

ANDREW M. CUOMO
Governor

PAUL A. KARAS
Acting Commissioner

LANCE MacMILLAN, P.E.
Regional Director

February 1, 2019

Anthony Zaino
Director of Design
Department of Planning
Westchester County Office Building
148 Martine Avenue, Room 414
White Plains, N.Y. 10601



Re: Lease Agreement # 82531
Between the State of New York & Westchester
County for the North County Trailway

Dear Mr. Zaino:

Enclosed please find a fully executed copy of the subject lease.

Please contact me at (845) 437-3392 with any questions.

Sincerely,

Kathy Busa
Regional Property Manager

KB

Enclosure

LEASE AGREEMENT FOR STATE-OWNED LAND
BY THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION
FOR THE PEOPLE OF THE STATE OF NEW YORK

BETWEEN

State of New York, Department of Transportation, Lessor

&

County of Westchester, Lessee
For the
NORTH COUNTY TRAILWAY
LEASE AGREEMENT NO. 82531
CONTRACT NO. X197556

RECEIVED
JAN - 7 2019
MAIN OFFICE OROW

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
LEASE AGREEMENT FOR USE OF STATE-OWNED PROPERTY

The LEASE AGREEMENT, dated as of December 3, 2018, hereinafter referred to as "Lease Agreement," between the COMMISSIONER OF TRANSPORTATION FOR THE PEOPLE OF THE STATE OF NEW YORK, having its principal place of business located at 50 Wolf Road, Albany, NY 12232, and, hereinafter referred to as "Lessor" or "State", and the COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having its principal place of business at 148 Martine Avenue, White Plains, New York 10601, hereinafter referred to as "Lessee."

WITNESSETH:

WHEREAS, the Lessor is the owner of a parcel of land (the "Premises," more fully described in Section 1 herein) located in the Towns of Mount Pleasant, New Castle, Yorktown and Somers in Westchester, which the Lessee desires to lease for the purpose of a pedestrian and non-motorized bicycle trailway; and

WHEREAS, the Premises were acquired pursuant to Section 30 of the Highway Law; and **WHEREAS**, the County is seeking to extend an existing lease to the Premises and the State is willing to lease the Premises for the purpose of a pedestrian and non-motorized bicycle trailway. This Lease Agreement supersedes Lease No. 81810.

NOW, THEREFORE, the Lessor hereby grants this Lease Agreement to the Lessee, subject to the following terms, covenants, conditions and provisions:

SECTION 1. PREMISES

Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the Premises consisting of approximately 20.8 miles with varying width, for the purpose of a pedestrian and non-motorized bicycle trailway and appurtenances as described and appearing on Exhibit A – Depiction of Proposed Lease Area delineated on Sheet Nos. 1-40 of Map 1, Parcels 1-39 subject to any and all easements, conveyances and permits granted, or to be granted by the State by and through statutory authority of the Commissioner of Transportation, which shall include but not necessarily be limited to permits issued pursuant to Section 52 of the Highway Law. Exhibit B is a map of the existing North County Trailway.

The Premises are further described as:

- From 110 feet south of Old Saw Mill River Road in Eastview, north to 3,000 feet south of Route 117, a total distance of approximately 15,000 linear feet.
- From Route 117 to 350 feet south of Route 9A for a total distance of approximately 8,880± linear feet.

- From a point 2,000± feet north of Route 9A/100 intersection to Campfire Road, approximately 4,000 linear feet.
- From a point 2,000± feet south of Route 133 in Millwood, north to the south side of Underhill Avenue located in the hamlet of Yorktown Heights, Town of Yorktown, a distance of 52,400 linear feet.
- From the north side of Underhill Avenue to the south side of Hanover Street for a distance of 1,250± linear feet.
- From Hanover Street, located in Yorktown Heights, north to the Putnam County boundary, a total distance of approximately 28,000± linear feet.

The entire linear distance of the leased area is approximately 20.8 miles (109,530± linear feet).

SECTION 2. RESPONSIBILITIES OF LESSEE

a) The Premises will be used for the purpose of a pedestrian and non-motorized bicycle trailway with any appurtenances, and maintenance of the premises approved under the terms of a Highway Work Permit to be obtained by the Lessee. The lessee assumes responsibility to enforce the use of the facility for the intended purpose – a pedestrian and non-motorized bicycle trailway.

b) All plans for any improvements to be made by Lessee in and to the Premises shall be submitted to and approved in advance by Lessor.

c) A Highway Work Permit must be obtained, in advance from the Lessor, for each entry on any State right-of-way, including that portion covered by this Lease Agreement, for the purpose of erection, removal, modification, repair, replacement, or maintenance of any surface and subsurface improvement. Lessee is responsible for the payment of any fees, premiums, costs and other expenses required to provide insurance coverage necessary in conjunction with the issuance of a Highway Work permit.

d) Lessor is not liable for expenses incurred by the Lessee which may occur as a result of construction, maintenance, operation, or use of the Premises.

e) Lessee agrees and understands that no trees, shrubs, landscaping, or other naturally occurring flora may be removed or disturbed or installed in any fashion without prior approval from Lessor and such removal or disturbance or installation shall not interfere with the safe operation of any State right-of-way, regardless of whether covered by this Lease Agreement, including but not limited to, signage and sight distance.

