

# DIVISION OF CEMETERIES

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CEMETERY BOARD

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ATTORNEY GENERAL

DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

## MEMORANDUM

TO: New York State Cemetery Board

FROM: Kerry McGovern, Investigator, Michael Seelman, Investigator II

SUBJECT: Oxford Hills Crematory, Orange County No. 36-042

RE: Major Renovation: Replacement of Crematory Retort

DATE: May 6, 2020

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### **Exhibits:**

- A. Memorandum from Senior Accountant Andrew Hickey
- B. Sales agreement with B&L Systems
- C. Master Equipment Financing agreement with Western Equipment Finance
- D. Email from David Flynn to Investigator McGovern re: sales agreement

### **Introduction and Recommendation**

The Oxford Hills Crematory in the Town of Chester, Orange County, has applied for Cemetery Board approval of a cemetery renovation pursuant to 19 NYCRR Section 201.16 for the replacement of a non-functioning crematory retort. The facility, a stand-alone crematory affiliated with the Flynn Funeral Home, currently has three retorts: a B&L Phoenix II, installed in 1992, a Crawford 1000 CH, installed in 1989, and the non-functioning B&L N-20A, installed in 1991. David Flynn states the B&L N-20A has been off-line since 2009. Division Inspection reports indicate the retort has been offline even longer than that. The crematory wishes to replace this unit for several reasons: the increased efficiency of a new unit, the increasing cost of repairing and maintaining the older unit, and the lack of safety features on the older unit. The replacement unit will cost \$79,000 and installation will add up to \$12,000 to the total amount. The crematory did not provide a complete application, but, after much effort, we obtained sufficient information to review the request. The Division cannot recommend approval because there is an outstanding inquiry by the Office of the New York Attorney General, of which the Division is unaware of the status. Counsel to the Division has also identified a potential legal issue that may affect the application; we await further information from counsel.

### **The Crematory**

The Oxford Hills Crematory is a large, stand-alone crematory located at 62 Black Meadow Road in an industrial park. This location is approximately one mile from the Flynn Funeral Home. They currently have three retorts: a B&L Phoenix II, installed in 1992, a Crawford 1000 CH, installed in 1989, and a B&L N-20A, installed in 1991. The B&L N-20A has been off-line since 2009 and they have applied for permission to replace it with a current model B&L N20AA unit. If approved, the existing unit would be removed and the new N-20AA would be installed in its exact position, using the same chimney, electrical connections, and gas



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supply. The new unit would have state-of-the art safety features and would operate more efficiently. It would also handle oversize cases that the crematory is currently turning away. Mr. Flynn has stated this new unit could be installed and running within one week. The replacement of this unit would return their cremation capacity to its previous level and ease the burden on their other two retorts.

The Crematory was last inspected on February 14, 2019. There were no compliance issues noted at that time. In 2019, the crematory averaged 17 cremations per week, performing a total of 877 cremations. The crematory is now averaging 10-14 cremations per day due to COVID 19 related deaths. This year, through April 23, 2020, the crematory has performed 468 cremations with 251 of those cremations being done between March 6 and April 23. The Crematory performed 877 cremations in 2019, 903 cremations in 2018, 749 in 2017, and 730 in 2016. The N-20A is currently off-line due to mechanical issues involving the door. Mr. Flynn states the cost of repairing this obsolete unit would be prohibitively expensive.

### **Compliance with 19 NYCRR Section 201.16**

- 1) *Whether the alteration will result in or avoid the destruction, damage to, modification or interference with existing graves and markers, crypts, mausoleums, roadways, and pathways:* This facility is a stand-alone crematory and as such, none of these factors apply.
- 2) *The location, design and duration of the major alteration:* The new retort will be located in the same position as the previous retort. The crematory anticipates the replacement could be installed and running within a week, with no interruption of crematory operations.
- 3) *The financial impact on the applicant:* The new unit is expected to cost approximately \$79,000 and installation could add up to \$12,000 to the total. The attached report by Division Senior Accountant Andrew Hickey provides more analysis of the financial aspects of this project. The crematory does not anticipate any material costs with respect to the building.
- 4) *Whether the alteration will interfere with the lots or the interests of the lot owners:* This facility is a standalone crematory, and as such, this does not apply.
- 5) *Whether the alteration will be appropriate for cemetery purposes:* Installation of a new machine will allow the facility to operate more efficiently and in a more environmentally responsible manner.
- 6) *Whether the alteration will have an adverse impact on the surrounding community:* The crematory does not anticipate any impact on the surrounding community.
- 7) *Whether the alteration will have the potential to adversely affect the public health and safety, the environment or natural resources:* The crematory does not anticipate any adverse impact of the project, and in fact, the new retort's increased efficiency will provide a net benefit to the community.

### **Outstanding Issues**

On January 21, 2011, the Cemetery Board identified numerous issues with Oxford Hills and issued an order containing five directives. The crematory's compliance with these directives is addressed below:

1. *Oxford Hills shall immediately cease receiving any remains for cremation without all permits, authorizations and other documents required to accompany remains which are delivered for cremation.*

The Division inspects Oxford Hills annually and has found no violations of this directive since the Board's order.

2. *Oxford Hills crematory shall immediately cease cremating, handling and disposing of remains in violation of N-PCL Article 15 and regulations promulgated thereunder and shall ensure that it complies with its own written plan to assure that the identification of the deceased accompanies the remains throughout the cremation process.*

The Division inspects Oxford Hills annually and identified only one violation of this order. In June 2011, Leonard Breen found the crematory in operation with the door open and no staff present. We have not found this violation at subsequent unannounced inspections.

3. *Oxford Hills shall immediately adjust its business and record-keeping practices to comply with the directives set forth in the 1997 and 2009 audit reports.*

The crematory's independent audit report indicates that the crematory is in compliance with this requirement. The Division will review compliance during a scheduled upcoming audit of the crematory.

*4. Oxford Hills Crematory and its owners/operators, David Flynn and Thomas Flynn shall, within thirty days of this Order, provide a full accounting of the business and operations, assets and liabilities, and income and expenses of Oxford Hills Crematory for the fiscal years 2007, 2008 and 2009, including but not limited to audited financial statements from an independent CPA firm for those years.*

*5. Oxford Hills Crematory and its owners/operators, David Flynn and Thomas Flynn shall, within ninety days of this Order, provide a full accounting of the business and operations, assets and liabilities, and income and expenses of Oxford Hills Crematory for the fiscal year 2010 including but not limited to an audited financial statement from an independent CPA firm for that year.*

The Division has received financial information for the years 2011- 2018. Information for the years 2007-2010 are not in the Division's files. An audit has been scheduled by the Division of Cemeteries.

### **Recommendation**

Oxford Hills Crematory has been operating since 2009 with two retorts. The replacement of the nonfunctioning N-20A will allow them to return to their full capacity. The crematory has been able to function with two retorts for years, but the downstate area has experienced a surge in demand for cremation as a result of the COVID-19 pandemic and an additional retort in Orange County would help address that surge. However, as stated above, the Division cannot recommend approval because there is an outstanding inquiry by the Office of the New York Attorney General, of which the Division is unaware of the status. Counsel to the Division has also identified a potential legal issue that may affect the application; we await further information from counsel.

# EXHIBIT A

# DIVISION OF CEMETERIES

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**To:** NEW YORK STATE CEMETERY BOARD

**From:** Andrew Hickey, Senior Accountant

**Subject:** Oxford Hills Crematory, #36-042

**Re:** Replacement of existing retort

**Date:** May 4, 2020

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## Schedules:

- 1) Four-year Income and Expense
- 2) Four-year Balance Sheet
- 3) ROI
- 4) Sales Payback
- 5) \$79K Commercial Loan Amortization
- 6) 2009 Division of Cemetery Audit
- 7) 2011 AG Order
- 8) Oxford Hill Profit and loss statement
- 9) April 2020 AG referral letter
- 10) 2018 Audited Financial Statements for Oxford Hills Crematory

## Summary:

Oxford Hills Crematory, a standalone crematory, is seeking approval to replace one of its three existing retorts with a new model.

The crematory performed:

- 1) 877 cremations in 2019 per DOS-1772
- 2) 903 cremations in 2018
- 3) 749 cremations in 2017
- 4) 730 cremations in 2016
- 5) 738 cremations in 2015

Trustees believe the replacement costs, including \$79K (schedule 3) purchase price and \$19,711 interest expense (schedule 5) are appropriate because repair costs would be prohibitive, and the new unit will have improved pollution controls. The retort to be replaced is 30 years old, at the end of its useful life and operation presents some safety concerns and periodic breakdowns. Trustees also indicated their other two units are currently running at full capacity. Furthermore, trustees said the replacement of the existing retort will allow for material cost savings (utilities and payroll) and to limit the overuse of the other two existing retorts and quite possibly extend their useful lives.

A Division of Cemeteries audit (schedule 7), conducted in 2009 for the years 2003 to 2008, found poor financial recordkeeping and it was determined annual reports submitted to the Division of Cemeteries did not accurately reflect the underlying financial transactions. Furthermore, a related order from the NYS Attorney General (schedule 8) was issued noting similar deficiencies. In order to properly determine if Oxford Hills is in compliance



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with AG's order 11-1-36042 **dated 2011** would necessitate an audit, which is infeasible at this time. Verbal assertions (April 16, 2020) from the Crematory's external accountant said Division of Cemetery's and AG findings regarding poor financial records and commingling of funds have been rectified (this statement is supported by their firms' external audits thru 2018). David Flynn, a trustee, indicated he would welcome a Division of Cemetery audit to help ensure the Crematory is complying with Industry regulations.

**Costs:**

The retort replacement would cost approximately \$111,000 and be largely comprised of:

- 1) Purchase price: \$79,000 (see application)
- 2) Loan Interest: 19,711 (see schedule 5)
- 3) Installation costs: 6,000 to 12,000 (see schedule 4)

**Revenues:**

Trustees said they are unsure of the additional number of cremations which might occur because of the retort replacement but did say it would reduce the number of cremations they turn away (obese cremations) and allow them to address the increasing number of cremations performed because of industry trends towards cremation. Financial impact will be largely impacted by payroll and utility savings discussed below.

**Cemetery Balance Sheet (Schedule 2):**

As of December 31, 2018, the crematory's financial assets were reported as follows (totaling \$21,921):

- 1) Checking \$ 19,113
- 2) Accounts Receivable 2,173
- 3) Customer Deposits 635

Nonfinancial assets, net of depreciation, totaled \$ 2,669.

**Impact on PM:**

As a stand-alone crematory, there are no PM implications.

**Cemetery Income and Expenses (Schedule 1):**

**Income:** Crematory income is comprised entirely from receipts from cremation. Income levels (2015-2018) are steadily increasing along with the number of cremations performed. Total revenue per cremation (from 2015-2018) performed is approximately \$240 (based on submitted financial reports and invoice records). This figure agrees with main cremation service charge of \$240.

**Note on service charge:** Although no formal analysis has been performed, it appears an increase in service charges may be necessary to help ensure the long-term viability of the crematory.

