application and incorporated by this reference; and
- The individual whose signature appears hereon is authorized to sign this application for the municipality.

A FALSE STATEMENT MADE HEREIN IS PUNISHABLE AS A CLASS "A" MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.

Signature of Individual Authorized to Sign the Application

11/12/14
Date

Please note: The application must include a certified copy of the municipal authorization which designates, by title (Mayor, Town Supervisor, etc.), the representative authorized to act on behalf of that municipality in all matters related to finances. The authorization must empower the representative to make application, execute the NYWII ERP Agreement, and otherwise act for the municipality in all finance-related matters. A sample form is provided.

APPROVED

SUBMITTAL INFORMATION:

By MD Date 11/12/14

Three (3) complete copies, one with original signatures, are required.

- Two (2) of the copies, one paper with original signatures and one electronic copy in PDF, on a CD, must be sent to:

Chief, Site Control Section, New York State Department of Environmental Conservation, Albany, NY 12233

KEVIN P. GONNOR, GRANT

TOWN CONTROLLER

APPROVED AS TO FORM

- One (1) electronic copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our website for information on our regional offices: <http://www.dec.ny.gov/about/1776.html>

DATE

11-10-14

Katrina R. Brooks
COUNSEL TO COMMISSIONER
DEPT. OF PLANNING & ECONOMIC DEVELOPMENT

3

CHIEF DEPUTY TOWN ATTORNEY

DATE

11/10/14

COUNCIL MEMBERS
ANTHONY J. SANTINO
ANGIE M. CULLIN
DOROTHY L. GOOSBY
GARY HUDES
JAMES DARCY
EDWARD A. AMBROSINO

NASRIN G. AHMAD
TOWN CLERK

DONALD X. CLAVIN, JR.
RECEIVER OF TAXES

GEORGE L. BAKICH
COMMISSIONER

TOWN OF HEMPSTEAD

DEPARTMENT

OF

PLANNING & ECONOMIC DEVELOPMENT

200 NORTH FRANKLIN STREET, HEMPSTEAD, N.Y. 11550-1329
(516) 538-7100



KATE MURRAY
SUPERVISOR

1. It should be noted that the Town's plans for development, in this area of Elmont, began in 1997 with the adoption of the Jamaica Square Urban Renewal Plan. Among the Plan's objectives were : 1. "to provide decent, safe and sanitary housing ; " and 2. "to eliminate unkempt vacant and/or undeveloped commercial lots on Hempstead Turnpike through the development of new mixed use retail, office and/or housing uses with accompanying accessory parking to meet the needs of the Jamaica Square neighborhood and larger Elmont Community."

The need for mixed use development was reinforced in the 2008 Elmont Community Vision Plan which encouraged this type of development as a means of providing workforce/next generation housing.

The site is located in the Town's Hempstead Turnpike – Elmont (HT-E) district in the Neighborhood Center (HT- NC) subsection which permits mixed use which is defined as a commercial use on the ground floor with upper level housing. Accordingly, the site will be developed for mixed use as stated above.

2. No responsible party cost recovery payments have been received or anticipated. CDBG monies were used to acquire the site, perform demolition and undertake a preliminary environmental review. CDBG monies will continue to be available if needed.

3. The development of this site will: a. eliminate an unsafe and unsanitary vacant lot; b. provide decent and safe housing; c. provide new housing choices; d. provide support for local retail and service establishments; e. enhance the aesthetics and overall image of this area of Elmont; f. increase neighborhood real estate values; g. increase local employment opportunities and h. generate economic activity and strengthen the tax base. The State will benefit from increased sales tax revenues and increased income tax revenues.

4 The Town is unaware of any potential or anticipated issues/concerns that might preclude field work from beginning on time.

Application Appendix 1: Certification of Ownership

I, Katrina R. Brooks, being an attorney duly admitted to the practice of law in the State of New York, affirm under the penalties of perjury the following:

1. That I am the attorney for the Town of Hempstead Department of Planning and Economic Development, the Municipality which is the applicant to undertake a New York Works II Environmental Restoration Project known as Elmont-546 Hempstead Turnpike a/k/a Elmont Welding E130150.
2. That the Property located at 546 Hempstead Turnpike, Elmont, New York, Nassau County, the subject of the Project and is more particularly described as Crown Welding.
3. That I hereby certify to the Commissioner of Environmental Conservation that I have examined or caused to be examined the title to the Property, and that I have approved the same and that as of the date of this affirmation a good and marketable title thereto in fee is vested in and may be conveyed by the Town of Hempstead.
4. That annexed hereto is a certified copy of the deed whereby such title to the Property was conveyed to the Town of Hempstead, and that I hereby certify to the Commissioner of Environmental Conservation that the property title, conveyed by said deed, is identical to the Property which is the subject of the Project; and
5. That I make this affirmation to be attached as an exhibit incorporated by reference into such application.