f) Should any proposed improvements as designated in the plans described in Paragraph 2. b), above, need to be removed to facilitate any future work or maintenance by the Lessor or its agents, the Lessor may incorporate within the improvements any recreation facilities constructed on the leased area by the Lessee to the extent permitted by law and subject to the availability of funds for such purposes.

g) Lessor shall have no responsibility whatsoever for the loss or destruction of any improvements made by the Lessee or for personal property stored or being used on the Premises. Lessee shall hold the Lessor and/or its agents harmless from any and all damage related to maintenance of Lessor's highways or bridges except for those losses caused by the negligence of the Lessor. Lessee shall not interfere with such maintenance responsibilities. This includes, but is not limited to damages caused by snow and ice operations, mowing, paving, striping, culvert repair/replacement, guiderail repair/replacement.

h) Lessee is responsible for maintaining the premises in a sound condition for its intended or used purpose(s) and to ensure that its condition does not threaten the integrity of the Lessor's highway system and/or its associated property. Lessee will immediately notify the Lessor if any such condition exists and will take immediate action to rectify the situation to the satisfaction of the Lessor.

i) Lessee shall allow no signs, banners or additional structures to be erected, constructed or installed within the Premises and/or any part of the State right-of-way without prior written approval from Lessor.

j) Lessee shall at all times keep the Premises in a clean and orderly condition and appearance together with any fixtures, equipment and personal property of the Lessee located in or on the Premises. Lessee is responsible for keeping and maintaining the Premises in a safe and clean condition, for the regular and prompt removal of garbage, rubbish and litter.

k) All arrangements for maintenance and services for utilities, removal of garbage, rubbish, litter, snow and ice will be made by the Lessee at the Lessee's expense, unless hereafter specified. Lessor shall have no responsibility to provide any services not specifically set forth in writing herein. Lessee shall be responsible for the maintenance and repair of all utility service lines placed on the Premises and used by the Lessee exclusively, including, but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.

l) Lessee shall not place, accumulate, store, transport, treat, dispose of or allow others to place, accumulate, store, transport, treat, dispose of any flammable, explosive, hazardous, toxic or corrosive materials, debris of any description (including but not limited to construction debris) electronic waste (commonly referred to as e-waste), garbage or any materials commonly referred to as "junk" within or upon the Premises. The Lessee is responsible for the removal of these materials and/or all expenses incurred in or associated with their removal.

m) Lessee is responsible for any repairs, improvements or maintenance work of any kind on the property at Lessee's expense. Lessee shall repair any damage caused by Lessee to paving or other surface of the Premises caused by any petroleum products, gasoline, fuel, oils, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect and shall prevent any discharge thereof into the environment.

n) Lessee shall use and occupy the Premises in compliance with any and all applicable local, State, and Federal laws, ordinances, codes, rules and regulations affecting the use and

occupancy of the Premises. Lessee shall comply with all local and State building standards/codes in the installation or repair of any utilities including but not limited to electricity and plumbing. Lessee shall not conduct or allow any action which will interfere with the State's use of the property. Lessee shall not conduct or allow any use or activity on the Premises inconsistent with law and shall not conduct or allow any use or activity on the Premises which may require a permit or other approval by a government agency without having lawfully obtained such permit or approval. Any improvements, alterations, modifications, additions or replacements shall be done with the prior approval of NYSDOT and in accordance with any applicable code or rule and regulation of NYSDOT and pursuant to any required building permits and according to the customary terms and conditions thereof, such approval not to be unreasonably withheld or delayed.

o) Lessor may, at any time and without advance notice thereof, periodically inspect the Premises to determine whether same is in good repair and maintenance, structurally sound, and that no unsafe, hazardous, unsanitary, or defective conditions exist including conditions posing any hazard to public health and safety or highway and other transportation uses.

p) Lessor and its agents, contractors, subcontractors and other representatives shall have the right to enter upon the Premises to perform maintenance and make repairs and replacements in any case where Lessor, in its reasonable judgment, determines that it is necessary and desirable to do so in order to preserve the safety of the Premises or to correct any condition likely to cause injuries or damages to persons or property, all at the expense of Lessee which shall remit costs within thirty (30) days of receipt of an invoice by the State, as set forth in subsection (q) below.

q) In the event the Lessee fails:

to commence to maintain, clean, repair, replace, rebuild or repaint within a period of thirty (30) days after written notice from Lessor to do any maintenance or repair work required to be done under the provision of this Lease Agreement, or

to diligently continue to completion any repairs, replacement, rebuilding, painting or repainting as required under this Lease Agreement;

then Lessor may, but shall not be obligated to at any time, and in addition to any other remedies, in law or equity, which may be available to it, enter the Premises, without such entering causing or constituting a cancellation of this Lease Agreement or an interference with the possession of the Premises and repair, replace, rebuild or paint all or any part of the Premises or the improvements thereon, so they comply with applicable laws and regulations, and do all things reasonably necessary to accomplish the work required. The cost and expense thereof shall be payable to Lessor by the Lessee as additional rent on demand within thirty (30) days of receipt of an invoice by State.