**Expenses:** (schedule 1) Crematory expenses remained relatively constant from 2015-2017, but did increase approximately 30% in 2018, largely related to increases in wages. Trustees indicated some of increased wages resulted from an increase in the # of cremations performed, repair work performed on the older retorts and the substantial oversight required on older machines.

Total cost per cremation averages \$230. Costs to operate the crematory are largely comprised of:

- 1) **Wages.** The vast majority of wages are paid to two trustees of the crematory, David and Brendan Flynn. David Flynn's salary averaged \$76,740 from 2015 to 2019 and Brendan Flynn's, salary (which began in 2018) averaged \$16,500 from 2018 to 2019. A conflict of interest policy was provided, and preliminary documentation independent trustees approved these related party wage payments. Although concerns over the covid crisis make it difficult at this time to hold a formal board meeting to more comprehensively document board approval of these payments, trustees are in process of emailing (or possibly conducting a telephonic board meeting) to more clearly document approval of these related party transactions. Trustees indicate, holding other variables constant, the replacement retort should result in material payroll savings.

- 2) **Utilities:** No specific review of utilities has been performed, but considering the number of cremations performed, no material exceptions are noted. Similar to wage expense above, Trustees indicate, holding other variables constant, the replacement retort should result in material utility savings.
- 3) **Rent Expense.** Although rent expense, approximately \$20,700 annually, does not appear unreasonable, verbal assertions from David Flynn and disclosures in the 2017 CPA audited financials indicate the lease is largely a verbal agreement. The lack of a formal agreement may limit detailed analysis of the lease. David Flynn stated on April 22, 2020, the lease is solely for real property. The lack of a formal lease agreement also creates uncertainty what would happen to the crematory if the landlord cancelled the lease.

The board is currently comprised of six trustees. In order to facilitate compliance with the Non-profit revitalization act (approval of related party transactions) the board is comprised of three independent trustees. These three include (Vice-President, Steven Nuehaus; Treasurer, George Anderson; and Trustee, Scott Bonacic) indicate they are not related parties to either the Oxford Hills Crematory or the Flynn Funeral Home. The remaining three trustees (President, Thomas Flynn; Trustee, David Flynn; and Trustee Brendan Flynn) indicate they are related parties to both the Oxford Hills Crematory and the Flynn Funeral Home.

Below is a table of current trustees and employees and whether they are considered related parties or independent.

Name	Title Trustee/Employee	Known Conflicts Conflicts
Thomas Flynn	President	Related Party to Funeral Home and Crematory
Steven Nuehaus	Vice-President	None - Independent Trustee – Orange County Supervisor
George Anderson	Treasurer	None - Independent Trustee – Port Authority – Director of Security
Scott Bonacic	Secretary	None - Independent Trustee – Lawyer
Brendan Flynn	Trustee/Employee	Related Party to Funeral Home and Crematory – Crematory operator
David Flynn	Trustee/Employee	Related Party to Funeral Home and Crematory – Crematory operator
Joe Connelly	Employee	Employee of Crematory – Crematory operator

**Annual Report Filings:**

Annual reports are up-to-date through 2018. Trustees provided (on 4/24/20) a 2019 trial balance (see schedule 9). Analysis of the trial balance indicated a surplus of approximately \$4,000 (in line with previous years. Revenue (# of cremations down slightly from 2018 to 877) and expense activity parallels prior years (no exceptions noted). Trustees indicated they will submit a completed 2019 accompanying audited financial statement by May 31, 2020. The Division of Cemeteries granted this extension.

**ROI (Schedule 3):**

Based on analysis of acquisition costs, interest expense, installation and estimated operational savings achieved by improvements in the new retort, the project has an estimated positive ROI of approximately 63%. ROI is largely impacted by estimated recurring annual cost savings in utilities and payroll and the avoidance of material costs to repair the current unit.

**Sales and Payback (Schedule 4):**

Similar to ROI above -Analysis of acquisition costs, interest expense, installation and operational savings achieved by improvements in the new retort, the project has an estimated payback of approximately 4.48 years.

**Benefits**

1. As of the date of writing of this report (4/21/2020), additional cremation capacity from the new retort could be very beneficial to the death care industry considering the current Covid pandemic.
2. Cost savings achieved from the new retort should improve the long-term viability of the Crematory.

**Negatives**

1. None noted.

**Recommendation**

From a fiscal perspective, the new retort would have a net positive financial impact (cost savings) at the crematory. However, as noted in the accompanying report of Investigator Kerry McGovern, there are other issues that may preclude a recommendation of approval.

Senior Accountant,

Andrew Hickey

# SCHEDULE 1

Schedule 1	4 Y/R Income Expense Analysis				
<b>Name</b>	<b>Oxford Hills</b>				
<b>County</b>	Orange				
<b>Cemetery #</b>	36-042				
<b>Application Type</b>	Major Reno - Replace retort				
<b>Conclusions about revenue</b>					
1) Crematory's cremation service charge is the only material revenue source.					
2) Cemetery's cremation charges have been constant since 2004 at \$240 for a cardboard cremation and \$275 for casket cremation.					
2a) Comparison of total revenue, service charges, and the number of cremations performed, gives no indication of material comingling of funds from an another entity (eg: for profit funeral home).					
3) The number of annual cremations is increasing and averages approx 780 annually.					
4) Overall revenue is increasing, in line with the # of cremations as service charges have not changed since 2003.					
<b>Conclusions about Expenditures and results from operations</b>				<b>Source:</b>	
1) Operating expenditures are steady and average approximately		\$179,859.50		Calc. below	
2) Wages, utilities and rent comprise the vast majority of expenses and average		80.06% of total expenses		Calc. below	
3) Wages, potentially largely payments to a related party, are		\$95,975.00	53.36%	Calc. below	
4) Reported utility costs have been increasing overall in recent year:		\$27,318.50	15.19%	Calc. below	
5) Reported rent costs have remained constant and average		\$20,700.00	11.51%	Calc. below	
5a) Although rent expense does not seem unreasonable, review of recent CPA reports (note H Rent Expense) indicates the no formal lease.					
6) Although insurance expense represents only about 6% of expenses, it has varied widely from \$21K to \$5K				Calc. below	
7) Although no specific data is available, future net earnings will be impacted by:					
a) Six years of debt service cost (see schedule 5)					
b) Cost savings from reduced utilites, wages and reduced expenses for repairs					
8) Annaul surpluses average		\$2,042.00		Calc. below	
<b>Features:</b>					
<b>YEAR</b>	<b>12/31/2018</b>	<b>12/31/2017</b>	<b>12/31/2016</b>	<b>12/31/2015</b>	<b>Four Yr Avg</b>
Retorts (total)	3	3	3	3	
Cremations	903	749	730	738	780
	20.56%	2.60%	-1.08%		
<b>YEAR</b>	<b>12/31/2018</b>	<b>12/31/2017</b>	<b>12/31/2016</b>	<b>12/31/2015</b>	<b>Four Yr Avg</b>
<b>Operating Income</b>					
Cremations - adult	210,639	175,631	169,810	171,526	\$181,901.50
Cremations - other	0				\$0.00
Dividends and Interest	0				\$0.00
<b>Total Revenue</b>	<b>210,639</b>	<b>175,631</b>	<b>169,810</b>	<b>171,526</b>	<b>\$181,901.50</b>
<b>Annual change in operating revenues</b>	<b>19.93%</b>	<b>3.43%</b>	<b>-1.00%</b>		
<b>Expenses Operating and Maintenance</b>	<b>12/31/2018</b>	<b>12/31/2017</b>	<b>12/31/2016</b>	<b>12/31/2015</b>	<b>Four Yr Avg</b>
Bank Service Charges		403	385	368	\$289.00
Building repairs		256	329		\$146.25
Cremation Supplies	14,363	9,891	12,584	6,718	\$10,889.00
Depreciation Expense	462	884	1,749	3,837	\$1,733.00
Equipment Leasing	2,859		999	2,096	\$1,488.50
Repairs and Maintenance	5,441	1,057	700	2,617	\$2,453.75
Licenses and Permits		480	480	480	\$360.00
Insurance	5,577	10,689	7,862	21,292	\$11,355.00
Internet	1,981	1,608	1,443	1,218	\$1,562.50
Office Supplies	101		274	17	\$98.00
Payroll and Related Expenses	117,848	80,729	97,509	87,814	\$95,975.00
P/R processing fee	596	631	1,052		\$569.75
Postage		114	109	80	\$75.75
Professional Fees	4,540	4,564	3,142	3,052	\$3,824.50
Rent	21,600	20,400	20,400	20,400	\$20,700.00
Trash		1,183	1,190	1,135	\$877.00
Utilities	34,033	27,702	21,933	25,606	\$27,318.50
other	576				\$144.00
<b>Total Expenses</b>	<b>209,977</b>	<b>160,591</b>	<b>172,140</b>	<b>176,730</b>	<b>\$179,859.50</b>
<b>Annual change in operating expenditures</b>	<b>30.75%</b>	<b>-6.71%</b>	<b>-2.60%</b>	<b>2.67%</b>	
<b>Surplus / (Deficit) - annual</b>	<b>662.00</b>	<b>15,040.00</b>	<b>-2,330.00</b>	<b>-5,204.00</b>	<b>\$2,042.00</b>

# Schedule 2

Schedule 2	4 YR Balance Sheet				
Name	Oxford Hills				
County	Orange				
Cemetery #	36-042				
Application Type	Major Reno - Replace retort				
<b>Conclusion on Assets:</b>					
1) Overall assets have nominally increased from 2015.					
2) No liabilities have been reported					
3) If Cemetery Board approves retort application, debt will increase \$79K					
<b>Balance sheet- Financial Assets Cost Basis</b>		<b>12/31/2018</b>	<b>12/31/2017</b>	<b>12/31/2016</b>	<b>12/31/2015</b>
General fund					
Checking account #		\$19,113	\$15,358	\$3,892	\$3,050
Accounts Receivable		\$2,173	\$3,368	\$2,168	\$2,648
Other					\$0
Security Deposits		\$635	\$635	\$635	\$635
		\$0	\$0	\$0	\$0
	Total Financial assets	\$21,921	\$19,361	\$6,695	\$6,333
<b>Balance sheet- Non- Financial Assets</b>					
Fixed assets net of Depreciation		\$2,669	\$3,132	\$4,016	\$5,764
	Total Non-financial assets	\$2,669	\$3,132	\$4,016	\$5,764
	<b>Total Assets</b>	<b>\$24,590</b>	<b>\$22,493</b>	<b>\$10,711</b>	<b>\$12,097</b>
<b>Balance sheet- Liabilities</b>					
		\$0	\$0	\$0	\$0
	Assets net of liabilities	\$24,590	\$22,493	\$10,711	\$12,097
<b>PM Restricted Balance</b>		<b>12/31/2018</b>	<b>12/31/2017</b>	<b>12/31/2016</b>	<b>12/31/2015</b>
Y/E Restricted PM Balance	n/a no PM	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Available funds		\$ 24,590.00	\$ 22,493.00	\$ 10,711.00	\$ 12,097.00

# Schedule 3

Schedule 3	ROI
Name	Oxford Hills
County	Orange
Cemetery #	36-042
Application Type	Major Reno - Replace retort

Analysis of estimated sales and expenditures indicates simple ROI will be approximately **62.59%**

Steps:  
 Compared 10 years of recurring expenses and cost savings to one time expenditures and estimated one time savings  
 Data: 1) David Flynn estimated new retort would be more efficient and achieve material utility savings of approximately \$7,000  
 2) David Flynn estimated new retort would require labor to operate and achieve material payroll savings of approximately \$5,000  
 3) David Flynn estimated bringing existing unit would cost approximately \$60K.  
 4) One time cost of \$79K, related interest of \$19K and \$12K of installation.  
 5) ROI calculation does not factor additional cremation revenue from the potential of additional cremations performed.