Dated: October 9, 2014


KATRINA R. BROOKS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NASSAU COUNTY CLERKS OFFICE
ENDORSEMENT COVER PAGE

Recorded Date: 10-03-2001
Recorded Time: 2:43:09 p

Record and Return To:

Liber Book:
Pages From:
To:

Control
Number: 1636
Ref #: 00--013988
Doc Type: X30 VESTING ORDER

Plnt: JAMAICA SQUARE ELMONT
Plnt: HEMPSTEAD TOWN OF
Dfnd: 546 HEMPSTEAD TURNPIKE REALTY CORP
Dfnd: BRUNGES, JOHN

Location:	Section	Block	Lot	Unit
HEMPSTEAD (2820)	0032	00362-00	00011	
HEMPSTEAD (2820)	0032	00362-00	00016	
HEMPSTEAD (2820)	0032	00362-00	00017	
HEMPSTEAD (2820)	0032	00362-00	00018	
HEMPSTEAD (2820)	0032	00362-00	00019	

	Taxes Total	.00
Lrk001	Recording Totals	20.00
	Total Payment	20.00

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED
KAREN V. MURPHY
COUNTY CLERK



2001100301636



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
In the Matter of the Town of Hempstead
Acquiring Property in the Urban Renewal
Area Known as Jamaica Square, Elmont,
New York as part of the Town's Federally
Funded Community Development Program,

Town of Hempstead,

Petitioner/Condemnor,

**NOTICE OF
SETTLEMENT**

Index No. 00-013988

546 Hempstead Turnpike Realty Corp.,
John Brunges and Madeline Schlichtig,

Claimants.
-----X

PLEASE take notice that a Vesting Order, of which the within is a true copy will be presented for settlement to the Hon. Edward G. McCabe, one of the judges of the within named Court, at 100 Supreme Court Drive, Mineola, New York 11501, on July 3, 2001, at 9:30 A.M.

Dated: Valley Stream, New York
June 18, 2001

Yours, etc.,

JOSEPH RA, ESQ.

Town Attorney for the Petitioner
Town of Hempstead

BY: MINERVA & D'AGOSTINO, P.C.

by:


ROSS M. GERBER, ESQ.

Attorneys for Petitioner
107 South Central Avenue
Valley Stream, NY 11580
516-872-7400

$\frac{1}{\sqrt{2}}$

MASSACHUSETTS
COUNTY
CLERK

NASSAU
COUNTY
CLERK

At an IAS Part 4 of the Supreme Court of the State of New York, in and for the County of Nassau, located at the Courthouse, at 100 Supreme Court Drive, Mineola, New York on the 27 day of September, 2001.

P R E S E N T :

EDWARD G. McCABE

J.S.C.

LEGIBILITY POOR
FOR MICROFILM

-----X
In the Matter of the Town of Hempstead
Acquiring Property in the Urban Renewal
Area Known as Jamaica Square, Elmont,
New York as part of the Town's Federally
Funded Community Development Program,

Town of Hempstead,

VESTING ORDER

Petitioner/Condemnor,

Index No. 00-013988

546 Hempstead Turnpike Realty Corp.,
John Brunges and Madeline Schlichtig,

Claimants.

-----X
On the reading and filing of the Amended Petition of the Town of Hempstead ("condemnor") in the above entitled proceeding, verified by ROBERT FRANCIS, Commissioner of the Town of Hempstead Department of Planning and Economic Development, on the 6th day of October, 2000, and upon the notice of petition dated October 25, 2000, returnable at an IAS Part 6 of this Court on the 15th day of December, 2000, and thereafter adjourned four times until January 29,