Lessor's costs and expenses in such event shall include all direct costs and reasonable expenses of Lessor, its officers, agents, contractors, and employees and all allocations of fringe benefits, overhead, legal and administration charges actually incurred. Furthermore, should

Lessor, its officers, agents, contractors, and employees undertake any work hereunder, the Lessee hereby waives any claim for damages, consequential or otherwise, as a result thereof except for claims for damages arising from the gross negligence of Lessor, its officers, agents, contractors, and employees.

r) Lessee expressly agrees in the making of all improvements that, except with the written consent of Lessor, which consent shall not be unreasonably delayed or withheld, it will neither give nor grant, nor purport to give or grant any lien upon the Premises or upon any improvements thereupon or which is in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to a lien against said Premises and improvements thereon, and the Lessee will within thirty (30) days after notice of the filing thereof either discharge the lien or contest the validity of the lien and provide a bond securing its payment until it is discharged. Notice is hereby given by Lessor to all persons that no lien attaches to any such improvements.

SECTION 3. RIGHTS OF USE

The Premises is to be used solely for the purpose of constructing, reconstructing and maintaining a pedestrian and non-motorized bicycle trailway and any appurtenances.

SECTION 4. TERM

The term of the Lease Agreement shall be for a term of twenty-five (25) years commencing upon approval by the New York State Comptroller.

SECTION 5. RENT

Lessor agrees to rent the Premises to the Lessee for One (1) Dollar, payment waived, provided there is no proprietary use of the property.

SECTION 6. ENVIRONMENTAL ISSUES

Lessee must safeguard such infrastructure and, to the extent required by law and/or environmental conditions, address any contamination or unlawful discharges to the environment occurring on the Premises or that may migrate on to, over or within the Premises, regardless of cause or source. The Lessee, its successors and assigns, shall be required to indemnify and defend the Lessor and its agents, against all claims, suits, liabilities, etc. arising from or related thereto, including but not limited to the contamination and clean up.

SECTION 7. RIGHTS OF ENTRY RESERVED

Lessee hereby agrees to admit Lessor representatives access to examine the Premises during reasonable business hours.

SECTION 8. INSURANCE REQUIREMENTS

8.1 Lessee shall procure, at its own sole cost and expense, and shall maintain in force at all times during the term of this Lease Agreement including any extensions or renewals thereof, the policies of insurance covering all operations under the Lease Agreement whether performed by Lessee or its sub-lessees as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York and that have an A.M. Best Company rating of (A -) or better or approved by Lessor. Lessor may, at its sole discretion, permit the placement of policies with a non-authorized carrier or carriers upon request by Lessee accompanied by the documentation required by 11 NYCRR §27.0 *et seq.*; provided that nothing herein shall be construed to require Lessor to accept insurance placed with a non-authorized carrier under any circumstances. Lessee shall deliver to Lessor evidence of such policies as Lessor deems necessary to verify that the required insurance is in effect. Lessor reserves the right to modify limits based on periodic reviews of coverage.

8.1.1. Conditions Applicable to Insurance. All policies of insurance required by this Lease Agreement must meet the following requirements:

8.1.1.1 Coverage Types and Policy Limits. The types of coverage and policy limits required from Lessee are specified in Section 8.1.2 Insurance Requirements below.

8.1.1.2 Policy Forms. Except as may be otherwise specifically provided herein or agreed in writing by Lessor, policies must be written on an occurrence basis. In the event that occurrence-based coverage is not commercially available, claims-made policy forms will be considered provided that, at minimum, it includes provisions that allow for (a) reporting circumstances or incidents that may give rise to future claims and (b) an extended reporting period of not less than three (3) years with respect to events that occurred but were not reported during the term of the policy.

8.1.1.3 Certificates of Insurance/Notices. Lessee shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commissioner of Transportation, before commencing any work, occupancy or use of the Premises under this Lease Agreement. Certificates or transmittal correspondence shall reference the NYSDOT Lease Agreement D Number. Certificates shall be mailed to the:

NYSDOT Director of Office of Right of Way
50 Wolf Road, Albany NY 12232

and

NYSDOT Region 8
Regional Real Estate Officer
4 Burnett Boulevard, Poughkeepsie, NY 12603

Unless otherwise agreed, policies shall be written so as to require that the policy will not be (i) canceled, (ii) materially changed or (iii) permitted to expire or lapse for any reason except upon thirty (30) days' prior written notice to Lessor by Certified Mail,

Return Receipt Requested at the addresses enumerated above. In addition, if required by Lessor, Lessee shall deliver to Lessor within forty-five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete. Certificates of Insurance shall:

- a. Be in the form acceptable to Lessor;
- b. Be signed by an authorized representative of the insurance carrier or producer;
- c. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Lease Agreement;
- d. Specify the Additional Insureds and Named Insureds as required herein;
- e. Refer to this Lease Agreement on the face of the certificate, and
- f. Expressly reference the inclusion of all required endorsements.

If at any time during the term of this Lease Agreement, it shall come to the attention of Lessor that required insurance is not in effect or that adequate proof of insurance has not been provided, Lessor may, at its option subject to Lessee's right to cure any such default as set forth in Section II:

- a. Declare Lessee to be in default and take action to procure such insurance as is deemed necessary and charge the expense of such insurance to Lessee, or
- b. Treat such failure as a breach or default of the Lease Agreement as defined in Section II.