Net Income/Cost Saving	Reference	Estimated # of years	Total Revenue/cost savings
<b>Cost Savings</b>			
Utilities Savings \$7,000.00	Trustee assertion	10	\$70,000.00
P/R savings \$5,000.00	Trustee assertion	10	\$50,000.00
Avoidance of required repairs to existing unit \$60,000.00	Trustee assertion	1	\$60,000.00
<b>Totals</b>			<b>\$180,000.00</b>

EXPENSES	Construction costs	Reference	Estimated # of years	Comments
	Power-Pak II Plus	\$ 79,000		Purchase price per application
	Related Construction	\$ 12,000		4/22/20 Email - actual figure may be closer to \$6K and largely represents costs for crane rental
	Debt Service (schedule 6a)	19,711		See schedule 5
	10 years of \$300 annual service plan	3,000		4/22/20 Email assertion from David Flynn
	<b>Total Expenses</b>	<b>\$110,710.72</b>		
	<b>Net Project Return</b>	<b>\$69,289.28</b>		
	<b>% Return</b>	<b>62.59%</b>		

# Schedule 4

Schedule 4	Sales Projection and payback	
Name	Oxford Hills	
County	Orange	
Cemetery #	36-042	
Application Type	Major Reno - Replace retort	

Conclusion: Based on acquisition costs and recurring annual savings, payback of retort replacement will be 4.48 YRS

Calculation of # of years to payback for retort replacement			
Additional costs			
Cost of Unit	79,000	one-time purchase price	
Less necessary costs to repair	-60,000	one-time avoidance of cost to bring existing unit to proper condition	
Debt Payments	19,711	Interest expense on \$79K loan	
Installation costs	12,000	Install/construction costs per David Flynn	
Other costs			
Annual maintenance charge(10 yrs at \$300)	3,000	10 years of \$300 annual service cost	
<b>Debt service and other costs</b>	<b>53,711</b>		
Additional Revenue or cost saving			
Utilities Savings	7,000	Estimated annual utilities savings	
P/R savings	5,000	Estimated annual P/R savings	
Estimated cost savings	12,000		
<b>Sales Payback in years</b>	<b>4.48</b>		

# Schedule 5

Schedule 5	Commercial Loan Payment	
Name	Oxford Hills	
County	Orange	
Cemetery #	36-042	
Application Type	Major Reno - Replace retort	

Conclusions:	Source
1) Trustees indicated the cost of the new retort would be \$79K and and plan to finance the total purchase price	Initial application(pg 9/10)
2) As of 12/31/18, available funds are approximately \$ 19,113	Calc below
3) Current interest rate appears to be 7.96% based on monthly pmt and 72 month term	Initial application
4) Annual debt service of approximately \$17K appears, for six years, appears to be excessive compared to recent operating results	

Amortization table is based on:
1) 72 month (69 pmts 7.96%
2) Principal payments of \$79,000
3) Interest payments of \$19,711
4) Annual Debt service of \$17,167

Pmt #	Date	Interest	Principal	Balance
1	7/1/2020	\$524	\$907	\$78,093
2	8/1/2020	\$518	\$913	\$77,181
3	9/1/2020	\$512	\$919	\$76,262
4	10/1/2020	<b>\$506</b>	<b>\$925</b>	\$75,338
5	11/1/2020	\$500	\$931	\$74,407
6	12/1/2020	\$494	\$937	\$73,470
7	1/1/2021	\$487	\$943	\$72,526
8	2/1/2021	\$481	\$949	\$71,577
9	3/1/2021	\$475	\$956	\$70,621
10	4/1/2021	\$468	\$962	\$69,659
11	5/1/2021	\$462	\$969	\$68,690
12	6/1/2021	\$456	\$975	\$67,716
48	6/1/2024	\$194	\$1,237	\$27,957
49	7/1/2024	\$185	\$1,245	\$26,712
50	8/1/2024	\$177	\$1,253	\$25,459
51	9/1/2024	\$169	\$1,262	\$24,197
52	10/1/2024	\$161	\$1,270	\$22,927
53	11/1/2024	\$152	\$1,279	\$21,649
54	12/1/2024	\$144	\$1,287	\$20,362
55	1/1/2025	\$135	\$1,296	\$19,066
56	2/1/2025	<b>\$126</b>	<b>\$1,304</b>	\$17,762
57	3/1/2025	\$118	\$1,313	\$16,449
58	4/1/2025	\$109	\$1,321	\$15,128
59	5/1/2025	\$100	\$1,330	\$13,798
60	6/1/2025	\$92	\$1,339	\$12,458
61	7/1/2025	\$83	\$1,348	\$11,111
62	8/1/2025	\$74	\$1,357	\$9,754
63	9/1/2025	\$65	\$1,366	\$8,388
64	10/1/2025	\$56	\$1,375	\$7,013
65	11/1/2025	\$47	\$1,384	\$5,629
66	12/1/2025	\$37	\$1,393	\$4,235
67	1/1/2026	\$28	\$1,402	\$2,833
68	2/1/2026	\$19	\$1,412	\$1,421
69	3/1/2026	<b>\$9</b>	<b>\$1,421</b>	\$0
		<b>\$19,711</b>	<b>\$79,000</b>	

# Schedule 6

**NEW YORK STATE - DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVE, Suite 510  
(518) 473-3372  
NOVEMBER 2, 2009**

Oxford Hills Crematory Corporation # 36-042  
Mr. David Flynn Trustee  
62 Black meadow Road  
Chester, N.Y. 10918  
Ph # 918-469-5950

On August 18 & 19<sup>th</sup> and October 14<sup>th</sup> 2009, an examination was conducted on the financial records of the subject crematory for the period from January 1, 2003 to December 31, 2008.

**PURPOSE AND SCOPE**

The audits purpose was to review financial records from January 1, 2003 through December 31, 2008 to determine the reliability and integrity of submitted financial reports. Additionally, operational information was reviewed to form an opinion on the efficient use of resources. The results are as follows:

**FINANCIAL REPORTING**

It is the conclusion of this office that the submitted financial reports from Oxford Hills crematory do not accurately reflect the underlying transactions for any of the aforementioned years submitted. Of greater concern is the indiscriminate transferring of expenses between Oxford Hills crematory (not-for-profit) and Hickory cremation services (for profit). Mr. David Flynn has stated on numerous occasions that the crematory was directed by the previous administration that they could not report excessive surpluses or deficits, and that the crematory should essentially operate on a break-even basis. A review of the Oxford Hill's file uncovered information to the contrary.

**PREVIOUS AUDIT** (January 13, 1997)

Mr. Pliskowski conducted an audit of the financial records of Oxford Hills crematory and Hickory cremation services. Two conclusions of interest regarding financial reporting are as follows:

- 1) Since the two companies cannot provide cash receipts and cash disbursements journals nor was I given access to paid invoices of the companies, I cannot attest to the accuracy of the combined income and expenses on the reports I reviewed.
- 2) The allocation procedure of income and expenses between the two companies is wrong and must cease.

David Flynn stated in a follow up memo to the 1997 audit report. *“ At the conclusion of his audit, he furnished numerous recommendation, and dispelled several incorrect instructions previously furnished to Oxford Hills by Pearse O’ Callahan. Mr. Pliskowski’s mentoring and guidance has been invaluable, and greatly appreciated.”*

It appears from our follow up audit in 2009 that recommendations from Mr. Pliskowski's report were not implemented. In the next section we will outline the current deficiencies in submitted reports while following up with recommendations for future reporting requirements.

## FINANCIAL REPORTING DEFICIENCIES

### Receipts:

A conversation with the crematories current CPA, Irwin Cohen, revealed that reported income is based on deposits to the checking account which include cremation income, transportation fees and loans from David Flynn. Mr. Flynn has been making regular loans to the crematory from personal accounts to cover operating losses. In his estimation, these loans have totaled approximately \$200,000 over the past several years. Items of concern regarding these loans are as follows:

- No formal record of these loans are reported in the financial statements and although Mr. Flynn does not expect to get the money back, he continues to receive what appears to be loan repayments. In 2007, Mr. David Flynn received \$22,997.03 in payments that were in his words repayment for vandalism fees and reimbursements for miscellaneous expenses. Additionally, \$10,000.00 was paid by the crematory to the Flynn funeral home for reimbursement of expenses. Without invoices to corroborate this figure, it appears that the payments, which for the most part are in even amounts, are for the repayment of loans.
- If Mr. Flynn has to regularly float non interest bearing loans without repayment schedules to the crematory, why would he pay his spouse Nancy Flynn a regular salary which has averaged \$59,125.00 per year from 2003 to 2007? Mrs Flynn does not perform cremations and her corresponding job description is vague.
- A large number of cremation checks received include Hickory transportation fees, the for profit entity.

## DISBURSEMENTS

Payroll expenses: Payroll processing was performed by ADP and most recently by Paychex. Taking gross payroll figures reported by ADP and Paychex and comparing them to reported payroll on annual reports revealed a significant under reporting of payroll by Oxford Hills crematory. Submitted 990 Federal reports were also misstated as they were based on Oxford Hills financial statements. Results are as follows:

Year	2005	2006	2007
Payroll ( ADP)	\$227,909.00	\$171,563.00	\$204,253.93
Payroll ( annual report )	\$122,030.00	\$84,714.00	\$64,104.00

The payroll, according to the CPA, is allocated between Oxford hills crematory and Hickory cremation services in an attempt to reduce operational losses sustained by Oxford crematory. As mentioned earlier, associate accountant Mr. Pliskowski instructed Oxford Hills to cease this practice in the 1997 audit report. Allocating expenses between a not-for-profit and a for profit entity violates both federal and state tax laws.

Equipment Rental: The equipment rental expense reported on the annual report is essentially an

adjusting entry having no basis in the underlying economics of the transaction. Hickory cremation services purchased the initial retorts and is leasing them to Oxford Hills crematory. The estimated cost from initial purchase to point of operation is approximately \$100,000.00 to \$125,000.00. (This figure is an estimate made by Mr. David Flynn). The charge for leasing is \$82,368.00 per year based on \$2,288.00 per month per retort. Since there is no formal leasing agreement and no check is actually disbursed to Hickory cremation services, the entry is purportedly made to reduce income.

## **RECOMMENDATIONS**

The annual reports submitted by Oxford Hills Crematory do not accurately reflect underlying transactions. At a minimum, Oxford Hills needs to restate the last three years of financial reports according to the following directives.