2001, and said petition having been presented to this Court on the 29th day of January, 2001, and upon the reading of the Answering Affirmations of Saul Fenchel, Esq. of Siegel, Fenchel & Peddy, P.C. on behalf of the Respondents, 546 Hempstead Turnpike Realty Corp. and Madeline Schlichtig,, dated December 14, 2000, and the Reply Affirmations of Ross M. Gerber, Esq. of the law firm of Minerva & D'Agostino, P.C., the attorneys for the Petitioner, dated December 26, 2000, and December 27, 2000, and upon the reading of the Supplementary Affidavit of the Respondent, Madeline Schlichtig, sworn to on the 9th day of January, 2001 and the Supplementary Affidavit of Bob Pitts, an officer/shareholder of the Respondent, 546 Hempstead Turnpike Realty Corp., sworn to on the 5th day of January, 2001, and upon the reading of the Memorandum of Law on behalf of the Respondents, 546 Hempstead Turnpike Realty Corp. and Madeline Schlichtig, dated January 8, 2001, and upon the reading of the Memorandum of Law on behalf of the Petitioner, Town of Hempstead, dated January 23, 2001 and upon the Affidavit of Carmine Guiliano, as President and Senior Appraiser for Restorent Development Corporation, sworn to on the 24th day of January, 2001, and upon the Letter of Saul R. Fenchel, Esq. and the Memorandum of Law on behalf of the Respondent, Madeline Schlichtig on the issue of compensability of a liquor license, both dated January 31, 2001, and upon the Notice of Appearance of Donald F. Leistman, Esq. of Koeppel, Martone, Leistman & Herman, LLP, as attorney for John Brunjes, and upon the reading of the affidavit of personal service

upon claimant, JOHN BRUNGES of 15 Harriet Court, Malverne, New York, sworn to the 27th day of November, 2000; and the affidavit of personal service upon claimant, MADELINE SCHLICHTIG of 311 Chestnut Street, West Hempstead, New York sworn to the 27th day of November, 2000; and the affidavit of personal service upon SIEGEL, FENCHEL & PEDDY, attorneys for Claimant, 546 HEMPSTEAD TURNPIKE REALTY CORP, who accepted service on behalf of their client, 546 HEMPSTEAD TURNPIKE REALTY CORP., sworn to the 25th day of November, 2000.; and upon the Notice of Pendency filed in the Nassau County Clerk's Office on August 31, 2000; and upon hearing said Petition on the 29th day of January, 2001; and pursuant to the Memorandum Decision of this Court, dated March 8, 2001 and redated, June 4, 2001, and it appearing to the satisfaction of the court that the condemnor is entitled to the relief demanded in the petition herein; it is

ADJUDGED:

1. The description of the property is as follows: See the metes and bounds description annexed hereto as Exhibit "A" (Parcel 1 is known on the Land and Tax Map of Nassau County as Section 32, Block 362, Lots 11, 16, 17, 18, 19 and 41; Parcel 3 is known on the Land and Tax Map as Section 32, Block 362, Lots 20, 21, 42 and 43; and Parcel 5 is known on the Land and Tax Map of Nassau County as Section 32, Block 365, Lot 200).

2. The condemnor is entitled to take and hold said property for the following public use: to redevelop the area known as the Jamaica Square Urban Renewal Project, by constructing safe, attractive housing instead of the current substandard residential and commercially zoned properties.

3. Pursuant to EDPL 206, the condemnor is exempt from compliance with the requirements of the Eminent Domain Procedure Law Article 2 because prior to the acquisition, and pursuant to GML 505, the Town of Hempstead conducted public hearings upon due notice to the public, in which the Town considered the public use, benefit or purpose to be served by the proposed project, as well as the approximate location for the proposed public project and the reasons for the selection of that location, and the general effect of the proposed project on the environment and residents of the locality, all in compliance with EDPL 204(B).

4. The condemnor has duly served all notices and maps required to be served on the condemnees as owners of the property to be acquired, as required by the Eminent Domain Procedure Law Section 402(B)(2) and has otherwise fully complied with the procedural requirements of the Eminent Domain Procedure Law. Upon the foregoing judgment, it is

ORDERED, ADJUDGED AND DECREED, that the Amended Petition of the condemnor is hereby granted; and it is further

2
0
0
P
M
3
1

ORDERED, ADJUDGED AND DECREED, that the condemnor shall file the acquisition map in the office of the County Clerk located in Nassau County; and it is further

ORDERED, ADJUDGED AND DECREED, that upon the filing of the acquisition map in the office of the County Clerk of the County of Nassau, title to the above described property (i.e. Parcels 1, 3 and 5) shall vest in condemnor, and it is further

