

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
123 WILLIAM STREET
NEW YORK, NY 10038
TELEPHONE: (212) 417-5713
FAX: (212) 417-2322
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

CEMETERY BOARD

ROSANNA ROSADO
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER
COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director, Division of Cemeteries

CC: ANTONIO MILILLO, Counsel

SUBJECT: WHISPERING MAPLES MEMORIAL GARDENS; TOWNS OF ELLENBURG AND PLATTSBURGH

RE: NEW LIFT AND SIGN

DATE: SEPTEMBER 21, 2020

The Towns of Plattsburgh and Ellenburg seek the following sums for maintenance of an abandoned cemetery, Whispering Maples Memorial Gardens, located in those towns:

1. A sign at the Plattsburgh location, for \$3,800 (the Board approved up to \$4,300 for this item);
2. A new lift at the Ellenburg location, for \$17,353 (the Board approved up to \$32,950 for two lifts). Note that the Plattsburgh lift cost \$16,450, so this amount exceeds the amount approved by the Board by \$903.

The Division recommends approval.

Background

At its June 26, 2017 meeting, the Board approved an application from the Towns of Plattsburgh and Ellenburg for \$2,149,081.61 in connection with the abandonment of Whispering Maples Memorial Gardens (the Cemetery). The Board approved up to \$4,300 for the new sign and up to \$32,950 for two lifts, one at the Plattsburgh location (which has been purchased) and one at the Ellenburg location *subject of this application).

To date, the State has paid \$2,129,579.91, leaving \$19,501.70 of the original amount. The amounts still outstanding total \$21,153.00, \$1,651.30 in excess of the original amount approved by the Board. However, the Board approved several change orders in connection with this application. Most notably, on December 11, 2018, the Board approved an additional \$7,825 for snow guards at both locations and replacement of undersized wooden beams in the Plattsburgh mausoleum canopy. There were also other adjustments: at its January 17, 2018, and February 27, 2018 meetings, the Board approved a change order for electrical work without approving any additional funds.

On July 15, 2020, Leonard Breen visited the mausoleums and verified that the sign and lift were in place and were as specified.

Plattsburgh Sign

Given that the sign came in under budget, we do not believe the Board needs to approve anything with respect to this item. However, to simplify processing by our Bureau of Fiscal

Management, we ask that the Board order approve \$3,800 for the sign at the Plattsburgh mausoleum, subject to availability of funds.

Ellenburg Lift

The total cost of the two lifts also exceeds the amount approved by the Board for those items by \$903. The reason is that prices went up during the work and Ellenburg did not procure its lift until 2020.

Given the adjustment in December 2018, the project is still slightly under budget. We believe that paying the additional sum for the lift is reasonable given: 1. the fact that the Board agreed new lifts were needed at both locations; and 2. the passage of time.

We therefore recommend approval of the lift for the Ellenburg location in the sum of \$17,353.

Recommendation

To summarize, we recommend that the Board approve:

1. Payment for the lift in the sum of \$17,353
2. Payment for the sign in the sum of \$3,800.

With these payments, we believe the maintenance applications for the abandoned Cemetery are now complete.

Exhibits

- A. Voucher for Plattsburgh sign.
- B. Voucher for Ellenburg lift.
- C. Court order re finances and balance sheets.

EXHIBIT A

State
Of
New York

SEE INSTRUCTIONS BEFORE COMPLETING
STANDARD VOUCHER

Voucher Number

① Originating Agency (limit to 30 spaces)		Orig. Agency Code		Interest Eligible (Y/N)		② P-Contract		
Payment Date (MM/DD/YY)			OSC Use Only			Liability Date (MM/DD/YY)		
③ Payee ID 14-6002377		Additional	Zip Code	Route	Payee Amount		MIR Date (MM/DD/YY)	
④ Payee Name (limit to 30 spaces) Town of Plattsburgh					IRS Code		IRS Amount	
Payee Name (limit to 30 spaces) Whispering Maples Memorial Gardens, Inc.					Stat. Type	Statistic	Indicator-Dept.	Indicator-Statewide
Address (limit to 30 spaces) 151 Banker Road					⑤ Ref/Inv. No. (Limit to 20 spaces)			
Address (limit to 30 spaces)					Ref/Inv. Date (MM/DD/YY)			
City (Limit to 20 spaces) Plattsburgh		(Limit to 2 spaces)→	State NY	Zip Code 12901				

⑥ Purchase Order No. and Date	Description of Material/Service If items are too numerous to be incorporated into the block below, use Form AC 93 and carry total forward.	Quantity	Unit	Price	Amount
N/A	For the fair and reasonable expenses required to be made by the municipality or other solvent not-for-profit cemetery corporation for maintenance of an abandoned cemetery.				\$ 3800.00