- 1) A cash receipts journal needs to be maintained for all income received. Receipts for cremations must be reported less transportation expense, and should be reconcilable to corresponding bank statements.
- 2) Loans provided to oxford Hills regardless of source, need to be recorded as a liability and outstanding balance reported on the balance sheet of Oxford Hills cremation company.
- 3) All expenses incurred by the crematory must be reported on the corresponding annual report. Charges for leases or depreciation expense must be based on current accounting rules.
- 4) Oxford Hills Crematory must be a separate and distinct entity for financial reporting purposes. No expenses or income should be allocated between Oxford Hills crematory and any other entity.
- 5) Audited financial statements from an independent CPA firm need to be submitted for the following fiscal years; 2007, 2008 and 2009.
- 6) It was noted by Debby Orecki, Director of Bureau of Funeral Directing, that the crematory was lacking a log book as required by section 4145 (5) of the Public Health Law. Implementation of a cremation log listing the name of the deceased, the place of death, the date of cremation and the name and address of the funeral director who delivered the remains to the crematory.
- 7) The receipt and subsequent cremation of fetal demise remains must be accompanied by the appropriate paperwork. Absent this documentation the case is categorized as medical waste. Cremation of medical waste requires a permit issued by DEC and cannot be performed by a crematory, regulated by the Division, for deceased human remains.

## **CONCLUSION**

This matter is being referred to the cemetery board for further review. If you have any questions regarding the findings or recommendations in this report, please contact us at the numbers below.

Regards

Chester Butkiewicz  
Assistant Director  
Division of Cemeteries  
(518) 473-3372

Joseph Ambrose  
Associate accountant  
Division of Cemeteries  
(315) 793-2567

# Schedule 7

STATE OF NEW YORK  
CEMETERY BOARD

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In the Matter of

OXFORD HILLS CREMATORY, INC.  
DAVID FLYNN AND THOMAS FLYNN

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ORDER # 11-1-36042

The New York State Cemetery Board (the "Cemetery Board"), pursuant to the powers vested in it by Section 1504 of the Not-for-Profit Corporation Law (the "N-PCL"), has reviewed the attached reports arising from a 2009 examination and inspection of Oxford Hills Crematory, Inc. ("Oxford Hills Crematory") conducted by the Division of Cemeteries. The Cemetery Board hereby makes the following determinations and findings based upon these reports:

I. Background

Oxford Hills Crematory, Inc., is located in Chester, New York, Orange County and operates three cremation units. It is owned and operated by Thomas Flynn and his brother David Flynn, both of whom are funeral directors and who together own and operate Flynn-Gannon Funeral Home and Hickory Cremation Services. Hickory Cremations Services transports remains of deceased persons to Oxford Hills Crematory.

Oxford Hills Crematory was audited by staff of the Division of Cemeteries in 1997. The 1997 audit found that the crematory maintained poor financial records and commingled income and expenses with Hickory Cremation Services such that the auditor could not determine the accuracy of the information and documents maintained by Oxford Hills Crematory. The 1997 audit directed Oxford Hills Crematory to "properly report income received . . . and . . . expenses incurred" and directed the crematory to cease its practice of allocating income and expenses between the not-for-profit and for-profit companies. The audit further directed the crematory to set up and maintain "[a]n acceptable set of books" and to cease depositing monies from the for-profit business into the crematory accounts "or vice versa".

In August 2009 the Division of Cemeteries and the Department of Health, Bureau of Funeral Directing conducted a joint audit of Oxford Hills Crematory. A follow-up meeting occurred in October between the Division of Cemeteries and crematory operators/owners and their accountant. The meetings were followed by letters demanding further information and records. Letters were sent on December 29, 2009 and May 11, 2010. Oxford Hills Crematory partially responded to those demands, however a number of demands have not been complied with, including the following:

- A demand for records demonstrating that payments from Oxford Hills Crematory to David Flynn were loan repayments;

- Records which would explain and support the reporting of different payroll amounts on the crematory's W-2's from what was reported on the crematory's federal forms 990 for years 2006 and 2007;
- An accounting of how the cost of fetal death cremation services were paid to the crematory by Mrs. Flynn;
- A chronological list of cremation cases; and
- Audited financial statements from an independent CPA firm for fiscal years 2007, 2008 and 2009.

During the 2009 inspection, the Oxford Hills Crematory facility was found to be in good order. All documents and information required to be posted were conspicuously displayed and the crematory's temporary storage facility was properly marked, clean and orderly.

However, the crematory books and records were not found to be in good order. The crematory did not maintain a cremation log as required by section 4145 (5) of the Public Health Law and did not otherwise maintain cremation records in a manner which would allow Division staff to conduct a chronological review of cremations. Cremation documents were put in case files by name of the deceased, were organized alphabetically, and were kept in three ring binders off premises. Thirty case files were reviewed and problems were found in a majority of them. In many cases checks received for cremation services were not made out to Oxford Hills Crematory and were instead made payable to one of the for-profit entities operated by Thomas and David Flynn. Even when checks were made payable to the crematory, they often included amounts due Hickory Cremation Services. Division staff also discovered that Oxford Hills Crematory had filed W-2 wage statements to the federal government using the tax identification number of another entity.

The accountants who performed this examination were not able to obtain a clear and accurate understanding of the finances of Oxford Hills Crematory. Business records such as a cash receipts journal were not maintained. All monies coming into the crematory were deposited into one bank account, but monies belonging to the for-profit entities were also deposited into that account. The Flynn's told Division staff that the amount they reported as total receipts in financial statements filed with the Division and in Federal Form 990's were the total of all deposits into this one account, even though that account received funds belonging to the for-profit entities. And yet the total of all deposits as investigated by Division staff did not match the figures reported in the financial statements. Nor did the total deposits or the totals reported in the financial statements match expected revenue based on the total annual cremations Oxford Hills Crematory reportedly performed. The revenue figures did not make sense to the Division staff.

Expense figures were equally unreliable. The annual payroll figures as reported by the payroll company retained by the crematory did not match the annual payroll figures the crematory

reported to the Division. According to the Oxford Hills Crematory accountants, payroll was intentionally manipulated and artificially allocated between the crematory and the for-profit entities to avoid having the crematory report losses from operations. But at the same time, the crematory operators were reporting that other expenses were being manipulated to avoid having the crematory report a profit from its operations.

Oxford Hills Crematory has also been making questionable journal entries for lease payments to Hickory Cremation Services. It has been reporting lease payments for its three cremation retorts since 1989 even though there is no written lease agreement. Although the journal entries do not reflect actual cash payments, the effect of the entries is to reduce the income of Oxford Hills Crematory and inflate the income of Hickory Cremation Services. In current years, Oxford Hills Crematory has credited Hickory Cremation Services with \$82,368.00 per year in lease payments. Just from 1994 through 2007 Oxford Hills Crematory has recorded lease payments of almost \$900,000 for retorts which cost less than \$400,000. In addition, Oxford Hills Crematory has been incurring vehicle lease expenses for vehicles used by Hickory Cremation Services for its transportation service. There is no business reason for Oxford Hills to incur this expense on behalf of Hickory Cremation. Once again, these transactions appear to artificially reduce the income of Oxford Hills Crematory and artificially increase the income of Hickory Cremation Services.

Division staff also found that David Flynn and his for-profit entities have at various times made payments to Oxford Hills Crematory or paid expenses of the crematory. Many of these transactions are identified in business records as "Cremations in advance". Mr. Flynn has referred to these payments as loans and has referred to payments from Oxford Hills Crematory to him as loan repayments. However there are no loan documents, and the financial statements of Oxford Hills Crematory and the Federal Form 990's filed by Oxford do not identify any such loan obligations.

In addition to these financial issues, Oxford Hills Crematory has been cremating approximately 100 cases per year of fetal remains it receives directly from a local hospital even though the remains are delivered without any death certificate, cremation permit or cremation authorization form. Mr. Flynn claims that the remains are of fetuses of less than twenty-one weeks gestation and that his wife has been paying for the expense of cremating these fetal remains as a charitable gesture to the hospital from which they come. Oxford Hills Crematory could not provide any documentation relating to these cremations. No identification records or authorization forms exist and there is no record of final disposition of the remains after cremation. Division staff also believe that fetal remains are combined and incinerated together and that because the remains are so small and light, there is nothing to collect after incineration. The attorneys for Oxford Hills claim that the practice of cremating fetal remains ceased in 2007, yet during the August 2009 audit Division staff were told that these cremations were still occurring and were even shown a container of fetal remains awaiting cremation. Mr. Flynn told Division staff that Oxford Hills Crematory paid to the cemetery board the five dollar fee required by NPCL 1507(h)(2) per cremation for the cremation of the fetal remains, but because of a lack of records, Division staff

could not verify this claim. It was also unclear if Mr. Flynn was asserting that a five dollar fee was paid per container of fetal remains or if it was paid once for each bulk cremation of fetal remains.

## II. Findings

1. As a result of a 1997 audit, Oxford Hills Crematory was directed to "properly report income received . . . and . . . expenses incurred" and directed the crematory to cease its practice of allocating income and expenses between the not-for-profit and for-profit companies. The auditor further directed the crematory to set up and maintain "[a]n acceptable set of books" and to cease depositing monies from the for-profit business into the crematory accounts "or vice versa". Oxford Hills Crematory has not complied with that directive, has in fact ignored it and has continued to follow the same improper business and record-keeping practices which were the subject of the 1997 directive.
2. Pursuant to NPCL section 1503(b) crematories and crematory records are subject to inspection by the Division of Cemeteries. The Division reviews these records to determine if the crematory is properly reporting information in its annual reports and to determine if the crematory is otherwise in compliance with NPCL Article 15 and other statutes and regulations applicable to crematories. Oxford Hills Crematory has failed to maintain records which would permit Division of Cemeteries staff to conduct a meaningful inspection of the books and records and operation of Oxford Hills Crematory in compliance with NPCL section 1503(b).
3. NPCL section 1508 (b) permits the Division of Cemeteries, through the authority of the Cemetery Board, to investigate "transactions or conditions of the cemetery corporation or any matter connected therewith" and to require the cemetery to respond to such inquiry. The Division of Cemeteries has made such investigation, has demanded documents and information as a result of the investigation, Oxford Hills Crematory has failed to fully respond to the demands of the Division.
4. Oxford Hills Crematory has filed documents with the Division of Cemeteries which are false, incomplete, and/or intentionally misleading and has otherwise provided information which is false, incomplete and/or intentionally misleading.
5. NPCL section 1508 (c) requires every cemetery corporation to annually pay to the cemetery board the sum of three dollars per cremation in excess of fifteen cremations for the preceding calendar year to defray the expenses of examination and administration pursuant to section 1508. Because the Division of Cemeteries cannot verify the number of cremations that have occurred annually, it cannot verify that Oxford Hills Crematory has made full and proper annual payment to the Division. Division staff also believe that Oxford Hills Crematory has not been paying this fee with regard to the fetal remains it has been cremating. Oxford Hills Crematory is not in compliance with this requirement.