ORDERED, ADJUDGED AND DECREED, that the condemnees herein shall file a written claim or a notice of appearance pursuant to Section 503 of the Eminent Domain Procedure Law with the condemnor by serving the party designated to accept service in the notice of acquisition, and the Nassau County Clerk's office on or before December 20, 2001. Pursuant to Section 504 of the Eminent Domain Procedure Law, the written claim or notice of appearance shall include:

1. The name and post office address of the condemnee;
2. Reasonable identification by reference to the acquisition map or otherwise, of the property affected by the acquisition, and the condemnee's interest therein;
3. A general statement of the nature and type of damages claimed, including a schedule of fixture items which comprise part or all of the damages claimed;

**LEGIBILITY POOR
FOR MICROFILM**

100-100000

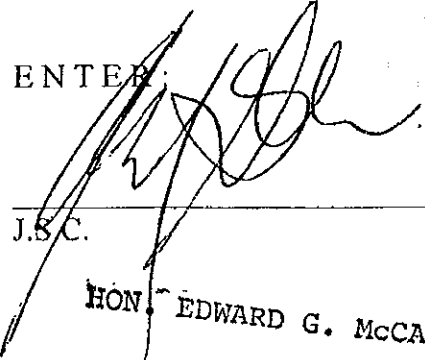
4. If represented by an attorney, the name of the condemnee's attorney and his/her office and post office address and telephone number subscribed at the end of the claim, and it is further

ORDERED, ADJUDGED AND DECREED that ~~the Clerk of the Court shall place this matter on the conference calendar of the undersigned for the~~
The parties shall appear for conference before
on Wednesday October 24, 2001 at 9:30 AM by which time a note of issue
earliest possible date, and that at this conference, a date shall be chosen for a
hearing shall have been filed
hearing, in which the following issues shall be determined:


JSC

1. whether or not the \$20,000.00 offer made by the Petitioner for fixtures to respondent, Madeline Schlichtig, and the \$39,000.00 offer made by the Petitioner for fixtures to respondent, 546 Hempstead Turnpike Realty Corp., were adequate offers made in good faith, and

2. whether the respondent, Madeline Schlichtig is entitled to compensation as to the value of her liquor license.

ENTERED

J.S.C.
HON. EDWARD G. MCCABE

ENTERED

OCT 03 2001

COURT CLERK

CLERK

MEMORANDUM

SUPREME COURT, NASSAU COUNTY

TRIAL/IAS Part 4

In the Matter of the Town of Hempstead
Acquiring Property in the Urban Renewal
Area Known as Jamaica Square, Elmont,
New York as part of the Town's Federally
Funded Community Development Program,

BY: McCabe, J.

Town of Hempstead,

Petitioner/Condemnor,

546 Hempstead Turnpike Realty Corp.,
John Brunges and Madeline Schlichtig,

INDEX NO. 13988/00

Respondents/Condemnees

The petitioner commenced the within proceeding for an order to acquire by eminent domain the real property described in the petition therein and for permission to file the acquisition map thereof in the office of the County Clerk of Nassau County.

The petition states that the Town Board of the Town of Hempstead created an Urban Renewal Area known as Jamaica Square Area, pursuant to Section 504 of the General Municipal Law and that the property which is the subject of this condemnation proceeding was included in the Jamaica Square urban Renewal Area. The petitioner is exempt from compliance with the requirements of Article 2 of the Eminent Domain Procedure Law, (hereinafter EDPL) by virtue of the fact that prior to the acquisition the Town conducted public hearings in which the Town considered the public use, benefit or purpose to be served by the project as well as the general effect of the projects and the reasons for the selection of the location.

The Town Board approved the Urban Renewal Plan on July 27, 1999 and made Findings of Fact pursuant to Section 505 of the General Municipal Law. Included in the findings is the following:

"e there is a feasible method for the relocation of families and individuals displaced from the urban renewal area into decent, safe and sanitary dwellings, which are

or will be provided in the urban renewal area or other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment;"

f. the undertaking and carrying out the Urban Renewal Plan for the Jamaica Square Project, as revised, in the manner provided for in said plan, is in the public interest and will [now] sic. cause any additional or increased hardship to the residents of the Jamaica Square Urban Renewal Area, the area duly designated for urban renewal activities."