8.1.1.4 Additional Insureds. All insurance policies required herein, except workers' compensation and professional liability shall be endorsed to provide coverage to "The State of New York/New York State Department of Transportation and any consultants working for or on the Premises, and their agents or employees" with respect to any claim arising from Lessee's tenancy under this Lease Agreement or as a result of Lessee's activities. The endorsement shall be effected by endorsement of the applicable policy using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a form(s) that provides equivalent coverage.

8.1.1.5 Primary Coverage. All insurance policies, excepting workers' compensation and professional liability, shall provide that the required coverage shall be primary as to any other insurance that may be available to Lessor for any claim arising from Lessee's work, occupancy or use of the Premises under this Lease Agreement, or as a result of the Lessee's activities.

8.1.1.6 Waiver of Subrogation. As to every type and form of insurance coverage required from Lessee, there shall be no right of subrogation against the State of New York/New York State Department of Transportation, its agents or employees. To the extent that any of Lessee's policies of insurance prohibit such a waiver of subrogation, Lessee shall secure the necessary permission to make this waiver.

8.1.1.7 Policy Renewal/Expiration. At least thirty (30) calendar days prior to the expiration of any policy required by this Lease Agreement, evidence of renewal or replacement policies of insurance with terms no less favorable to Lessor than the expiring policies shall be delivered to Lessor in the manner required for service of notice in Section 8.1.1.3. Certificates of Insurance/Notices above.

8.1.1.8. Self-Insured Retention/Deductibles. Lessees utilizing self-insurance programs are required to provide a description of the program for Lessor approval. Collateralized deductible and self-insured retention programs administered by a third party may be approved. Except as may be specifically provided in the Lease Agreement Documents of a particular project, Lessees or third-party-administered insurance deductible shall be limited to the amount of \$100,000.00. Security is not required if it is otherwise provided to an administrator for an approved risk management program. Lessor will not accept a self-insured retention program without security being posted to assure payment of both the self-insured retention limit and the cost of adjusting claims. Lessee shall be solely responsible for all claim expense and loss payments within any permitted deductible or self-insured retention. If Lessee's deductible in a self-administered program exceeds \$100,000, Lessee shall furnish an irrevocable Letter of Credit as collateral to guarantee its obligations. Such Letter of Credit or other collateral as may be approved by Department must be issued by a guarantor or surety with an AM Best Company rating of (A -) or better. If, at any time during the term of this Lease Agreement, Lessor, in its sole discretion, determines that Lessee is not paying its deductible, it may require Lessee to collateralize all or any part of the deductible or self-insured retention on any or all policies of insurance or, upon failure to promptly do so, the same may be withheld from payments due Lessee.

8.1.1.9. Waiver of Indemnities. Lessee waives any right of action it and/or its insurance carrier might have against Lessor (including its employees, officers, commissioners, or agents) for any loss that is covered by a policy of insurance that is required by this Lease Agreement. Lessee waives any right of action it and/or its insurance carrier might have against Lessor (including its employees, officers, commissioners, or agents) for any loss, whether or not such loss is insured.

8.1.1.10. Sub-lessee's Liability Insurance. In the event that any portion of the property described in this Lease Agreement is occupied by an approved sub-lessee, the insurance requirements of this Section shall be incorporated into the sublease agreement. Sub-lessee insurance requirements shall include the requirements for Workers' Compensation, Commercial General Liability (at least \$1,000,000.00 per occurrence and not less than \$2,000,000.00 aggregate), and, if applicable, Commercial Auto. Excess or umbrella insurance is not required for sub-lessees. Lessee shall require that Certificates of Insurance, meeting the requirements of Lessor are provided to Lessor documenting the insurance coverage for each and every sub-lessee employed by them to do work under this Lease Agreement.

8.1.2. Insurance Requirements. The types of insurance and minimum policy limits shall be as follows:

8.1.2.1. Workers' Compensation and Disability Insurance. As required by State Finance Law §142, Lessee shall maintain in force workers' compensation insurance upon forms required by or acceptable to the Workers Compensation Board for all of Lessee's employees. Lessee shall also maintain disability insurance as required by the Disability Benefits Law of the State of New York.

8.1.2.2. Commercial General Liability Insurance. Lessee shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from the Premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured lease (including the tort liability of another assumed in a business lease) occurring on or in any way related to the Premises or occasioned by reason of the operations of Lessee. Such coverage shall be written on an ISO occurrence form (ISO Form CG 00 01 12 07 or a policy form providing equivalent coverage) in an amount of not less than \$5,000,000.00 per occurrence and not less than \$5,000,000.00 aggregate. Unless otherwise provided, the policy or policies of insurance providing the liability coverage shall include:

a. Coverage for contractual liability assumed by Lessees insured under an insured lease (including the tort liability of another assumed in a business contract).

b. All insurance policies required by these specifications except workers' compensation and professional liability shall be endorsed to provide coverage to "The State of New York/New York State Department of Transportation and any consultants working for or on the Premises, and their agents or employees" using ISO form CG 20 10 11 85, CG 20 37 07 04, CG 20 33 07 98 when used in combination with CG 20 37 07 04, or CG 20 33 10 01 or a policy form or forms providing equivalent coverage.

c. Products-Completed Operations Coverage, as provided in the General Liability Policy, or in certain instances through ISO form CG 26 11 09 99 or suitable equivalent.

d. Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect.

e. Coverage for claims for liability stemming from the accidental discharge of pollutants that may otherwise be the subject of a pollution exclusion with limits of liability of no less than \$1,000,000.00.