6. NPCL section 1507(h)(2) requires that the New York State Vandalism, Abandonment and Monument Repair or Removal Fund be financed by contributions by the cemetery corporations of five dollars (\$5.00) per interment or cremation. Because the Division of Cemeteries cannot verify the number of cremations that have occurred annually, it cannot verify that Oxford Hills has made full and proper annual payment into this fund. Division staff also believe that Oxford Hills Crematory has not been paying this fee with regard to the fetal remains it has been cremating. Oxford Hills Crematory is not in compliance with this requirement.
7. NPCL section 1510(c) requires every crematory to keep a permanent record of every cremation which record must include the name of the deceased, the funeral home from which the remains were received, the receipt of delivery of the deceased human remains, the authorizing agent for the cremation, and the manner of disposition of the cremains. Oxford Hills Crematory has been and may be continuing to cremate fetal remains without maintaining such records. Oxford Hills Crematory is in violation of this provision.
8. NPCL section 1517(c) (1) prohibits crematories from cremating the remains of any deceased human being without the cremation permit required by section four thousand one hundred forty-five of the public health law and requires crematories outside the city of New York to provide a receipt when receiving remains to be cremated. Oxford Hills Crematory has not complied with this provision with regard to the cremation of fetal remains.
9. NPCL section 1517(c) (1) requires that a cremation authorization form accompany the cremation permit required in section 4145 of the Public Health Law. The cremation authorization form must be signed by the next of kin or authorizing agent. Oxford Hills Crematory has not complied with this provision with regard to the cremation of fetal remains.
10. NPCL section 1517(c) (3) requires every crematory to have a written plan to assure that the identification of the remains of a deceased human being is maintained throughout the cremation process and until the identity of the deceased is inscribed on the container in which the cremated remains are placed. With regard to the cremation of fetal remains, Oxford Hills Crematory does not comply with its own written plan to assure that the identification of the remains are maintained throughout the cremation process.
11. NPCL section 1517(g) prohibits the cremation of remains of more than one deceased human being in a retort at any one time unless authorized in a signed writing by the persons making funeral arrangements. Oxford Hills Crematory has not complied with this provision with regard to the cremation of fetal remains.

12. NPCL section 1517(i) requires a crematory that has not been instructed to arrange for the interment, entombment, inurnment or scattering of cremated remains, to deliver the cremated remains to the individual specified on the cremation authorization form or the funeral firm of record. Oxford Hills Crematory has not complied with this provision with regard to the cremation of fetal remains.

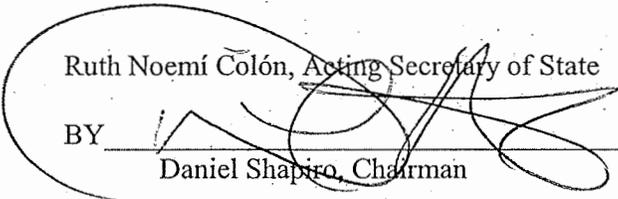
Wherefore, pursuant to N-PCL Section 1504(c), it is hereby **ORDERED** as follows:

1. Oxford Hills Crematory shall immediately cease receiving any remains for cremation without all the permits, authorizations and other documents required to accompany remains which are delivered for cremation.
2. Oxford Hills Crematory shall immediately cease cremating, handling and disposing of remains in violation of N-PCL Article 15 and regulations promulgated thereunder and shall ensure that it complies with its own written plan to assure that the identification of the deceased accompanies the remains throughout the cremation process.
3. Oxford Hills Crematory shall immediately adjust its business and record-keeping practices to comply with the directives set forth in the 1997 and 2009 audit reports.
4. Oxford Hills Crematory and its owners/operators, David Flynn and Thomas Flynn shall, within thirty days of this Order, provide a full accounting of the business and operations, assets and liabilities, and income and expenses of Oxford Hills Crematory for the fiscal years 2007, 2008 and 2009, including but not limited to audited financial statements from an independent CPA firm for those years.
5. Oxford Hills Crematory and its owners/operators, David Flynn and Thomas Flynn shall, within ninety days of this Order, provide a full accounting of the business and operations, assets and liabilities, and income and expenses of Oxford Hills Crematory for the fiscal year 2010 including but not limited to an audited financial statement from an independent CPA firm for that year.
6. This matter is referred to the State Attorney General for such action as he deems necessary to ensure compliance with the provisions of this Order; to ensure compliance with the Not-For-Profit Corporation Law and any other applicable law; to ensure compliance with the rules and regulations of the Division of Cemeteries, the Department of State and this Board; to obtain and recover penalties and damages for any violations of law; and to seek any other remedies he deems just and proper, including the appointment of a receiver of Oxford Hills Crematory.
7. This Order shall take effect when issued.

January 21, 2011  
Albany, New York

Cemetery Board

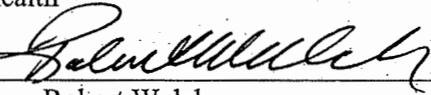
Ruth Noemí Colón, Acting Secretary of State

BY   
Daniel Shapiro, Chairman

~~Eric T. Schneiderman~~  
~~Andrew M. Cuomo, Attorney General~~

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James W. Clyne, Jr, Executive Deputy Commissioner  
of Health

BY   
Robert Welch

**EXHIBIT 8**

**EXHIBIT 8**

**Oxford Hills Crematory, Inc.**  
**Profit & Loss Prev Year Comparison**  
**January through December 2019**

	Jan - Dec 19	Jan - Dec 18	\$ Change	% Change
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
<b>Income</b>				
Casket Remains	7,209.00	11,823.00	-4,614.00	-39.0%
Cremation Income	196,985.00	198,816.00	-1,831.00	-0.9%
Income - Other	0.00	0.00	0.00	0.0%
<b>Total Income</b>	204,194.00	210,639.00	-6,445.00	-3.1%
<b>Total Income</b>	204,194.00	210,639.00	-6,445.00	-3.1%
<b>Gross Profit</b>	204,194.00	210,639.00	-6,445.00	-3.1%
<b>Expense</b>				
Bank Service Charge	0.00	0.00	0.00	0.0%
Building Repairs	2,135.12	1,256.60	878.52	69.9%
Cremation Supplies	9,760.38	14,362.64	-4,602.26	-32.0%
Depreciation Expense	0.00	462.00	-462.00	-100.0%
Equipment Rental	17,126.56	2,858.70	14,267.86	499.1%
Equipment Repairs	724.28	5,440.59	-4,716.31	-86.7%
Fees/Permits	480.00	480.00	0.00	0.0%
Insurance	4,813.90	5,579.62	-765.72	-13.7%
Internet	2,053.12	1,980.61	72.51	3.7%
Office Supplies	369.02	100.71	268.31	266.4%
<b>Payroll Expenses</b>				
Payroll Taxes	7,919.43	8,937.84	-1,018.41	-11.4%
Wages	96,516.88	108,910.00	-12,393.12	-11.4%
<b>Total Payroll Expenses</b>	104,436.31	117,847.84	-13,411.53	-11.4%
Payroll Processing Fee	559.73	595.61	-35.88	-6.0%
Postage	0.00	96.00	-96.00	-100.0%
<b>Professional Fees</b>				
Accounting Fees	3,540.00	4,540.00	-1,000.00	-22.0%
Legal Fee	2,000.00	0.00	2,000.00	100.0%
<b>Total Professional Fees</b>	5,540.00	4,540.00	1,000.00	22.0%
Rent	21,600.00	21,600.00	0.00	0.0%
Trash	1,429.56	1,200.32	229.24	19.1%
Utilities	28,301.01	31,576.46	-3,275.45	-10.4%
<b>Total Expense</b>	199,328.99	209,977.70	-10,648.71	-5.1%
<b>Net Ordinary Income</b>	4,865.01	661.30	4,203.71	635.7%
<b>Net Income</b>	<b>4,865.01</b>	<b>661.30</b>	<b>4,203.71</b>	<b>635.7%</b>

**EXHIBIT 9**

**EXHIBIT 9**

STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA

ANDREW M. CUOMO  
GOVERNOR

99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

CESAR A. PERALES  
ACTING SECRETARY OF STATE

Counsel's Office, Suite 1120  
Tel (518) 474-6740  
Fax (518) 473-9211



April 27, 2020

Jason Lilian  
Assistant Attorney General in Charge  
Charities Bureau, Office of Attorney General  
3rd Floor  
120 Broadway  
New York, NY 10271

Re: Oxford Hills

Dear Mr. Lilien:

Enclosed are two new reports of investigations of Oxford Hills by the Division of Cemeteries. These reports were provided to the Cemetery Board at its July, 2011 meeting and the Board recommended that they be forwarded to your office for further action.

The first inspection was conducted by Leonard Breen, Investigator, on June 13, 2011. He found the crematory unlocked, unattended and operating (2 of 3 retorts). It is unlawful for a crematory to be unlocked and unattended. NPCL §1517(a)(2)(iii); 19 NYCRR §203.2(h)(4). Also, NPCL §1517(b)(1) and 19 NYCRR §203.3(a) prohibit anyone other than authorized persons from being in the retort area while the remains are being cremated. Leaving an operating retort unattended exposes the retort to entry by unauthorized persons. The crematory continued to be in operation in an unlocked, unattended manner for over one hour before crematory personnel arrived, and they arrived only because of telephone calls by Investigator Breen.

Mr. Breen was advised by David Flynn, one of the crematory owners and operators, that the crematory was being staffed and operate by his nephew. NPCL §1517(j) and 19 NYCRR Part 204 prohibit any crematory employee from operating any cremation equipment until he or she is certified to operate such equipment. A one-year grace period exists for new employees. It would be a violation of NPCL §1517(j) and 19 NYCRR Part 204 if the nephew has been employed for more than one year without meeting the certification requirements.

Jason Lilien  
Oxford Hills  
August 1, 2011  
Page 2

Mr. Breen also found problems with the records of the crematory, found that the crematory was accepting bodies without properly completed cremation permits and authorization forms (NPCL §1517(c)(1); 19 NYCRR §203.4[a]), and found that the crematory was storing a body for much longer than the recommended twenty-four hour time period and longer than the forty-eight hour time period beyond which a body may be stored only if good cause is shown. 19 NYCRR §203.2 (e).

Mr. Breen subsequently checked the records of cremations filed with the town clerk and found that Oxford Hills had filed records for only 995 cremations for the year 2010, even though the records of Oxford Hills filed with the Division demonstrate that it performed 1207 cremations that year, a difference of 212. Public Health law §4145 requires all permits to be filed within 7 days of cremation.

Oxford Hills was inspected again on June 22, 2011. This time Investigator Breen was accompanied by Division Assistant Director Chester Butkiewicz. First they checked the town clerk for filed permits for 2009 and found 871 permits filed even though 1150 cremations occurred that year, a difference of 279. They also found serious errors and omissions on many forms that were filed.

Next they went to the crematory for an inspection and found that at least one retort was operating and that the front door was locked. Investigator Breen walked to the back of the crematory and saw the garage door being lowered, indicating that someone was inside. Despite continued knocking and requests for entry, the person inside never unlocked the door to let them in. Thus, Oxford Hills prevented Division staff from conducting an inspection pursuant to NPCL §1503(b). Oxford Hills also denied the Division access to its records as required by NPCL §1510(c) and 19 NYCRR §203.13.