The answering papers reveal that though the respondent 546 Hempstead Turnpike Realty Corp. is a corporation it actually is a small family business consisting of two persons, husband and wife, Robert and Roberta Pitts, who have, for thirty (30) years conducted a welding, machine and collision business on the premises which is the only source of income for both Robert and Roberta Pitts.

The answering papers of Madeline Schlichtig indicate that Ms. Schlichtig has operated a bar and grill operation known as White Tavern which has been on the location in question for some fifty-three (53) years.

All respondents seek that as a pre-condition to the vesting of title that the condemnor be directed to issue an advance payment pursuant to Eminent Domain Procedure Law 303 for both real estate and fixtures, as well as relocation assistance.

The petitioner has tendered an offer of \$273,000.00 to respondent Schlichtig which respondent claims represents the value of real estate only. However, the reply papers contain a Summary Appraisal Report prepared by Mohring Appraisal Associates, Inc. together with a letter from Restorent Development Corporation which sets forth an opinion of the salvage value of certain articles that may be considered fixtures of the real property and/or trade fixtures. The offer made included the highest offer for the real estate together with an offer for the fixtures.

The petitioner has tendered an offer to the respondent 546 Hempstead Realty Corp., (Robert and Roberta Pitts) of \$192,000 which represents a value of \$39,000.00 for fixtures and \$153,000.00 for the real estate, which was the highest appraised value.

Subsequent to the making of the offer, an initial environmental inspection was undertaken and a Phase I Environmental Site Assessment Report was completed and issued by Sidney B. Bowne & Son which revealed that there were many petroleum spills within a 1/2 mile radius of the site. In addition an asbestos inspection must be performed. The Town is entitled to a full environmental investigation as part of this condemnation proceeding which would provide an offset to the payment required for the property.

Clearly EDPL 303 requires only the making of a written offer to acquire the property for one hundred (100%) of the valuation and not the actual making of an advance payment.

The Court finds that the question of whether or not the \$20,000.00 offer to respondent Schlichtig and \$39,000.00 to respondent 546 Hempstead Turnpike Realty Corp. for fixtures is an adequate offer made in good faith will be the subject of a hearing before the Court.

In addition, the respondent Schlichtig has raised a novel issue in regard to the liquor license. The respondent Madeline Schlichtig possesses a liquor license for her property, the site of a tavern which is by law "location sensitive". The petitioner claims that even considering the fact that a liquor license is "location sensitive", there is no evidence in the record to suggest that the respondent will not be able to obtain a liquor license for another location. Although there are no cases on point in this jurisdiction, the case law from other jurisdictions places a value on a liquor license in certain condemnation proceedings. The liquor license question will also be the subject of the hearing before the Court.

The Clerk of the Court shall place this matter on the conference calendar of the undersigned for the earliest possible date. At the conference all issues shall be addressed and a date chosen for the hearing.

The petitioner has submitted in their papers that they will comply with the requirements of the Eminent Domain Procedure Law (EDPL) and the other laws of this State and the Federal government in regard to the assistance to be provided to the respondents including relocation assistance. The Court notes that in regard to relocation assistance, the respondents must apply to the petitioner for assistance in accordance with the rules and procedure of the municipality.

The Court hereby grants the application of the petitioner for an order of this Court to acquire by eminent domain the real property described in the amended petition. The petitioner is

Matter of Town of Hempstead

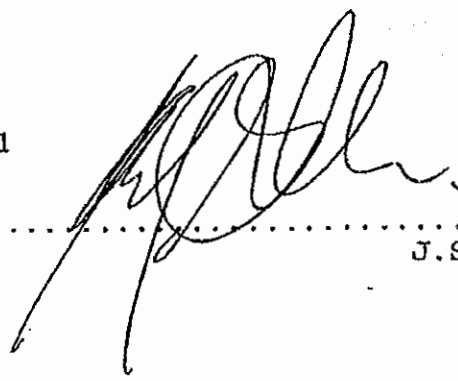
Index No. 13988/00
Page No. 4

hereby authorized to file the acquisition map in the Office of the Clerk of the County of Nassau, and, upon such filing title to the respondents' property shall vest in the petitioner with respect to Parcels 1, 3 and 5.

Settle order on notice.

Duplicate Original : June 4, 2001

Dated. MAR. 08 2001.....



J.S.C.