⑦ Payee Certification I certify that the above bill is just, true and correct, that no part thereof has been paid except as stated and that the balance is actually due and owing, and that taxes from which the State is exempt are excluded.		Total	\$ 3800.00
→ <u>Donnie E. Goeters</u> Receiver Payee's Signature in Ink Title <u>2/7/2020</u> Date <u>Whispering Maples Memorial Gardens, Inc.</u> Name of Company		Discount %	
		Net	

FOR AGENCY USE ONLY				STATE COMPTROLLER'S PRE-AUDIT			
Merchandise Received	I certify that this voucher is correct and just, and payment is approved and the goods or services rendered or furnished are for use in the performance of the official functions and duties of this agency.			Verified	CERTIFIED FOR PAYMENT OF NET AMOUNT		
Date	Authorized Signature in Ink			Audited	By		
Page No.	Date	Title		Special Approval (as Required)			
By							

Expenditure							Liquidation				
Dept	Cost Center Code			Object	Accum		Amount	Orig. Agency	PO/Contract	Line	F/P
	Cost Center Unit	Var	Yr		Dept	Statewide					

Distribution: Original to OSC with Copy to Agency/Department and Payee Check if Continuation form is attached.



Adirondack Memorials & Granite Works
29 Broad Street
Plattsburgh, NY 12901
(518) 561-6141
adirondackmemorials@gmail.com

December 17, 2019

Granite Sign Invoice

Black Granite Sign, engraved per approved drawing for the Town of Plattsburgh Community Mausoleum on Tom Miller Road, Plattsburgh, NY. Price includes foundation, granite, all engraving and installation.

Total Due \$3,800.00

Please remit payment to the address above.

EXHIBIT B

State
Of
New York

SEE INSTRUCTIONS BEFORE COMPLETING

STANDARD VOUCHER

Voucher Number

① Originating Agency (limit to 30 spaces) Department of State				Orig. Agency Code		Interest Eligible (Y/N)		② P-Contract	
Payment Date (MM/DD/YY)			OSC Use Only			Liability Date (MM/DD/YY)			
③ Payee ID Federal EIN 222367785		Additional	Zip Code		Route	Payee Amount		MIR Date (MM/DD/YY)	
④ Payee Name (limit to 30 spaces) Whispering Maples Memorial Gardens, Inc.					IRS Code		IRS Amount		
Payee Name (limit to 30 spaces) Town of Ellenburg					Stat. Type	Statistic	Indicator-Dept.	Indicator-Statewide	
Address (limit to 30 spaces) 5055 Route 11					⑤ Ref/Inv. No. (Limit to 20 spaces)				
Address (limit to 30 spaces)					Ref/Inv. Date (MM/DD/YY)				
City (Limit to 20 spaces) Ellensburg		(Limit to 2 spaces)→	State NY	Zip Code 12935					

Purchase Order No. and Date	Description of Material/Service If items are too numerous to be incorporated into the block below, use Form AC 93 and carry total forward.	Quantity	Unit	Price	Amount
N/A	FOR THE FAIR AND REASONABLE EXPENSES REQUIRED TO BE MADE BY THE MUNICIPALITY OR OTHER SOLVENT NOT-FOR-PROFIT CEMETERY CORPORATION FOR MAINTENANCE OF AN ABANDONED CEMETERY.				17353-

✓ ⑥ Payee Certification I certify that the above bill is just, true and correct, that no part thereof has been paid except as stated and that the balance is actually due and owing, and that taxes from which the State is exempt are excluded.		Total	
→ <u>Donna L. Gardner</u> Payee's Signature in Ink Date: <u>2/27/2020</u>		Discount %	
<u>Whispering Maples Memorial Gardens</u> Name of Company		Net	17353
<u>Receiver</u> Title			

FOR AGENCY USE ONLY					STATE COMPTROLLER'S PRE-AUDIT		
Merchandise Received Date _____ Page No. _____ By _____		I certify that this voucher is correct and just, and payment is approved, and the goods or services rendered or furnished are for use in the performance of the official functions and duties of this agency. _____ Authorized Signature in Ink Date _____ Title _____			Verified _____ Audited _____ Special Approval (as Required) _____	CERTIFIED FOR PAYMENT OF NET AMOUNT By _____	

Expenditure						Liquidation					
Cost Center Code		Var	Yr	Object	Accum		Amount	Orig. Agency	PO/Contract	Line	F/P
Dept	Cost Center Unit				Dept	Statewide					

Distribution: Original to OSC with Copy to Agency/Department and Payee

Check if Continuation form is attached.