These are serious violations and both the Division and the Cemetery Board believe that this conduct warrants ceasing all crematory operations until Oxford Hills can demonstrate that it is willing and able to comply with all laws and regulations applicable to the operation of a crematory. The crematory should be permitted to complete the cremation and processing of any remains in its possession, but should not be permitted to accept any further remains.

Yours truly,

Antonio Milillo  
Senior Attorney  
*Antonio.Milillo@dos.state.ny.us*

**EXHIBIT 10**

**EXHIBIT 10**



# Division of Cemeteries

New York State  
**Department of State**  
**DIVISION OF CEMETERIES**  
 One Commerce Plaza  
 99 Washington Avenue  
 Albany, NY 12231-0001  
 Telephone: (518) 474-6226  
 www.dos.ny.gov

## ANNUAL FINANCIAL REPORT OF CEMETERY CORPORATION

CEMETERIES THAT FILE CPA REPORTS MUST ALSO COMPLETE THIS REPORT. ATTACH ADDITIONAL PAGES IF NEEDED.

### PART ONE – GENERAL INFORMATION

Reporting Year End Date – Report due 90 days after end of fiscal year (March 31 for most cemeteries)			
2018-12-31			
Cemetery Name		New York State – Cemetery Five Digit ID Number	
OXFORD HILL CREMATORY, INC.		36042 -	
County Name		Federal ID Number – Nine Digit ID Number	
Orange		06-1281796	
Location of Cemetery: Street Address			
139 stage rd monroe			
City/Village (if applicable)	Town	NY	Zip Code
	Chester		10950
Mailing Address (if different – include name if address is that of an officer)			
139 stage rd monroe 10950			

### PERSON KEEPING FINANCIAL RECORDS

Name and Title	Mailing Address
oxford hills crematory the org	139 stage rd monroe 10950
Telephone Number	E-Mail Address
8454695950	flynnoffice@gmail.com

NUMBER OF BURIALS – FOR REPORTING YEAR			CEMETERY LANDS – IN ACRES		
Number of Body Burials	0	Current Lot Price-if multiple prices, write "various"	0	Sold – To Date	0
Number of Cremains Buried from NYS Crematories	0	Adult Interment Fee	0	Unsold - Developed	0
Number of Cremains Buried from Out-of-State Crematories	0	Cremation Interment Fee	0	Unsold - Undeveloped	0
<b>Total Burials for Reporting Year</b>	0	Cremation Fee for Crematory use only		<b>Total Acreage</b>	0
Number Cremations Performed	903	Estimated Burial Spaces Remaining Including In Ground, Mausoleum Crypts and Columbarium niches			

### INSURANCE COVERAGE – Commercial Crime/Employee Dishonesty

15000	2020-05-16
AMOUNT OF COVERAGE	EXPIRATION DATE OF POLICY
directors, employees, officers	ngm insurance
CLASSES OF PERSONS (DIRECTORS, EMPLOYEES, OFFICERS, ETC.) COVERED	NAME OF CARRIER

- Check if the Division has previously granted a reduction, waiver or modification of this requirement.
- Directors and trustees must annually disclose any possible conflicts of interest in a written statement. Check here to confirm that your directors and trustees have done so. Do not attach the statements to your Annual Financial Report.

### FINANCIAL STATEMENT CERTIFICATION

The undersigned officials of the OXFORD HILL CREMATORY, INC. Cemetery Corporation certify that we have thoroughly reviewed this Annual Financial Report. To the best of our knowledge this Annual Financial Report and the cemetery's operating statement and accounting assets are complete, accurate, free from any misstatements and are not misleading in any respect.

<b>X</b>	2019-03-28T21:33:46
TRUSTEE SIGNATURE	DATE
david flynn	
NAME AND TITLE (PRINT)	
director	
<b>X</b>	2019-03-28T21:33:46
TRUSTEE SIGNATURE	DATE
tom flynn	
NAME AND TITLE (PRINT)	
director	



# ANNUAL FINANCIAL REPORT OF CEMETERY CORPORATION

## PART TWO – OPERATING STATEMENT

CEMETERY NUMBER AND NAME	DATE – Reporting Year End
36042      OXFORD HILL CREMATORY, INC.	2018-12-31

<p>Other Receipts – Detail Schedule</p> <p>_____ \$ _____</p> <p>Other Receipts (must equal total on line f on previous page.)    \$ _____</p>	<p>Other Disbursements – Detail Schedule</p> <p>_____ \$ _____</p> <p>Other Disbursements (must equal total on line r on previous page.) \$ _____</p>
--	---

## PART THREE – STATEMENT OF OPERATING FUNDS & TRUST FUNDS

### GENERAL FUND (GF) – SCHEDULE OF ACCOUNTS and BALANCES

List reporting year end balances of all accounts containing GF. For all investment accounts, also list cost basis. Attach schedule if additional space is required.

Financial Institution	Last 4 Digits of Account #	Type* of Account	Balance-Reporting Year End- at <b>Market</b>	Balance-Reporting Year End- at <b>Cost</b>
1. provident	0000	checking	\$ 15357	19111
2. _____	_____	_____	\$ _____	_____
3. _____	_____	_____	\$ _____	_____
4. _____	_____	_____	\$ _____	_____
5. _____	_____	_____	\$ _____	_____
<b>Total of General Fund Assets at Reporting Year End</b>			<b>\$ 15357</b>	<b>\$ 19111</b>

\*Type = CD, Mutual Fund, Savings Account, Stocks, etc.

# ANNUAL FINANCIAL REPORT OF CEMETERY CORPORATION

## PART THREE – STATEMENT OF OPERATING FUNDS & TRUST FUNDS

CEMETERY NUMBER AND NAME	DATE – Reporting Year End
36042                      OXFORD HILL CREMATORY, INC.	2018-12-31

### PERMANENT MAINTENANCE FUND – SCHEDULE OF ACCOUNTS and BALANCES

**Permanent Maintenance (PM) Assets** – List reporting year end balances of all accounts containing PM funds. For all investment accounts, also list cost basis. You may attach a schedule or list all on separate sheet if additional space is required, but you must complete Line A, below.

Financial Institution	Last 4 Digits of Account #	Type* of Account	Balance-Reporting Year End- at <b>Market</b>	Balance-Reporting Year End- at <b>Cost</b>
1. _____	_____	_____	\$ _____	\$ _____
2. _____	_____	_____	\$ _____	\$ _____
3. _____	_____	_____	\$ _____	\$ _____
4. _____	_____	_____	\$ _____	\$ _____
5. _____	_____	_____	\$ _____	\$ _____
<b>A. Total of Permanent Maintenance Assets at Reporting Year End</b>			\$ <u>0</u>	\$ <u>0</u>

\*Type = CD, Mutual Fund, Savings Account, Stocks, etc.

### PERMANENT MAINTENANCE (PM) FUND RECONCILIATION

<b>1. PM Fund Balance – Beginning</b>		\$ <u>0</u>
<b>ADDITIONS TO PM</b>		
2. Allocations from Lot Sales (at least 10% of gross lot sales)	\$ <u>0</u>	
3. Allocations from Interments (\$35 per interment)	\$ <u>0</u>	
4. Allocations from Installment Payments (from Part 5A)	\$ _____	
5. Income (Interest and Dividends)	\$ <u>0</u>	
6. Realized Capital Gains	\$ <u>0</u>	
7. PM Loan Repayments	\$ <u>0</u>	
8. Other Additions to PM	\$ <u>0</u>	
<b>9. SUBTOTAL ADDITIONS</b> (Lines 2 through 8)	<b>+ \$</b> <u>0</u>	
<b>WITHDRAWALS/DEDUCTIONS FROM PM</b>		
10. Transfer of Income (Interest and Dividends)	\$ <u>0</u>	
11. Realized Capital Losses	\$ <u>0</u>	
12. PM Loans withdrawn	\$ <u>0</u>	
13. Deduction of 2/3 of investment advisory fees on PM account	\$ <u>0</u>	
<b>14. SUBTOTAL DEDUCTIONS</b> (Lines 10 through 13)	<b>- \$</b> <u>0</u>	
<b>15. Balance at Reporting Year End</b> (Line 1 plus Line 9, minus Line 14)		\$ <u>0</u>

# ANNUAL FINANCIAL REPORT OF CEMETERY CORPORATION

## PART THREE – STATEMENT OF OPERATING FUNDS & TRUST FUNDS

CEMETERY NUMBER AND NAME 36042                      OXFORD HILL CREMATORY, INC.	DATE – Reporting Year End 2018-12-31
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### SPECIAL TRUST FUNDS – SCHEDULE OF ACCOUNTS and BALANCES (IF THE CEMETERY HAS SUCH TRUST FUNDS)

List reporting year end balances of all accounts containing Special Trust Funds (such as restricted donations or bequests). For all investment accounts, also list cost basis. Attach schedule or list all on separate sheet if additional space is required. Attach copies of instruments establishing new bequests received during the reporting year. Attach schedule or list all on separate sheet if additional space is required.

Financial Institution	Last 4 Digits of Account #	Type* of Account	Balance-Reporting Year End- at <b>Market</b>	Balance-Reporting Year End- at <b>Cost</b>
1. _____	_____	_____	\$ _____	\$ _____
2. _____	_____	_____	\$ _____	\$ _____
3. _____	_____	_____	\$ _____	\$ _____
4. _____	_____	_____	\$ _____	\$ _____
5. _____	_____	_____	\$ _____	\$ _____
<b>Total of Special Trust Fund Assets at Reporting Year End</b>			\$ <u>0</u>	\$ <u>0</u>

\*Type = CD, Mutual Fund, Savings Account, Stocks, etc.

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## ANNUAL FINANCIAL REPORT OF CEMETERY CORPORATION

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1. Does your cemetery currently, or has it ever, offered perpetual care? **NO**  
Perpetual care is a voluntary contractual arrangement with the cemetery for additional care of a lot, plot, or part thereof.  
If you answered YES to this Question, go online to <http://www.dos.ny.gov/cmtv/forms.htm> and download and file Part Four A— Perpetual Care Trust Fund—Schedule of Accounts and Balances, and Perpetual Care Fund Reconciliation.
2. Does your cemetery have a Permanent Maintenance Fund loan outstanding? **NO**  
If you answered YES to this question, go online to <http://www.dos.ny.gov/cmtv/forms.htm> and download and file Part Four B – Permanent Maintenance Loan Balance.
3. Does your cemetery sell lots on an installment basis? **NO**  
If you answered YES to this question, go online to <http://www.dos.ny.gov/cmtv/forms.htm> and download and file Part Five-A – Supporting Schedules.
4. Does your cemetery sell merchandise such as bronze markers or interment services on a pre-need basis? **NO**  
If you answered YES to this question, go online to <http://www.dos.ny.gov/cmtv/forms.htm> and download and file Part Five-B – Supporting Schedules.
5. Does your cemetery file Form 990 or Form 990-EZ with the IRS? **YES**  
If you answered YES to this question:  
Form 990 filers attach Part VII Compensation of Officers, Directors, Trustees.  
Form 990-EZ filers attach Part VI.  
If your cemetery files Form 990-N – Electronic Notice (e-Postcard), no additional attachments are required.