8.1.2.3. Commercial Automobile Insurance including liability and required coverage for New York (applicable to any project where automobiles or other vehicles will be employed to complete the work). In the event that automobiles are used in connection with Lessee's business or operations with Lessor, Lessee shall maintain a commercial or other automobile policy or policies insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading or unloading of any of Lessee's automobiles (including owned, hired

and non-owned vehicles) on and around the project. This should be ISO form CA 00 01 10 01, CA 00 01 01 87 or a policy form providing equivalent coverage along with mandatory New York endorsements. Coverage shall be in an amount of not less than \$1,000,000.00 each accident.

8.1.2.4. Property Insurance. Lessee shall procure and maintain commercial property insurance in policy form providing coverage, for perils under a broad form risks of loss. Subject to the allowances stated in Section 8.1.18. Self-Insured Retention/Deductibles, above, the deductible not to exceed \$100,000.00. Policy shall cover the total value of structures and buildings, supplies and materials on the leased Premises. The policy shall cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance or regulation, and for loss or damage to any owned, borrowed, leased or rented capital equipment, and tools. Such policy shall name Lessee as insured, and The People of the State of New York, and Sub-lessees as additional insureds.

8.1.2.5. Lessee's Risks. Lessee shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) business interruption, such as gross earnings, extra expense, or similar coverage, (b) personal property, and/or (c) automobile physical damage and/or theft. In no event shall Lessor be liable for any damage to, or loss of, personal property, or damage to, or loss of, an automobile that is covered by a policy of insurance that is required by this Lease Agreement, even if such loss is caused by the negligence of Lessor.

Certificate Holder should be indicated as New York State Department of Transportation with the address of the issuing regional office.

Lessee will furnish Lessor with a Certificate of Insurance, with a requirement for thirty (30) days' prior written notice of any cancellation or major change in the policy conditions. This Lease Agreement shall be voided if insurance is cancelled, modified or lapses.

Approval of this Lease Agreement shall be contingent upon receipt, by the Lessor, of a copy of a properly executed Certificate of Insurance.

Additional insurance requirements may be required by Lessor's Highway Work Permit.

In the event the County elects to act as a self-insurer for said insurance in lieu of procuring the insurance required by the terms of this Agreement from an insurance company, the County hereby agrees that it will provide the exact same insurance coverage and protection for the benefit of the State, in the same amount and under the same terms set forth in this paragraph as it would provide the State if the County were to purchase commercial insurance. The County further agrees that its decision to self-insure shall in no way limit the defenses or indemnification available to the State.

SECTION 9. DEFENSE AND INDEMNIFICATION BY LESSEE

Lessee agrees that, in addition to any protection afforded to Lessor under any available insurance, Lessor shall not be liable for any damage or injury to the Lessee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Lessee's activities or operations; whether undertaken by Lessee's own forces or by contractor or other agents working on Lessee's behalf. To the fullest extent permitted by law, the Lessee agrees to defend, indemnify and hold harmless the Lessor and its officers, agents, contractors, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of any claim, including but not limited to claims for personal injuries, property damage or wrongful death and/or environmental claims, in any way associated with the Lessee's activities or operations, no matter how caused.

Lessee, on behalf of itself, its agents, employees, contractors or subcontractors, assumes all risk in the construction, reconstruction, repair, maintenance (where certain maintenance obligations are the responsibility of the Lessee under the terms of this Lease Agreement), operation and use of the Premises and shall be solely responsible and answerable in damages for any and all accidents and injuries to person(s) or property, including death, and hereby covenants and agrees to indemnify and hold harmless the Lessor from all claims, suits, actions, damages and costs of any nature and description arising out of, or related to, the construction, reconstruction, repair, maintenance (where certain maintenance obligations are the responsibility of the Lessee under the terms of this Lease Agreement), operation and use of the Premises. The Lessee agrees, upon request to do so, to assume the defense and to defend at its own expense any action brought at any time against the State of New York in connection with any such claims, suits and actions.

SECTION 10. ASSIGNMENT AND SUBLEASE

Lessee shall not sublet the Premises nor assign or transfer the Lease Agreement to any other party in part or in whole without the prior written consent of the Lessor. Failure to comply with this provision may result in ten (10) days written notice of cancellation of the Lease Agreement by the Lessor, and the Lessor may immediately take possession and terminate all rights of the Lessee as of such moment.