New England Cremation Supply Co.
 20 Spaulding Ave, Suite C
 Rochester, NH 03868
 800-664-8365
 necremation@metrocast.net
 www.necremation.com

INVOICE

BILL TO
 Whispering Maples
 5055 Rte 11
 Ellenburg Depot, NY
 12935

SHIP TO
 Whispering Maples
 5055 Rte 11
 Ellenburg Depot, NY
 12935

INVOICE # 1103586
DATE 02/18/2020
DUE DATE 03/04/2020
TERMS Net 15

SHIP DATE	P.O. NUMBER / NAME	SALES REP	FORM TYPE
02/18/2020	Connie	Kira	Invoice

SKU	ACTIVITY	QTY	RATE	AMOUNT
	Cemetery Equipment Mausoleum Lift, Low Boy 6 Casket Level 14' Extended Height/29.5" Load Height 10" Non-marking rubber wheels, Tiller Steering-No drag design Tow bar with hand grips-removable Fork-lift pockets, Easy access hydraulics and electronics, 24V battery with automatic charger w/complete cut-off	1	16,285.00	16,285.00

The LONG awaited
 NEW website is up and running.
 Please come check us out online.
 WWW.NECREMATON.COM

SUBTOTAL	16,285.00
SHIPPING	1,068.00
TOTAL	17,353.00
BALANCE DUE	\$17,353.00

Plg.
This needs to be paid

As a reminder our invoices are DUE IN 15 DAY TERMS. Please pay invoices in a timely manner. If any questions or problems, please do not hesitate to contact us. Thank you.

5089

WHISPERING MAPLES MEMORIAL GARDENS INC

5055 STATE ROUTE 11
ELLENBURG DEPOT, NY 12935

NBT BANK
OF ELLENBURG DEPOT 368
50-363/213

2/20/2020

PAY TO THE ORDER OF New England Cremation Supply Co.

\$ **17,353.00

Seventeen Thousand Three Hundred Fifty Three and 00/100

DOLLARS

New England Cremation Supply Co.
20 Spaulding Ave., Suite C
Rochester, NH 03868

⑈
⑈
⑈

Holly A. Murray
AUTHORIZED SIGNATURE

MEMO

⑈005089⑈ ⑈021303618⑈ ⑈7002518222⑈

WHISPERING MAPLES MEMORIAL GARDENS INC

New England Cremation Supply Co.

2/20/2020

5089

17,353.00

General Account - Elle

17,353.00

EXHIBIT C

SUPREME COURT STATE OF NEW YORK
COUNTY OF CLINTON

In the Matter of the Application of
Letitia James,
Attorney General of the State of New York,

ORDER OF
INVOLUNTARY DISSOLUTION
AND
DISTRIBUTION OF ASSETS

to dissolve the corporate existence of

Whispering Maples Memorial Gardens, Inc.,
a not-for-profit corporation,

Index No. E20-20123
RJI No. 09-1-2020-0016

Pursuant to Article 11 of the Not-For-Profit
Corporation Law.

This Court, in another legal action, State of New York v Whispering Maples Memorial Gardens, Inc., Clinton County Index No. 15-1615, RJI No. 09-1-2-15-0662 (hereinafter "SONY v. WM") having, by Order dated January 6, 2016 (hereinafter the "January 2016 Order"), appointed Connie Goedert as temporary receiver (hereinafter the "Temporary Receiver") of Whispering Maples Memorial Gardens, Inc., (hereinafter "Whispering Maples" or the "Corporation"); and

The Temporary Receiver, pursuant to the January 2016 Order, having taken exclusive control, possession, and custody of all of the assets of Whispering Maples, with the full powers and obligations of a Receiver appointed pursuant to Article 12 of the NPCL; and

Temporary Receiver, having reviewed the financial records, operations, and assets of Whispering Maples; having maintained and operated Whispering Maples' crematory and mausoleum in the Town of Ellenburg (Ellenburg), as well as Whispering Maples' mausoleum in the Town of Plattsburgh (Plattsburgh); having collected income from Whispering Maples' crematory and mausoleums, and having kept true books of account of all moneys received and expended by her; and

The Temporary Receiver having overseen the assessment of the physical condition Whispering Maples' facilities and overseen the repair of these facilities with funding from the New York State Division of Cemeteries and special grants authorized by New York State; and

The Temporary Receiver, as directed by the January 2016 Order, having otherwise prepared for transfer to the Towns pursuant to Town Law §219 of the crematory, the mausoleums, and related cemetery property; and

The temporary receivership having been extended multiple times, most recently by Order of this Court in SONY v. WM dated December 31, 2019; and

The expiration date of the temporary receivership now being February 28, 2020;

Petitioner in the instant proceeding, Letitia James, Attorney General of the State of New York (the "Attorney General"), having filed on January 10, 2020, a Verified Petition for an order judicially dissolving the corporate existence of Whispering Maples pursuant to §§112(a)(7) and 1102(a)(2)(E) of the Not-For-Profit Corporation Law ("NPCL") and Article 8 of the Estates, Powers and Trusts Law ("EPTL"); and

This Court, on January 14, 2020, having signed an Order to Show Cause (hereinafter the "OSC") bringing on the Petition for hearing on February 24, 2020; and

Proof having been made of the filing of schedules, the service of the OSC, the publication of notice, and the service by mail of interested parties -- all as specified in the OSC; and

Interested persons -- including the Towns, the Temporary Receiver, the one remaining officer and director of Whispering Maples Ms Patricia Black -- having appeared before this Court on February 24, 2020, and none having objected to the proposed dissolution of the Corporation; and