PARCEL 3

All that plot and parcel of land situated in Elmont, Town of Hempstead, Nassau County, NY known as Tax Lots 20, 21, 42 and 43 in Section 32, Block 362 of the Nassau County Tax Map, also known as Part of Lots 20 through 27 inclusive in Block 20 and shown on the "Map of Jamaica Square #2, Elmont, Town of Hempstead, Nassau County, NY", filed September 8, 1906 as Map Number 41 and more particularly described as follows:

BEGINNING at a point on the widened northwest line of Louis Avenue, said point located the following two courses and distances from the old southwest corner of Arcade Place and Louis Avenue:

1. South 40° 22' West along the northwest line of Louis Avenue, 70.00 feet
2. North 49° 38' West, 4.80 feet to the widened line of Louis Avenue the true point or place of beginning; Running thence South 40° 22' West along said widened line of Louis Avenue, 131.52 feet to the widened northeasterly line of Hempstead Turnpike; Running thence North 74° 38' West along said line 58.70 feet to a point; Running thence North 40° 22' East, 100.33 feet to a point; Running thence North 49° 38' West, 29.00 feet to a point; Running thence South 49° 38' East, 82.20 feet to the point or place of BEGINNING.

Containing an area of 9,281 square feet or 0.213 acres.

RECEIVED IN
THIS CONDITION

PARCEL 5

All that plot and parcel of land situated in Elmont, Town of Hempstead, Nassau County, NY known as Tax Lot 200 in Section 32, Block 365 of the Nassau County Tax Map, also known as Part of Lots 67 through 69 inclusive in Block 18 and shown on the "Map of Jamaica Square #2, Elmont, Town of Hempstead, Nassau County, NY", filed September 8, 1906 as Map Number 41 and more particularly described as follows:

BEGINNING at a point on the northwest corner of the herein described parcel, said point located the following three courses and distances from the old southeast corner of Pelham Street and Louis Avenue:

1. South 40° 22' West along the southeast line of Louis Avenue, 784.00 feet
2. South 49° 38' East, 87.00 feet
3. South 40° 22' West, 56.00 feet to the true point or place of beginning; Running thence South 49° 38' East, 36.21 feet to the widened north line of Makofske Avenue; Running thence southwesterly on a curve to the right having a radius of 420.00 feet and an arc length of 59.01 feet to a point; Running thence South 60° 31' 10" W, 3.79 feet to a curve connecting the northerly line of Makofske Avenue with the northeasterly line of Hempstead Turnpike; Running thence northerly on a curve to the right having a radius of 50.00 feet and an arc length of 43.63 feet; Running thence, North 69° 28' 50" West along the northeasterly line of Hempstead Turnpike, 3.26 feet to Tax Lot 200; Running thence North 40° 22' East along said lot 77.11 feet to a point; Running thence South 49° 38' East, 14.50 feet; Running thence North 40° 22' East, 14.00 feet to the point or place of BEGINNING.

Containing an area of 3,039 square feet or 0.0698 acres.

RECEIVED BY
THIS CONDITION

PARCEL 1

All that plot and parcel of land situated in Elmont, Town of Hempstead, Nassau County, NY known as Tax Lots 11, 16, 17, 18, 19 and 41 in Section 32, Block 362 of the Nassau County Tax Map, also known as Lots 11, 13, 16, 17, Part of Lots 12, 18 and 19 in Block 20 and shown on the "Map of Jamaica Square #2, Elmont, Town of Hempstead, Nassau County, NY", filed September 8, 1906 as Map Number 41 and more particularly described as follows:

BEGINNING at a point on the southeasterly line of Rouquette Avenue, said point located 140 feet southwesterly from the old southeast corner of Arcade Place and Rouquette Avenue;

Running thence the following four courses and distances:

1. South 49° 38' East, 87.00 feet
2. North 40° 22' East, 14.00 feet
3. South 49° 38' East, 29.00 feet
4. South 40° 22' West, 100.33 feet to the northeasterly widened line of Hempstead

Turnpike; Running thence along said line the following two courses and distances:

1. North 74° 38' West, 32.00 feet
2. North 68° 23' West, 30.625 feet to the southeast corner of tax lot 15; Running thence the following three courses and distances along tax lots 15 and 14:

1. North 40° 22' East, 95.69 feet
2. North 49° 38' West, 29.00 feet
3. South 40° 22' West, 105.54 feet to the northeasterly line of Hempstead Turnpike;

Running thence North 68° 23' West along said line, 22.15 feet to a curve connecting the east line of Hempstead Turnpike with the widened southeast line of Rouquette Avenue; Running thence on a curve to the right having a radius of 19 feet and an arc length of 10.86 feet to the said widened line of Rouquette Avenue; Running thence North 40° 22' East along said line, 102.38 feet to a point; Running thence North 49° 38' West, 5.00 feet to the old line of Rouquette Avenue; Running thence North 40° 22' East along said line, 14.00 feet to the point or place of BEGINNING.