SECTION 11. TERMINATION AND CANCELLATION

a) If any one or more of the following events shall occur:

1. Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or

2. By order or decree of a court the Lessee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors or, if the Lessee is a corporation by any of the stockholders of the Lessee, seeking its reorganization or the readjustment of its

indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

3. A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed within ninety (90) days after the filing thereof; or

4. The leasing hereunder or the interest or estate of the Lessee under this Lease Agreement shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

5. By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, or any execution or attachment shall be issued against the Lessee or any of its property, whereupon possession of the Premises shall be taken by someone other than the Lessee, and any such possession or control shall continue in effect for a period of fifteen (15) days; or

6. Any lien is filed against the Premises because of any act or omission of the Lessee and is not removed within thirty (30) days; or

7. Lessee shall voluntarily abandon, desert, vacate or discontinue its operation in the Premises, or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of thirty (30) days by action of any governmental agency from conducting its operations on the Premises, regardless of the fault of the Lessee; or the Lessee fail to take occupancy or commence operations within (15) calendar days after the Commencement Date; or

8. Lessee shall fail duly and punctually to pay any rentals or to make any other payment required hereunder when due to the Lessor; or

9. Lessee shall fail to keep, perform, observe or cure each and every other promise, covenant and agreement set forth in this Lease Agreement on its part to be kept, performed, or observed, within thirty (30) days after receipt of notice of default thereunder from the Lessor (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption except for causes beyond its control; or

10. If this Lease Agreement shall require a guarantor or one or more of the Lessee's obligations under this Lease Agreement and any of the events described in subparagraphs (1), (2), (3), or (7) above shall occur to or with respect to the guarantor (whether or not they shall also occur to or with respect to the Lessee);

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Lessor may by thirty (30) days notice terminate the Lease Agreement, such termination to be effective upon the date specified in such notice.

b. No acceptance by the Lessor, of rentals, fees, charges or other payments in whole or in part for any period of periods after a default in any of the terms, covenants, conditions and provisions to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of the Lessor to terminate the letting.

c. No waiver by the Lessor of any default on the part of the Lessee in performance of any of the terms, covenants or conditions hereof to be performed kept or observed by the Lessee shall be or construed to be a waiver by the Lessor of any other or subsequent default in performance of any of the said terms, covenants, conditions and provisions.

d. The rights of termination described above shall be in addition to any other rights of termination provided in this Lease Agreement and in addition to any rights and remedies that the Lessor would have at law or in equity consequent upon any breach of this Lease Agreement by the Lessee and the exercise by the Lessor of any right of termination shall be without prejudice to any other such rights and remedies.

e. Lessee shall not interpose any counterclaims in any summary proceeding or action for non-payment of rent which may be brought by the Lessor.

f. In the event of cancellation of this Lease Agreement by either party, Lessee may be required to remove any/all improvements to the Premises which have been placed there by the Lessee, at its own expense, within thirty (30) days, and restore the area to its pre-lease condition.

g. Cancellation by the Lessor requires thirty (30) days written notice except for cause, in which event cancellation can be effected on five (5) days written notice. Lessee may cancel this Lease Agreement by giving thirty (30) days written notice.

SECTION 12. RIGHT OF RE-ENTRY

Lessor shall, as an additional remedy upon the giving of a notice of termination as provided in Section 11 of this Lease Agreement, have the right to re-enter the Premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Lease Agreement, and shall in no event constitute an acceptance of surrender.

SECTION 13. NO OBLIGATION TO SELL

Lessee agrees and understands that the Lessor is under no obligations to sell the property to the Lessee and that no commitment, express or implied, is made by the Lessor to give the Lessee any preemptive rights of purchase.

SECTION 14. NOTICES

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- a) via certified or registered United States mail, return receipt requested;
- b) by facsimile transmission;
- c) by personal delivery;
- d) by expedited delivery service; or
- e) By e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

Lessor at:

Contact: NYSDOT Assistant Director of Office of Right of Way
Address: 50 Wolf Road, Albany, NY 12232
Fax: (518) 457-8069
E-Mail: kay.biltucci@dot.ny.gov

NYSDOT Region 8

Regional Real Estate Officer

Address: 4 Burnett Boulevard, Poughkeepsie, NY 12603
Office: 845-437-3391
Fax: 845-437-3394
E-Mail: Dawn.Williams@dot.ny.gov

The County at:

Contact: Commissioner of Parks, Recreation and Conservation
Address: 450 Saw Mill River Road, Ardsley, NY 10502
Fax: 914-864-7053
E-Mail: koc2@westchestergov.com

With a copy to:

County Attorney

148 Martine Avenue, Room 600, White Plains, NY 10601
Fax: 914-995-2495
E-Mail: d1v2@westchestergov.com

Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission, upon receipt.

The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Lease Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Lease Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

SECTION 15. EQUAL RIGHTS.

Lessee, and/or the Lessee's personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that in the event improvements are made over or under such land and the furnishing of services thereon and/or facilities are constructed, maintained, or otherwise operated on the said Premises described in Section 1 of this Lease Agreement for a purpose for which a New York State Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall construct such improvements and maintain and operate such facilities and services such that (1) no person on the ground of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964; and to Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures; and further as said Regulations may be amended.

In the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the Lease Agreement and to re-enter and repossess said Premises and the facilities thereon, and hold the same as if said Lease Agreement had never been made or issued.

SECTION 16. HUMAN RIGHTS LAW/NO DISCRIMINATION

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Lessee will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, or marital status. Neither shall the Lessee discriminate in the use of the Premises or any access thereto if such premises are used as a public accommodation or in connection with a public service.