The Attorney General having presented to the Court this proposed Order decreeing dissolution of Whispering Maples and distribution of this assets as provided herein; and

None of the persons appearing having objected to this proposed Order;

Now, therefore, it is hereby

ORDERED AND DECREED pursuant to Sections 1101, 1102, and 1109 of the NPCL that **Whispering Maples Memorial Gardens, Inc. hereby is dissolved;** and it is further

ORDERED pursuant to NPCL Sections 1006 and 1115 that Patricia Black and all persons other than the Temporary Receiver shall cease all activities on behalf of Whispering Maples; and it further;

ORDERED pursuant to NPCL Sections 1008 and 1115 that the Temporary Receiver shall pay all amounts due the employees and creditors of Whispering Maples; and it is further

ORDERED and DECREED that that all right, title, and interest of Whispering Maples in the real property located in the Town of Plattsburgh, identified by Tax Map 206.-6-6 and further described in Schedule A appended to this Order, are hereby transferred to and vested in the Town of Plattsburgh; and the Town of Plattsburgh may record a certified copy of this Order with the Clinton County Clerk to effect transfer of all right in the property to the Town; and it is further

ORDERED and DECREED that all right, title, and interest of Whispering Maples in each of the two parcels of real property located in the Town of Ellenburg, identified by Tax Maps 71.3-2-38 and 71.3-2-42 and further described in Schedule B and C, respectively, appended to this Order are hereby transferred to and vested in the Town of Ellenburg; and the Town of Ellenburg may record a certified copy of this Order with the Clinton County Clerk to effect transfer of all rights in said properties to the Town; and it is further

ORDERED that each item of tangible personal property described in Schedule D appended to this Order shall be transferred by the Temporary Receiver to the Town of Ellenburg or Town of Plattsburgh as specified in said Schedule D; and it is further

ORDERED and DECREED that all right, title, and interest of Whispering Maples in the following certificates of deposit at NBT Bank, N.A., having an aggregate face value of \$67,989.46 shall be transferred to and hereby are vested in the Town of Plattsburgh: #9000340842, #9000340847, and #9000340843; and it is further

ORDERED and DECREED that all right, title, and interest of Whispering Maples in the following certificates of deposit at NBT Bank, N.A., having an aggregate face value of \$65,245.40 shall be transferred to and hereby are vested in the Town of Ellenburg: #9000340848, #9000361537, and #9000340841; and it is further

ORDERED that NBT Bank, N.A., shall make available to the Temporary Receiver for purposes of carrying out the distributions under this order each and every account or certificate in the name of Whispering Maples at such institution, including (but not by way of limitation) each certificate of deposit specified in a preceding paragraph of this order and each of the following deposit accounts:

- General Account (checking) – NBT #7002518222
- Payroll Account (savings) – NBT #7002518230
- Vandalism Account (savings) – NBT #8002012429
- Special Placement Account (savings) – NBT #8002012430
- Temp / Perm Trust Account (savings) -- NBT #8002988470; and it is further

ORDERED that the Temporary Receiver shall pay to the Town of Ellenburg \$2,744.06 in cash to equalize the values of the certificates of deposit distributed to the Towns under the preceding paragraphs of this order; and it is further

ORDERED that the Temporary Receiver, after having set aside, for the purposes further described below, Thirty Thousand Dollars (\$30,000) of the cash or cash equivalents of Whispering Maples, shall distribute the remaining cash or cash equivalents of Whispering Maples in equal shares to the Town of Ellenburg and the Town of Plattsburgh; and it is further

ORDERED that, from the Thirty Thousand Dollars (\$30,000) set aside as described in the preceding paragraph, the Temporary Receiver shall pay the following:

a. the costs of the Temporary Receiver's account(s) under this proceeding and under SONY v. WM; and

b. the mileage, expenses and other amounts authorized by the Court and due to the Temporary Receiver for her services in connection with this proceeding and / or SONY v. WM; and

c. such other expenses as Whispering Maples or the Temporary Receiver shall have incurred in winding up the operations of Whispering Maples, its dissolution, and or the disposition of its assets pursuant to this Order; and it is further

ORDERED that the Temporary Receiver, after court approval of her account under SONY v. WM and payment of amounts authorized by the prior paragraph of this order, shall distribute the balance of the Thirty Thousand Dollars (\$30,000) described above in equal shares to the Town of Ellenburg and Town of Plattsburgh; and it is further

ORDERED that any assets of the Whispering Maples not otherwise disposed of under one or more of the preceding paragraphs of this Order shall be distributed to the Town of Plattsburgh and the Town of Ellenburg in equal shares as they shall agree; and it is further

ORDERED that, from the monies and / or certificates of deposit received from Whispering Maples pursuant to this order, the Town of Ellenburg, shall segregate in an account or accounts

separate from its other funds, ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000); and such monies, including both principal and any interest thereon, shall be used by the Town of Ellenburg solely for the purpose of maintenance and / or repair of crematory and / or mausoleum facility transferred to the Town from Whispering Maples by this Order and / or Town Law §291; and it is further