Containing an area of 9,575 square feet or 0.2198 acres.

STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, an attorney admitted to practice in the courts of New York State,

☐ Certification By Attorney certify that the within
has been compared by me with the original and found to be a true and complete copy.
☐ Attorney's Affirmation state that I am
the attorney(s) of record for
action; I have read the foregoing
the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by

in the within

and know the contents thereof;

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated:

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, being duly sworn, depose and say: I am

☐ Individual Verification in the action: I have read the foregoing

and know the contents thereof; the same is true to my own knowledge, except
as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

☐ Corporate Verification

the of
a

corporation and a party in the within action; I have read the foregoing
and know the contents thereof; and the same is true to my own knowledge,

except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. This
verification is made by me because the above party is a corporation and I am an officer thereof.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Sworn to before me on

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF NASSAU

SS.:

(If more than one box is checked—indicate after name's type of service used.)

I, the undersigned, being sworn, say: I am not a party to the action, am over 18 years of age and reside at Lynbrook, New York 11563

On June 18, 2001

I served the within Notice of Settlement with Vesting Order

☒ Service By Mail

by mailing a copy to each of the following persons at the last known address set forth after each name below.

☐ Personal Service on Individual

by delivering a true copy of each personally to each person named below at the address indicated. I knew each person served
to be the person mentioned and described in said papers as a party therein;

☐ Service by Electronic Means

by transmitting a copy to the following persons by ☐ FAX at the telephone number set forth after each name below ☐ E-MAIL
at the E-Mail address set forth after each name below, which was designated by the attorney for such purpose, and by mailing a
copy to the address set forth after each name.

☐ Overnight Delivery Service

by dispatching a copy by overnight delivery to each of the following persons at the last known address set forth after each name
below.

SAUL FENCHEL, Esq.
Siegel, Fenchel & Peddy, P.C.
400 Garden City Plaza
Suite 100
Garden City, New York 11530

LEGIBILITY POOR
FOR MICROFILM

CAROL RIZZO, Esq.
Koepfel, Martone, Leistman & Herman, LLP
155 First Street
Mineola, New York 11501

ROSS M. GERBER
Notary Public, State of New York
No. 02GE4886438
Qualified in Nassau County
Commission Expires Feb. 9, 2003

Sworn to before me on

6/18/01

Sharon M. Weinbrand

Sharon M. Weinbrand

SHARON WEINBRAND

CLERK OF DISTRICT COURT

County Clerk's Office
State of New York,
County of Nassau

} ss: 00--013988

I, Maureen O'Connell, Clerk of the County of Nassau and of the
Supreme and County Courts, Courts of Record, do hereby certify that I
have compared the annexed with the original order filed in my
office.....Oct 3, 2001....., and that
the same is a true transcript thereof, and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed the
seal of said county and court Sept 30, 2014

Maureen O'Connell *Maureen O'Connell*, Clerk

CASE NO. 18911

RESOLUTION NO. 1561-2014

Adopted: November 12, 2014

Councilman Santino offered the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING THE SUPERVISOR TO
ENTER INTO AND EXECUTE A NYW II ERP AGREEMENT
WITH THE STATE OF NEW YORK TO UNDERTAKE AN
ENVIRONMENTAL RESTORATION PROJECT LOCATED
AT 546 HEMPSTEAD TURNPIKE, ELMONT, NEW YORK/**

WHEREAS, Article 56 of the Environmental Conservation Law authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Town of Hempstead deems it to be in the public interest and benefit under this law to enter into a contract therewith; and

WHEREAS, the enacted Executive Budget for State Fiscal Year 2013-2014 (the "13/14 Budget"), as reflected in Chapter 54, Laws of 2013 (the "Laws of 2013), provided New York Works 11 funding for services, expenses and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law allows the Department of Environmental Conservation (the "Department") to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide ten percent (10%) of the total project costs (hereinafter referred to as "NYW11 ERP); and

WHEREAS, the Town of Hempstead, after thorough consideration and study of available data, has determined that certain work, as described in its application and attachments, hereinafter called the "Project", is desirable and is in the public interest and is required in order to implement the Project.