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If you answered **NO to ALL** of the above five questions **and** your cemetery has **less than** \$1,000,000 in total financial assets,\* **STOP HERE**. You **do not** have to fill out any additional schedules.

\* Total financial assets means all general funds, permanent maintenance funds, perpetual care funds, special trust funds and other funds under the control of the cemetery, including both restricted and unrestricted funds, regardless of the form in which they are held. Total financial assets do not include the cemetery's land, buildings, equipment, etc.

# PHYPHAR INC

Certified Public Accountants

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## Independent Accountants Audit Report

Oxford Hills Crematory Inc  
Monroe, NY

We have audited the accompanying financial statements of Oxford Hills Crematory Inc, which comprises of the balance sheet as of December 31, 2018 and the related statements of income, cash flows, and the related notes to financial statements for the year then ended.

---

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the company as of December 31, 2018 and the results of its activities and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

*Phyphar Inc*

Firm's Signature  
Waldwick, NJ  
March 15, 2019

FILE COPY

**Oxford Hills Crematory, Inc.**  
**BALANCE SHEET**  
Dec 31, 2018

Assets

	2018
<b>Current Assets</b>	
Bank & Cash on Hand	19,112
Accounts Receivable	<u>2,173</u>
<b>Total Current Assets</b>	<b>21,285</b>
<b>Property and Equipment</b>	
<b>Total Property and Equipment</b>	<b>2,670</b>
<b>Other Assets</b>	
Security Deposits	<u>635</u>
<b>Total Other Assets</b>	<b>635</b>
<b>Total Assets</b>	<b><u>24,589</u></b>

Liabilities and Fund Balance

	2018
<b>Current Liabilities</b>	
Accounts Payable	3,763
NYS Assessment Fee	2,835
NYS Vandalism Fee	<u>4,415</u>
<b>Total Current Liabilities</b>	<b>11,013</b>
<b>Long-Term Liabilities</b>	
<b>Total Long-Term Liabilities</b>	<u>-</u>
<b>Total Liabilities</b>	<b>11,013</b>
<b>Net Assets</b>	
Unrestricted Net Assets	<u>13,576</u>
<b>Total Net Assets</b>	<b><u>13,576</u></b>
<b>Total Liabilities and Fund Balance</b>	<b><u>24,589</u></b>

FILE COPY

**Oxford Hills Crematory, Inc.**  
**STATEMENT OF INCOME**  
Year Ended Dec 31, 2018

	Dec 31, 2018
<b>Revenue</b>	
Income from Services	<u>210,639</u>
<b>Total Revenue</b>	<b>210,639</b>
<b>Operating Expenses</b>	
Building Repairs	1,257
Cremation Supplies	14,363
Depreciation Expense	462
Equipment Rental	2,859
Equipment Repairs	5,441
Fees/Permits	480
Insurance	5,580
Internet	1,981
Office Supplies	101
Payroll & Related Expenses	118,443
Postage	96
Professional Fees	4,540
Rent	21,600
Trash	1,200
Utilities	<u>31,576</u>
<b>Total Operating Expenses</b>	<b><u>209,978</u></b>
<b>Net Income (Loss)</b>	<b><u><u>661</u></u></b>

FILE COPY

**Oxford Hills Crematory, Inc.**  
**STATEMENT OF CASH FLOWS**  
Year Ended Dec 31, 2018

Dec 31, 2018

**Cash Flows from Operating Activities**

**Net Income**

Net Income (Loss) 661

**Total Net Income** **661**

**Adjustments to Net Income**

Adjustments to reconcile Net Income (Loss) to net Cash:

(Increase) Decrease in:

Accounts Receivable 1,195

Increase (Decrease) in:

Accounts Payable 167

NYS Assessment Fee 504

NYS Vandalism Fee 765

**Total Adjustments** **2,631**

**Net Cash Provided By (Used In) Operating Activities** **3,292**

**Cash Flows from Investing Activities**

Accumulated Depreciation 462

**Net Cash Provided By (Used In) Investing Activities** **462**

**Cash Flows from Financing Activities**

**Net Cash Provided By (Used In) Financing Activities** -

**Net Increase (Decrease) in Cash** **3,754**

**Cash at Beginning of Period**

Cash at Beginning of Period 15,358

**Total Cash at Beginning of Period** **15,358**

**Cash at End of Period** **19,112**

FILE COPY

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

**Note A - Nature of Activities and Significant Accounting Policies**

Nature of Activities

Oxford Hills Crematory Inc is a not-for-profit corporation established under the laws of the State of New York and operates as a cemetery organization. The organization provided crematory services to the community areas surrounding and including that of Chester, NY. It is governed by IRC 501(c)(13) and the rules as indicated by New York State Division of Cemeteries.

---

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Management considers the estimates of the allowances for contractual adjustments and uncollectible accounts receivable to be critical accounting policies requiring extensive subjective judgments. Management bases these estimates on historical experience and other assumptions believed to be reasonable under the circumstances.

Property and Equipment

It is the Organization's policy to capitalize property and equipment over \$1,000. Lesser amounts are expenses. Purchased property and equipment is capitalized at cost. Transfer of property, and donations of property and equipment are recorded as contributions at their estimated fair value. Such transfers or donations are reported as unrestricted contributions unless the donor or transferor has restricted the donated asset to a specific purpose. If the Organization received fully depreciated property or property with no fair market value, or negligible fair market value, the organization does not record such property and equipment.

Property and equipment are stated at cost or fair value at date of donation. Depreciation is provided using the straight-line method over the estimated useful lives of the assets as follows:

Office equipment	5 years
Vehicle	7 years
Other equipment	7 years
Leasehold improvement	15 years

FILE COPY

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

Financial Statement Presentation

The Organization is required to report information with regards to its financial position and activities according to three classes of net assets: unrestricted net assets, temporary restricted net assets, and permanently restricted net assets. The Organization currently has no temporary or permanently restricted net assets.

Revenue Recognition

---

The Organization provides crematory services to the community areas surrounding and including that of Chester, NY. Service fees are regulated by the New York State Division of Cemeteries, Revenue is shown net of assessment and vandalism fees, collected from the customers, Fees are increased upon application and approval by the New York State Division of Cemeteries.

Functional Allocation of Expenses

The costs of providing various programs and other activities have been summarized on a functional basis in the statement of activities and the statement of functional expenses. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

Functional Expenses

Expenses are allocated to program and supporting services on the following bases:

- (a) Management and general expenses are allocated on the basis of periodic time and expense studies.
- (b) Legal expenses are allocated equally between the two areas.
- (c) Personnel expenses are allocated on the basis of direct salaries.
- (d) Building and occupancy costs are allocated on the basis of square footage.
- (e) Depreciation is allocated on the basis of usage of the related asset.

Income Taxes

No provision has been made for income taxes in the financial statements. The Organization is exempt from Federal and State income taxes under Internal Revenue Code Section 501(c)(13).

Cash and Cash Equivalents

For the purpose of the Statement of Cash Flows, the Organization considers as cash equivalents all highly liquid investments, which can be converted into known amounts of cash and have a maturity period of ninety days or less at the time of purchase. Excluded from this definition of cash equivalents are such amounts that represent funds that have been designated by the Board for investment.

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

Accounts Receivable

Accounts receivable are stated at unpaid balances, less an allowance for doubtful accounts. The Organization provides for losses on accounts receivable using the allowance method. The allowance is based on experience, third-party contracts, and other circumstances, which may affect the ability of customers to meet their obligations. ~~Receivables are considered impaired if full principal payments are not received in~~ accordance with the contractual terms. It is the Organization's policy to charge off uncollectible accounts receivable when management determines the receivable will not be collected.

**Note B - Cash and Cash Equivalents**

For purposes of the statement of financial position and the statement of cash flows, cash and cash equivalents consist of cash and other highly liquid resources, such as investments in certificates of deposit and money market funds, with an original maturity of three months or less when purchased. The following is the composition of the combined amounts appearing in the financial statements.

	2018
	<hr/>
Bank & Cash on Hand	<u>\$ 19,112</u>

**Note C - Accounts Receivable**

Accounts Receivable

Accounts receivable are stated at unpaid balances, less an allowance for doubtful accounts. The Organization provides for losses on accounts receivable using the allowance method. The allowance is based on experience, third-party contracts, and other circumstances, which may affect the ability of customers to meet their obligations. Receivables are considered impaired if full principal payments are not received in accordance with the contractual terms. It is the Organization's policy to charge off uncollectible accounts receivable when management determines the receivable will not be collected. Currently, management does not believe there to be a need for an allowance of uncollectible amounts. The amounts indicated are owed to the agency from a singular party and are deemed collectible.

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

**Note D - Property and Equipment**

Property and equipment consist of the following:

	2018
Vehicle	\$ 19,324
Equipment	2,740
Furniture & Fixtures	2,134
Leasehold Improvement	8,101
Accumulated Depreciation	<u>(29,629)</u>
	<u>2,670</u>

The Organization's policy is to depreciate its fixed assets over their estimated useful lives using the straight-line method and to annually evaluate the remaining useful lives.

Property and equipment, previously leased, and expensed, and transferred into the organization as of 2009, has been listed as having no additional value for depreciation purposes. The leased amounts were expensed as opposed to capitalization of the lease prior to 2009. The equipment if it were depreciated from the initial lease point would have been fully depreciated prior to 2009. The equipment and the associated accumulated depreciation have been omitted as the value of both would be equal.

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

**Note E - Accounts Payable**

Accounts Payable represents the Organization's obligation to pay off a short-term debt to its creditors. The accounts payable entry is found on a balance sheet under the heading current liabilities. The following is the composition of the combined amounts of vendors and a credit card debt stemming from prior years appearing in the financial statements of accounts payable.

---

**Note F - Vandalism and Assessment Fee Payable**

The Organization is subject to New York State Cemetery Board vandalism fees and regulations which clarify many definitions regarding vandalism, payments from the fund, and vandalism notification to the Division.

**Note G - Rent Expense**

The Organization is currently paying rent to K&K Realty for the location used to perform services. Though no formal lease has been assigned, there is an understanding between K&K Realty for the lease amounts to be monthly. The verbal arrangement has continued over the last several years. In 2018, the organization paid \$21,600 in rent.

**Note H - Salaries and Wages**

The Organization currently uses Paychex Payroll Services to process, calculate, and file all payroll related filings and activities. The salaries are indicative of management and operational expenses. The director is currently an active employee of the Organization, processing cremations as a licensed crematory operator, responsible for the management and operational functions of the organization.

**Note I - Contingencies, Risks, and Uncertainties**

During 2018, the Organization received high concentration of its total revenue from affiliated sources. The services performed were for Hickory Cremation Services Inc. Should the Organization no longer perform services for the customer, based on discussions with management, the organization would have significantly reduced revenue. Currently, management does not believe this to be a significant issue as the Organization is promoting services to local funeral homes, and through community involvement.

The Organization is under an order and directive by the New York State Cemetery Board. While the final cost of the outcome cannot be determined at this time, management is of the opinion that the ultimate liability, if any, from the final resolution of these matters will not have a material effect on the Organization's financial statements. Legal and professional fees incurred through the course of the case will reduce overall surplus of net assets.