Any monies and certificates of deposit received by the Town of Ellenburg pursuant to this Order in excess of One Hundred Fifty Thousand Dollars (\$150,000) shall be used by said Town first to reimburse itself for any legal fees and / or other expenses incurred by the Town with respect to Whispering Maples on or after June 15, 2015, the date upon which the New York State Division of Cemeteries determined that the cemetery facilities of Whispering Maples had been abandoned; and it is further

ORDERED that any monies and certificates of deposit received by the Town of Ellenburg pursuant to this Order not disposed of as described in either of the two prior paragraphs may be used for the Town's general purposes; and it is further

ORDERED that, from the monies and / or certificates of deposit received from Whispering Maples pursuant to this order, the Town of Plattsburgh, shall segregate in an account or accounts separate from its other funds, ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000); and such monies, including both principal and any interest thereon, shall be used by the Town of Plattsburgh solely for the purpose of maintenance and / or repair of the mausoleum facility transferred to the Town from Whispering Maples by this Order and / or Town Law §291; and it is further

Any monies and certificates of deposit received by the Town of Plattsburgh pursuant to this Order in excess of One Hundred Fifty Thousand Dollars (\$150,000) shall be used by said

Town first to reimburse itself for any legal fees and / or other expenses incurred by the Town with respect to Whispering Maples on or after June 15, 2015, the date upon which the New York State Division of Cemeteries determined that the cemetery facilities of Whispering Maples had been abandoned; and it is further

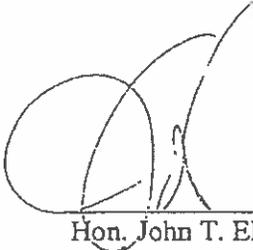
ORDERED that any monies and certificates of deposit received by the Town of Plattsburgh pursuant to this Order not disposed of as described in either of the two prior paragraphs may be used for the Town's general purposes; and it is further

ORDERED that the Attorney General shall serve by mail a filed copy of this Order of Involuntary Dissolution and Distribution of Assets upon each of the following persons or entities: the New York Department of State; the New York Department of Taxation and Finance; Ms Patricia Black; the Temporary Receiver; the Town of Plattsburgh; and the Town of Ellenburg; and it is further

ORDERED and ADJUDGED that this Court shall retain jurisdiction over this matter for all purposes after the date of entry of this Order and Judgment.

ENTER.

Dated: February 24, 2020



Hon. John T. Ellis, JSC

**Schedule A – Legal Description of Plattsburgh Real Property
Tax Map No. 206-6-6**

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying, and being the Town of Plattsburgh, County of Clinton, and State of New York, and more fully described as follows:

COMMENCING at a point in the southerly bounds of the Tom Miller Road so-called, in the Town and County aforesaid, at a point which marks the northwest corner of lands owned by Dale K. and Diane M. Miller as described in a deed recorded in Clinton County Clerk's Office in Volume 602 Of Deeds at page 977, commencing at said point and proceeding generally southerly on a bearing of S 04° 08' 14" W a distance of 199.92 feet to a point marking the southwest corner of the said Miller lot; thence continuing in the same line a further distance of 245.11± feet to an iron pin set in the ground; thence turning and proceeding westerly on a bearing of N 84° 08' 24" W a distance of 251.0 feet to a point; thence turning and proceeding northerly on a bearing of N 04° 16' 22" E a distance of 445.03 feet to an iron pin set in the ground in the southerly bounds of the said Tom Miller Road; thence turning and proceeding easterly on a bearing of S 84° 08' 24" E a distance of 250.0 feet to the point or place of beginning.

EXCEPTING AND RESERVING, HOWEVER, from the above conveyance a perpetual easement over a strip of land thirty-three (33) feet in width and running northerly and southerly through the said described property on the westerly side of the same, being described as follows:

COMMENCING at a point on the southerly bounds of the Tom Miller Road at a point 250.0 feet westerly of the northwest corner of lands heretofore referred to as owned by Dale K. and Diane M. Miller and which point is the northwest corner of the parcel above described, commencing at said point and proceeding generally easterly along the south bounds of the Tom Miller Road on a bearing of S 84 ° 08' 24" E a distance of 33.0 feet to a point; thence turning at an interior angle of 90° and proceeding southerly a distance of 445.03 feet, more or less, to the south bounds of the premises above described; thence turning and proceeding generally westerly on a bearing of N 84 ° 08' 24" W a distance of 33.0 feet: thence turning at an interior angle of 90° and proceeding northerly along the west bounds of the above described parcel a distance of 445.03 feet to the point or place of beginning.

The above described permanent easement for ingress and egress is to be used in common with owners of property lying westerly of the west bounds of the above-described easement, granting also to such adjacent owners the rights to place within said permanent easement an appropriate sign and/ or signs designating the location of the cemetery lands on the east and lands to be used as a funeral home on the west. The above described premises, in total, contain 2.56 acres of land, more or less.