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is authorized to act on behalf of the Town of Hempstead in all matters related to State assistance under ECL Article 56, Title 5; and

BE IT FUTHER RESOLVED that the Supervisor is also authorized to make a request to the Department by applying for participation in the NYW11 ERP and to enter into an agreement to undertake an environmental restoration project at 546 Hempstead Turnpike, Elmont, New York on behalf of the Town of Hempstead; and

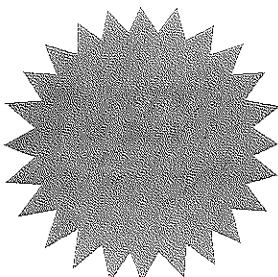
BE IT FURTHER RESOLVED that the Commissioner of the Department of Planning and Economic Development is authorized to execute the NYW11 ERP

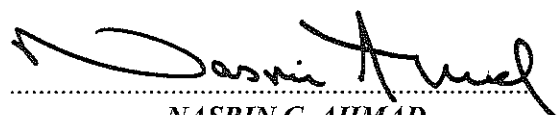
STATE OF NEW YORK
COUNTY OF NASSAU
TOWN OF HEMPSTEAD } ss.:

I do hereby certify that I have compared the annexed copy of Resolution No. 1561-2014

with the original on file in the office of the Town Clerk of the Town of Hempstead, and that the same is a true and correct copy of said original and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Hempstead on this day of November 13, 2014




NASRIN G. AHMAD
Town Clerk

Adopted: November 12, 2014

Councilman Santino offered the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING THE SUPERVISOR TO
ENTER INTO AND EXECUTE A NYW II ERP AGREEMENT
WITH THE STATE OF NEW YORK TO UNDERTAKE AN
ENVIRONMENTAL RESTORATION PROJECT LOCATED
AT 546 HEMPSTEAD TURNPIKE, ELMONT, NEW YORK/**

WHEREAS, Article 56 of the Environmental Conservation Law authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Town of Hempstead deems it to be in the public interest and benefit under this law to enter into a contract therewith; and

WHEREAS, the enacted Executive Budget for State Fiscal Year 2013-2014 (the "13/14 Budget"), as reflected in Chapter 54, Laws of 2013 (the "Laws of 2013), provided New York Works 11 funding for services, expenses and indirect costs related to various environmental projects including, but not limited to, environmental restoration projects. The Law allows the Department of Environmental Conservation (the "Department") to enter into agreements with municipalities to undertake environmental restoration projects on behalf of a municipality upon request, provided that the municipality shall provide ten percent (10%) of the total project costs (hereinafter referred to as "NYW11 ERP); and

WHEREAS, the Town of Hempstead, after thorough consideration and study of available data, has determined that certain work, as described in its application and attachments, hereinafter called the "Project", is desirable and is in the public interest and is required in order to implement the Project.

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is authorized to act on behalf of the Town of Hempstead in all matters related to State assistance under ECL Article 56, Title 5; and

BE IT FUTHER RESOLVED that the Supervisor is also authorized to make a request to the Department by applying for participation in the NYW11 ERP and to enter into an agreement to undertake an environmental restoration project at 546 Hempstead Turnpike, Elmont, New York on behalf of the Town of Hempstead; and

BE IT FURTHER RESOLVED that the Commissioner of the Department of Planning and Economic Development is authorized to execute the NYW11 ERP agreement, to submit documentation, and to otherwise act for the Town of Hempstead's governing body in all matters related to the Project and for State assistance; and

BE IT FURTHER RESOLVED, that the Town of Hempstead agrees that it will fund its portion of the cost of the Project by reimbursing the Department ten percent (10%) of Project costs and that funds will be available to reimburse the Department within ninety (90) days after receipt of an invoice from the Department; and

BE IT FURTHER RESOLVED, that one (1) certified copy of this authorization, which takes effect immediately, be prepared and sent to the Albany office of the New York State Department of Environmental Conservation together with the Application for Participation in NYW 11 ERP.

The foregoing Resolution was adopted upon roll call as follows

AYES: SIX (6)

NOES: NONE (0)