SECTION 17. QUIET ENJOYMENT

Lessor covenants and agrees that as long as it remains the Lessor or owner of the Premises, the Lessee, upon performing and satisfying all the terms, covenants, conditions and provisions of this Lease Agreement on its part to be performed, shall and may peaceably and quietly have, hold and enjoy the Premises free of any act or acts of the Lessor except as expressly permitted in this Lease Agreement.

SECTION 18. NON-LIABILITY OF INDIVIDUALS

Neither the Commissioner nor any officer, agent or employee of the Lessor shall be charged personally by the Lessee with any liability or held liable to it under any term or provision of this Lease Agreement or because of its execution or attempted execution or because of any breach or attempted or alleged breach thereof.

SECTION 19. SEVERABILITY

If any of the conditions of this Lease Agreement are held invalid, such invalidity shall not affect or impair other provisions herein which can be given effect without the invalid conditions, and to this end the conditions of this Lease Agreement are severable.

SECTION 20. EFFECTIVE.

This Lease Agreement shall not be effective until approved by the New York State Comptroller.

SECTION 21. LAWS

This Lease Agreement shall be construed in accordance with the laws of the State of New York.

SECTION 22. ENTIRE AGREEMENT

This Lease Agreement, Exhibit A - Depiction of Proposed Lease area delineated on Sheet Nos. 1 – 40 of Map No. 1, Parcels 1-39 subject to any and all easements, conveyances and permits granted by the State by and through the Commissioner of Transportation ; Exhibit B – North County Trailway Map; Appendix A, Required Clauses for all New York State Contracts; Appendix A-1, Supplemental Title VI Provisions (Civil Rights Act), and Appendix 3, Responsibility Provisions, attached hereto and made a part hereof, shall bind the successors, assigns, and representatives of the parties hereto. It constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the Lessor and the Lessee. The Lessee agrees that no representations or warrants shall be binding upon the Lessor unless expressed in writing in this Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed the day and year first written above.

LESSEE: County of Westchester

By: [Signature]
Name: Kathleen M. O'Connor
Title: Commissioner
Date: 11/29/18

APPROVED AS TO FORM.

[Signature]
Associate COUNTY ATTORNEY

STATE OF NEW YORK }
COUNTY OF Westchester } SS:

On the 29 day of November, in the year 2018 before me, the undersigned, personally appeared Kathleen M. O'Connor, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Notary Public, State of New York
Qualified in County of:
My Commission Expires 5/14/20

LESLIE A. KING
NOTARY PUBLIC - STATE OF NEW YORK
No. 01K16261714
Qualified in Westchester County
My Commission Expires May 14, 2020

LESSOR: The New York State Department of Transportation

APPROVED: Commissioner of Transportation for the People of the State of New York

By: [Signature]
Name: Kayla Biltucci Susan E. Beauloin
Title: Assistant Director, Office Right of Way
Date: 12/21/18

STATE OF NEW YORK }
} SS:

COUNTY OF *Albany* }

On the *21st* day of *December*, in the year 201*8* before me, the undersigned, personally appeared *Susan E. Beuchting* personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

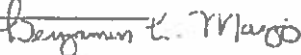


Notary Public, State of New York
Qualified in County of:
My Commission Expires

JAMES W. PIERCE
Notary Public, State of New York
No. 01PI6315296
Qualified in Saratoga County
Commission Expires November 24, 20*22*

REQUIRED NYS APPROVALS

APPROVED AS TO FORM:
New York State Department of Law

By: _____	<div>APPROVED AS TO FORM NYS ATTORNEY GENERAL</div> <div>JAN 03 2019</div> <div> BENJAMIN L. MAGGI ASSISTANT ATTORNEY GENERAL</div>
Name: _____	
Title: _____	
Date: _____	

APPROVED:
Office of the State Comptroller

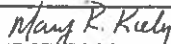
By: _____	<div>APPROVED</div> <div>DEPT. OF AUDIT & CONTROL</div> <div>JAN 16 2019</div> <div> FOR THE STATE COMPTROLLER</div>
Name: _____	
Title: _____	
Date: _____	

EXHIBIT A

Depiction of Proposed Lease Agreement Area as delineated on Sheets Nos. 1-40 of Map No. 1, Parcels 1-39.

APPENDIX A

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time

Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment,

employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245

Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be

denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law Section 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or

extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law Section 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

Updated January 2014

APPENDIX A-1
SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

withholding of payments to the contractor under the contract until the contractor complies, and/or

cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

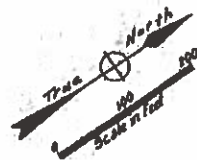
APPENDIX 3 RESPONSIBILITY PROVISIONS

General Responsibility. The Consultant shall, at all times during the Agreement, remain responsible. The Consultant agrees, if requested by the Commissioner of NYSDOT or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