OXFORD HILLS CREMATORY, INC.  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2018

**Note J - Changes in Accounting Policy**

During 2009, the Organization changed its methods of internal control and record keeping surrounding cash balances, income, and expenses.

The transference of equipment is listed within the Fixed Assets section of the balance Sheet. The transference was in response to the request by the New York State Division of Cemeteries. Previously these equipments were leased through Related Parties. The leased amounts were expensed as opposed to capitalization of the lease prior to 2009. ~~The equipment if it were depreciated from the initial lease point would have been fully depreciated prior to 2009. The equipment and the associated accumulated depreciation have been omitted, as the value of both items would be equal.~~

**Note K – Commercial Crime Insurance Coverage**

Subsequent to the year-end the organization complied with the new statutes indicating Commercial Crime Insurance be obtained. The insurance provides coverage up to \$15,000, covering all personnel within the organization.

**Note L – Affiliated Entities**

As of December 2018, the company has an affiliation with Hickory Services Inc and Flynn Funeral & Cremation Memorial Centers Inc. Both companies are registered with the State of New York. The companies are owned by two (2) of the directors. Transactions between entities are performed at arms-length.

**Note M – Subsequent Events**

The company has evaluated all subsequent events to the balance sheet date of December 31st, 2018 through the date of the financial statements were available to be issued March 15<sup>th</sup>, 2019. The company has determined there are no significant subsequent events that require recognition or disclosure in these financial statements other than those listed previous to Note N.

# EXHIBIT B



Sales Agreement # 180730-KL  
Oxford Hills Crematory  
July 30, 2018

**OXFORD HILLS CREMATORY AGREES TO SUPPLY THE FOLLOWING:**

A crane for off-loading the unit and erecting the stack; all labor and equipment costs during installation; gas and electrical hook-up costs; sufficient fresh air supply to the unit as specified; equipment rentals incurred during off-loading and/or installation; any and all permit fees and related costs; any applicable sales and use tax; any and all bank and wire transfer fees.

**Terms: (Please check appropriate box)**

A. 30% Deposit due with signed contract..... \$ 23,700.00  
30% Due 30 days from signed contract..... \$ 23,700.00  
35% Due when unit is ready for shipping..... \$ 27,650.00  
5% Due upon start-up - to be picked up by technician or 30-days from shipment date,  
whichever comes first.....\$ 3,950.00  
**TOTAL PRICE \$ 79,000.00**

B. 10% Deposit due with signed contract..... \$ 7,900.00  
40% Due on start of manufacturing after receipt of air permit..... \$ 31,600.00  
45% Due when unit is ready for shipping..... \$ 33,550.00  
5% Due upon start-up - to be picked up by technician or 30-days from shipment date,  
whichever comes first.....\$ 3,950.00  
**TOTAL PRICE \$ 79,000.00**

C. Equipment Financing – Terms up to 60 months available. 50% deposit provided by leasing company upon receipt of signed lease documents. Final payment due upon receipt of delivery and acceptance from customer to leasing company. Start-up to be scheduled upon receipt on final 50% from leasing company.

**Delivery:** Shipment will be approximately 12 to 14 weeks from the receipt of signed contract, pre-construction check list and deposit.

**Startup:** Once the equipment has been off-loaded, set in place and the stack & utilities hooked-up, our technician will come to your place of business, commission the unit and provide training for up to five (5) people on its operation & maintenance. B&L Cremation Systems, Inc. requires a minimum of two (2) week notice in order to schedule the start-up.

Title of the goods which are the subject of this Sales Agreement shall remain the sellers until such time as the amount of the Sales Agreement is paid in full. If the total amount is not paid at the maturity thereof, the customer agrees to pay a service charge of 1-1½% per month on the unpaid balance and further agrees to pay all costs of collection, including reasonable attorney's fees and court costs, if the delinquent account is turned over for collection whether suit be brought or not. It is specifically agreed that should either party file suit for breach of this agreement, exclusive jurisdiction and venue shall be in Pinellas County, Florida. Purchaser agrees that until full payment is made, it will not encumber or dispose of the collateral, and will not remove or modify it without seller's express written permission. If purchaser shall, in any manner, default under terms of this payment agreement as a secured party under the Uniform Commercial Code, and, in conjunction with those rights, may, at its sole discretion, enter upon purchaser's property to take possession of, assemble and collect the collateral.

Signed Acceptance:  Date: 8-14-2018  
Print Name: DAVID FLYNN Authorized Agent for: Oxford Hills Crematory Inc

# EXHIBIT C

**SCHEDULE NO. 40311897  
 TO  
 MASTER EQUIPMENT FINANCING AGREEMENT**

This Schedule No. 40311897 ("Schedule") between WESTERN EQUIPMENT FINANCE, INC. ("Creditor", "us", "we" or "our"), and OXFORD HILLS CREMATORY, INC. ("Debtor", "you," or "your") is dated as of the date signed below by Debtor and is issued in connection with the Master Equipment Financing Agreement dated as of 8/13/18 (the "Master Agreement"). Unless otherwise defined, capitalized terms used herein shall have the meanings specified in the Master Agreement.

**1. GRANT OF SECURITY:** Debtor hereby grants to Creditor a first priority security interest in all of the property described in Collateral Schedule "A" attached hereto and made a part hereof.

**2. BUSINESS ADDRESS:** 139 STAGE RD MONROE NY 10950.

**3. TERMS:**

Initial Term	Payment Frequency	Base Periodic Payment	Amount Paid in Advance	# of Payments in Advance	Security Deposit	# of Payments Remaining	Total # of Payments
72	Monthly	\$1,429.35 Beginning 90 Days from Commencement (includes applicable taxes)	\$0.00 (includes applicable taxes)	0	\$0.00	69	69

**4. INFORMATION RELATING TO INSURANCE REQUIRED UNDER SECTION 6 OF THE MASTER EQUIPMENT FINANCING AGREEMENT:**

Agent Name & Phone Number: Walter Rose Insurance Agency   
 Insurance Company / Policy Number: Utica National Insurance Group / 5126794

**5. PRE-AUTHORIZED PAYMENT:** You hereby authorize us to initiate debit entries to your ( ) checking or ( ) savings account (select one), indicated below for payment of sums due in connection with this Schedule. You authorize the debit of regular monthly payments as well as debit entries for charges where the amount and time frame varies, including, but not limited to, insurance, tax, and late fee payments. You further authorize the depository named below to charge the indicated account(s). You represent that the person signing this Schedule is an authorized signer on the Debtor's bank account.

[Complete the following and provide a voided check for this account:]

DEPOSITORY NAME:	<u>SEELING NATIONAL BANK</u>
TRANSIT/ROUTING NO:	<u>221970443</u>
ACCOUNT NO:	<u>10000617761</u>

In the event funds are not available in the bank account(s) noted above on the day payment is due, it is your responsibility to remit payment to us immediately, in order to avoid the assessment of a late payment charge. This authorization is to remain in full force and effect until we shall have received written notification of its termination in such time and in such manner as to afford us and depository a reasonable opportunity to act on it.

**6. COUNTERPARTS; DOCUMENT DELIVERY:** (a) This Schedule may be executed in any number of counterparts, each of which when executed or otherwise authenticated and delivered constituting an original, but all together one and the same instrument. Notwithstanding the foregoing, Creditor and Debtor agree that they intend that there shall be only one manually executed original of this Schedule and, to the extent that this document constitutes chattel paper under the UCC, no security interest herein may be created by the transfer of possession of any counterpart other than the original of this Schedule.

**7. RELATIONSHIP TO MASTER EQUIPMENT FINANCING AGREEMENT; FURTHER ASSURANCES:** The terms of the Master Agreement are incorporated herein by reference and Debtor hereby reaffirms all terms of the Master Agreement. If any of the terms of this Schedule are contrary to the terms of the Master Agreement, the terms of this Schedule shall govern. This Schedule, together with the Master Agreement incorporated herein, shall constitute a separate Agreement and Debtor hereby certifies to Creditor that the representations and warranties made by the Debtor in the Master Agreement are true and correct in all material respects as of the date of this Schedule and that there has been no material adverse change in Debtor's financial condition since the date of the Master Agreement. Debtor will promptly execute or otherwise authenticate and deliver to Creditor such other documentation as Creditor shall request.

INITIAL HERE   *HR*   



# EXHIBIT D

## Young, Alicia (DOS)

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**From:** McGovern, Kerry (DOS)  
**Sent:** Friday, April 24, 2020 2:57 PM  
**To:** Young, Alicia (DOS)  
**Subject:** Fw: Retort replacement sales contract

This is exhibit G according to my memo. I cannot save it to readable format and I cannot print it out to scan.

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**From:** djflynn@aol.com <djflynn@aol.com>  
**Sent:** Thursday, April 23, 2020 4:40 PM  
**To:** McGovern, Kerry (DOS) <Kerry.McGovern@dos.ny.gov>  
**Subject:** Re: Retort replacement sales contract

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Hi Kerry,

The agreement was signed in August, 2018. It is still at the manufacture's facility. In 2018 we were unaware of any publication regarding the need to seek approval from the Board. We subsequently learned in 2019 from a memo from the Division, that you needed prior approval. We stopped proceeding any further in order to follow the regulations and guidelines. An application was submitted, and then we received information back that the Division required additional information to complete the application, in March of 2019. At that time we were involved on completing the Audit with our accountant, and put the application paperwork aside. The Unit is ready to be shipped and could be here within three days of me informing them to ship. The contract does not require any further payments or cost to us. But we would certainly not have installed it with out the consent and permission from the Division, after seeing the rule.

Taking a short break and I am available if you need to call me.  
Thank you, I really appreciate everything the Division is trying to do, help us with this.

-----Original Message-----

**From:** McGovern, Kerry (DOS) <Kerry.McGovern@dos.ny.gov>  
**To:** djflynn@aol.com <djflynn@aol.com>  
**Cc:** Hickey, Andrew (DOS) <Andrew.Hickey@dos.ny.gov>  
**Sent:** Thu, Apr 23, 2020 4:14 pm  
**Subject:** Retort replacement sales contract

Hello, Dave:

I was looking at the application and exhibits you sent in to the Division for the retort replacement approval and I need clarification on something: Your sales agreement with B&L Cremation Systems and your Master equipment financing agreement are both signed and dated August 14, 2018. The sales agreement stipulates shipment of the retort would be 12-14 weeks from the receipt of the signed contract, pre-construction checklist, and deposit. Can you confirm that this retort has not yet been purchased/received/installed? If not, is the sale price in the agreement signed 21 months ago still going to be valid? Are there additional costs that were added? Will the retort be delivered in a timely fashion or has it already been purchased and shipped,

and if so, where is it now? I'm trying to get all my information straight before I finalize my report for the Cemetery Board. Thanks in advance for your help in gathering this information.

Stay safe!

Kerry McGovern  
Investigator  
New York Department of State  
Division of Cemeteries



**By April 1, 2020, your home should receive an invitation to participate in the Census. *Please respond:* online, by phone or by mail.**

**<https://2020census.gov/en/ways-to-respond.html>**