TOGETHER WITH a permanent easement for ingress and egress over a 33.0 foot strip of land described as follows:

COMMENCING at a point in the south bounds of the Tom Miller Road at the northwest corner of the above-described premises, which said point lies 250.0 feet westerly of the northwest corner of lands this day owned by Dale K. and Diane M. Miller as heretofore referred to; commencing at said point and proceeding southerly on a bearing of S 04° 16' 22" W a distance of 445 .03 feet to a point; thence turning and proceeding westerly on a bearing of N 84° 08' 24" W a distance of 33.0 feet; thence turning at an interior angle of 90° and proceeding northerly a distance of 445.03 feet, more or less, to a point in the south bounds of the Tom Miller Road; thence turning at an interior angle of 90° and proceeding easterly on a bearing of S 84° 08' 24" E a distance of 33.0 feet to the point or place of beginning.

Said easement is to be used in common with others; namely, O'Neill- Redden-Drown Funeral Home, Inc., on the east, and Whispering Maples Memorial Gardens, Inc. on the west.

The above-described premises are designated as Parcel (2) as more fully shown on a map entitled, "Map of June King Subdivision, Town of Plattsburgh, Clinton County, New York, as revised 5/24/82 by R. M. Sutherland, P. C., and recorded in Clinton County Clerk's Office June 3, 1982 in Book 10 of Maps at page 92.

BEING PART OF the same premises conveyed by June V. King to Elvin F. Drown and Stephen L. Drown, II, by deed dated August 19, 1983, and recorded in Clinton County Clerk's Office in Volume 633 of Deeds at page 459.

Schedule B – Legal Description of Ellenburg Real Property
Tax Map No. 71.3-2-38

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate, lying, and being in the Town of Ellenburg, County of Clinton, and State of New York, more fully described as follows:

Beginning at a point at an iron pin set in the ground in the southerly bounds of Route No. 11 which point marks the northwest corner of lands owned by the Estate of Donald Wright, commencing at said point and proceeding southerly on a bearing of S 5° 23' 29" W a distance of 267 feet to an iron pin; thence turning and proceeding in a generally easterly direction on a bearing of S 84° 36' 31" E a distance of 234.46 feet to a point; thence turning and proceeding in a generally southerly direction along the west bounds of Bruce Mc Gregor's property on a bearing of S 5° 32' 29" W a distance of 53.46 feet to a point; thence tuning and proceeding in a generally easterly direction along the south bounds of lands owned by McGregor, the Methodist Church, and Kenneth Upton, on a bearing of S 8° 20' 51" E a distance of 286.42 feet to an iron pin set in the top of the bank of the Great Chazy River; thence continuing further in the said course a distance of 19 feet, more or less to the said river's edge; thence turning and running in a southerly, westerly, and northerly direction in and along the river's edge to a point in the south bounds of property currently owned by Pete Drown, Inc.; thence turning and proceeding in a generally easterly direction on a bearing of S 84° 36' 31" E a distance of 112 feet to an iron pin set in the ground at the north thence turning and proceeding in a generally northerly direction along the east bounds of the Pete Drown, Inc. property on a bearing of N 5° 23' 29" E a distance of 267 feet to an iron pin set in the ground; thence turning and proceeding easterly along the south bounds of Route No. 11 a distance of 50 feet to the point or place of beginning.

EXCEPTING AND RESERVING, however, from the above described premises the encroachment of a frame building lying on the southerly boundary line property and the northerly boundary line of the of Pete Drown, Inc. property herein described.

The above described premises are subject to any and all easements this day of record affecting the said premises.

For a more particular description of the within described premises, reference is hereby made to a Survey Map dated November 26, 1979, made by R. M. Sutherland, P. C., entitled, "Survey Map showing certain land owned by Stephen L. Drown II. "

Schedule C – Legal Description of Ellenburg Real Property
Tax Map No. 71.3-2-42

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the Town of Ellenburg, County of Clinton, State of New York, being part of Lot No. Twenty (20) of O.M.T. Twp. No. 6, bounded as follows:

BEGINNING in the center of the highway running east and west through the Village of Ellenburg Depot at a point that is the northeast corner of Fred L. Myers Home Village lot, and running thence south in said Myers' lot line to the southeast corner thereof; thence westerly in said Myers' south line to the southwest corner thereof, this being the center of the river; thence southerly and southeasterly as the course of the river bends easterly to a point which is the intersection of the south line of the original school lot extended westerly and the center line of the river; thence easterly in said extension of the south line of school lot to the southwest corner thereof; thence northerly along the west line of said school lot to the center of the highway; thence westerly in the center of the highway to the place of beginning.

THE PROPERTY HEREIN CONVEYED is more graphically shown on a survey map dated August 19, 1997, entitled. "ALTA/ ACSM Land Title Survey, Loewen Group International, O'Neill Redden- Drown Funeral Home, 5059 Route 11, Main Street, Ellenburg Depot, Clinton County, New York," prepared by Design Engineering and Land Surveying, P.C., and filed in the Clinton County Clerk's Office in PLAT A of Maps as Map No. PL-A-433.

The property herein conveyed is also as follows:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate on the southerly side of US. Route 11 in the Hamlet of Ellenburg Depot, Town of Ellenburg, County of Clinton, State of New York, and more particularly described as follows;

BEGINNING at a PK set in pavement in the southerly bounds of U.S. Route 11, which point is the northwesterly corner of the premises being described herein and the northeasterly corner of lands now or formerly owned by O'Neill Redden Drown Funeral Home, Inc.; thence South 06° 00' 00" West, along the division line between the premises being described herein on the east and said lands now or formerly owned by O'Neill Redden Drown Funeral Home, Inc. on the west, a distance of 170.00' feet to a drill hole placed in a concrete pad which point is the southeasterly corner of lands now or formerly owned by O'Neill Redden Drown Funeral Home,

Inc.; thence North 84° 00' 00-" West, along the southerly line of lands of said O'Neill Redden Drown Funeral Home, Inc., a distance of 82.00'± feet, more or less, to a point in the center of the Chazy River; thence southerly along the center line of said river as it winds and turns, a distance of 90.00' ± feet, more or less, to a point in the westerly extension of the southerly line of the premises being described herein; thence easterly along the southerly line of the premises being described herein, a distance of 50.00' ± feet, more or less, to a 5/8" inch iron rod found in or near the easterly edge of the Chazy River (1997); thence South 83° 56' 51" East, along the southerly line the premises being described herein, a distance of 82.55' feet to a 5/8" inch iron rod found at the southeasterly corner of the premises being described herein; thence North 06° 08' 13" East, along the easterly line of the premises being described herein, a distance of 266.85' feet to a 5/8" inch iron rod found in the southerly bounds of U.S. Route II, which point is the northeasterly corner of the premises being herein; thence North 83° 49' 35" West, along the southerly bounds of said U.S. Route 11, a distance of 48.97' feet to the point or place of beginning.

SUBJECT TO all those covenants, restrictions, easements and rights-of-way this day of record affecting the subject premises or those discoverable upon personal inspection thereof; and also subject to a mutual access easement along the westerly line of the premises being described herein which mutual access easement is shown on a map entitled, "ALTA/ ACSM Land Title Survey, Loewen Group Interactional, O'Neill- Redden-Drown Funeral Home, by Scott B. Allen, L.S., last revised March 9, 1998 and filed in the Clinton County Clerk's Office on September 15, 1997, in PLAT A of Maps as Map No. PL-A-433.

TOGETHER WITH a mutual access easement over the easterly portion of lands now or formerly owned by O'Neill Redden Drown Funeral Home, Inc., which said mutual access easement abuts and adjoins with the mutual access easement along the westerly line of the premises being described herein, which said mutual access is also shown on the above-referenced survey map.

Schedule D – Distribution of Tangible Personal Property

<u>Vehicles</u>	Town of Ellenburg	Town of Plattsburgh
2011 Kia (VIN # KNDPB3A2B7041911)	X	
2009 Chevrolet Pick-up (VIN #1GCHK44OE103533)	X	
<u>Equipment & Misc Personal Property</u>		
2016 Mausoleum Powered Casket lift located in Plattsburgh		X
Misc personal property located in Plattsburgh, including furniture, furnishings, & office equipment		X
Power Pak II Cremation System Retort located in Ellenburg	X	
Retort Manual Casket Lift located in Ellenburg	X	
Cub Cadet 60" Zero Turn Mower (serial #DA252Z80018-2002-M-60KW25)	X	
New mausoleum casket lift (currently on order)	X	
Misc personal property currently located in Ellenburg, including furniture, furnishings, office equipment	X	
Maintenance Tools and Equipment Currently Located in Ellenburg	X	

Whispering Maples Memorial Gardens, Inc.

Balance Sheet

As of April 30, 2020

	Apr 30, 20
ASSETS	
Current Assets	
Checking/Savings	
1000 · Checking Account - General	-1.96
1020 · General Account - Ellenburg	495,604.74
1021 · Payroll Account - NBT	1,675.35
1033 · NBT Savings - Vandalism Account	-0.28
1034 · NBTSpecial Placement Account	-0.73
1038 · NBT Temp/Perm Trust	-1.71
1080 · Petty Cash	300.00
Total Checking/Savings	497,575.41
Other Current Assets	
1100 · Accounts receivable	8,272.02
1199 · Inventory	
1200 · Ellenburg - Armstrong Wing	1,052.00
1205 · Ellenburg - Beaumont Wing	3,682.00
1215 · Ellenburg - Delmater Wing	30,476.16
1220 · Ellenburg - Estabrook Wing	55,766.87
1255 · Plattsburgh - Ortloff (Phase 3)	62,481.80
1265 · Plattsburgh - Prescott(Phase 5)	20,277.18
1270 · Plattsburgh - Norberry(Phase 5)	4,315.92
1275 · Plattsburgh - Quigley (Phase 5)	9,351.16
1280 · Plattsburgh - Quigley Phase 5	23,319.46
Total 1199 · Inventory	210,722.55
1420 · Paine Webber	0.56
1700 · Other current asset	395.50
Total Other Current Assets	219,390.63
Total Current Assets	716,966.04
Fixed Assets	
1500 · Land & Improvements	87,982.50
1510 · Buildings - Crematory	161,565.74
1511 · A/D Buildings - Crematory	-103,302.00
1550 · Leasehold Improvements	71,347.79
1551 · A/D Leasehold Improvements	-56,351.00
1580 · Furniture, Fixtures & Equipment	59,204.87
1581 · A/D Furnitures,Fixtures & Equip	-27,835.00
1650 · Vehicles	31,702.23
1651 · A/D Vehicles	-26,336.42
1660 · Capital project	1,078,973.13
1670 · Capital Project - Ellenburg	1,077,545.28
Total Fixed Assets	2,354,497.12
TOTAL ASSETS	3,071,463.16
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
2100 · Payroll Liabilities	3,203.91
Total Other Current Liabilities	3,203.91
Total Current Liabilities	3,203.91
Long Term Liabilities	
2186 · DUE TO TOWNS WHEN TURNED OVER	300,000.00
Total Long Term Liabilities	300,000.00
Total Liabilities	303,203.91

Whispering Maples Memorial Gardens, Inc.
Balance Sheet
As of April 30, 2020

	<u>Apr 30, 20</u>
Equity	
3040 · Fund Balance - unrestricted	2,771,825.39
Net Income	<u>-3,566.14</u>
Total Equity	<u>2,768,259.25</u>
TOTAL LIABILITIES & EQUITY	<u><u>3,071,463.16</u></u>

Whispering Maples Memorial Gardens, Inc.

Balance Sheet

As of May 31, 2020

	May 31, 20
ASSETS	
Current Assets	
Checking/Savings	
1000 · Checking Account - General	-1.96
1020 · General Account - Ellenburg	13,494.47
1021 · Payroll Account - NBT	33.10
1033 · NBT Savings - Vandalism Account	-0.28
1034 · NBTSpecial Placement Account	-0.73
1038 · NBT Temp/Perm Trust	-1.71
1080 · Petty Cash	300.00
Total Checking/Savings	13,822.89
Other Current Assets	
1100 · Accounts receivable	8,272.02
1199 · Inventory	
1200 · Ellenburg - Armstrong Wing	1,052.00
1205 · Ellenburg - Beaumont Wing	3,682.00
1215 · Ellenburg - Delmater Wing	30,476.16
1220 · Ellenburg - Estabrook Wing	55,766.87
1255 · Plattsburgh - Ortloff (Phase 3)	62,481.80
1265 · Plattsburgh - Prescott(Phase 5)	20,277.18
1270 · Plattsburgh - Norberry(Phase 5)	4,315.92
1275 · Plattsburgh - Quigley (Phase 5)	9,351.16
1280 · Plattsburgh - Quigley Phase 5	23,319.46
Total 1199 · Inventory	210,722.55
1420 · Paine Webber	0.56
1700 · Other current asset	395.50
Total Other Current Assets	219,390.63
Total Current Assets	233,213.52
Fixed Assets	
1500 · Land & Improvements	87,982.50
1510 · Buildings - Crematory	161,565.74
1511 · A/D Buildings - Crematory	-103,302.00
1550 · Leasehold Improvements	71,347.79
1551 · A/D Leasehold Improvements	-56,351.00
1580 · Furniture, Fixtures & Equipment	59,204.87
1581 · A/D Furnitures,Fixtures & Equip	-27,835.00
1650 · Vehicles	31,702.23
1651 · A/D Vehicles	-26,336.42
1660 · Capital project	1,078,973.13
1670 · Capital Project - Ellenburg	1,077,545.28
Total Fixed Assets	2,354,497.12
TOTAL ASSETS	2,587,710.64
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
2100 · Payroll Liabilities	2,598.29
Total Other Current Liabilities	2,598.29
Total Current Liabilities	2,598.29
Long Term Liabilities	
2186 · DUE TO TOWNS WHEN TURNED OVER	-180,000.00
Total Long Term Liabilities	-180,000.00
Total Liabilities	-177,401.71

Whispering Maples Memorial Gardens, Inc.
Balance Sheet
As of May 31, 2020

	<u>May 31, 20</u>
Equity	
3040 · Fund Balance - unrestricted	2,771,825.39
Net Income	<u>-6,713.04</u>
Total Equity	<u>2,765,112.35</u>
TOTAL LIABILITIES & EQUITY	<u><u>2,587,710.64</u></u>