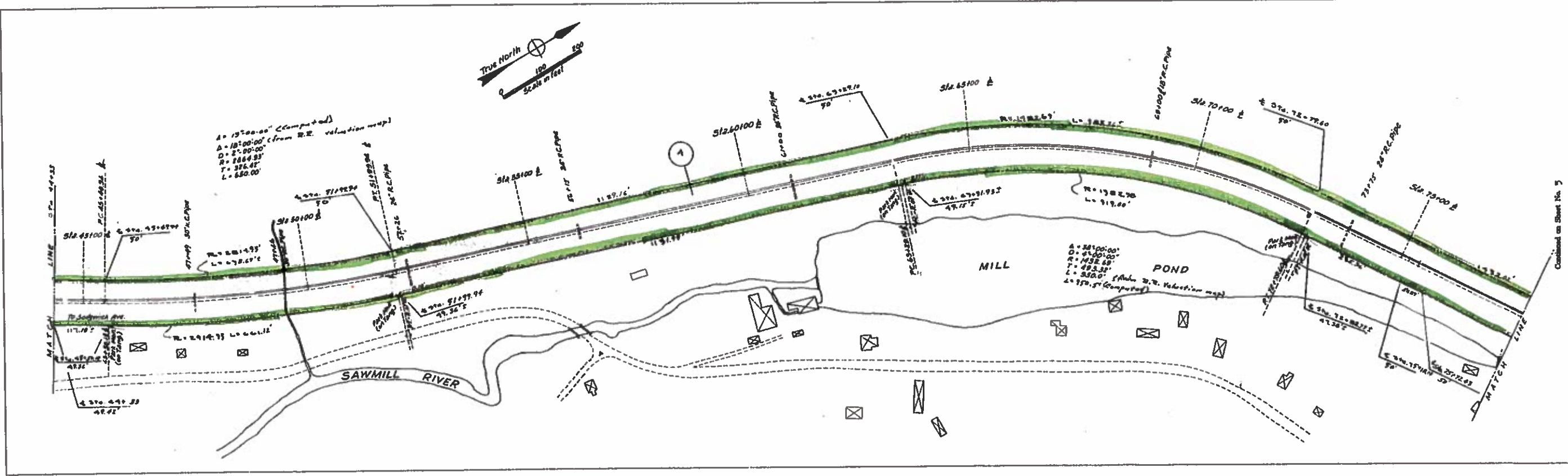
Suspension or Work (for Non-Responsibility). The Commissioner of NYSDOT (or his or her designee), in his or her sole discretion, reserves the right to suspend any or all activities under this Agreement at any time when he or she discovers information that calls into question the responsibility of the Consultant. In the event of such suspension, the Consultant will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Consultant shall comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of NYSDOT (or his or her designee) issues a written notice authorizing the resumption of performance under the Agreement.

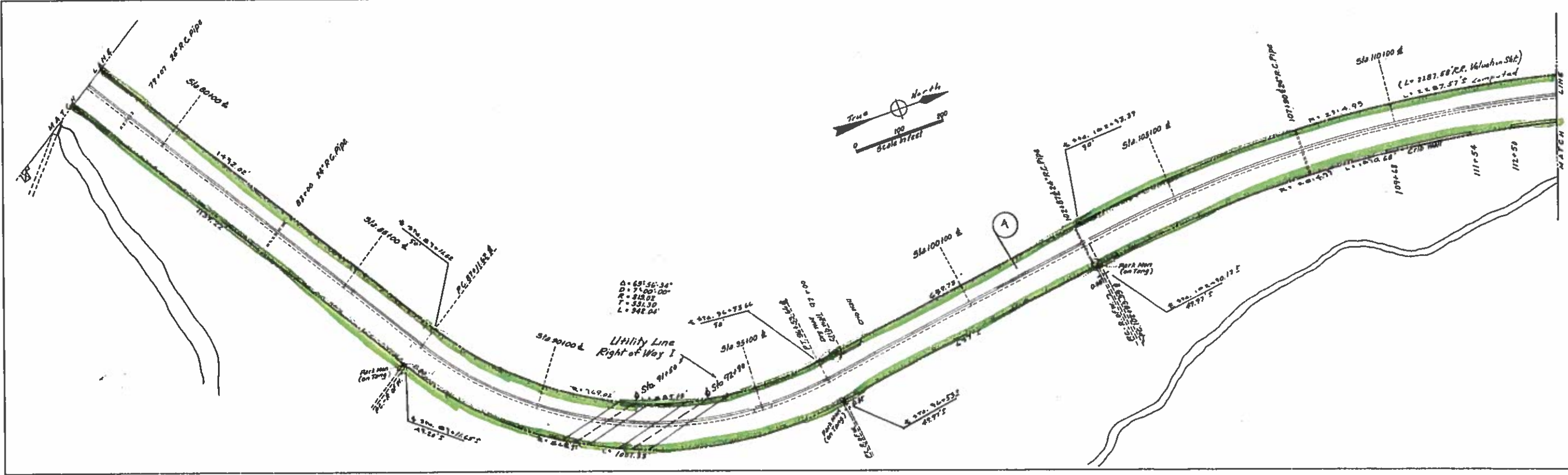
Termination (for Non-Responsibility). Upon written notice to the Consultant, and a reasonable opportunity to be heard with appropriate NYSDOT or staff, the Agreement may be terminated by Commissioner of NYSDOT (or his or her designee) at the Consultant's expense where the Consultant is determined by the Commissioner of NYSDOT (or his or her designee) to be non-responsible. In such event, the Commissioner of NYSDOT (or his or her designee) may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

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Continued on Sheet No. 4

NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
 DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

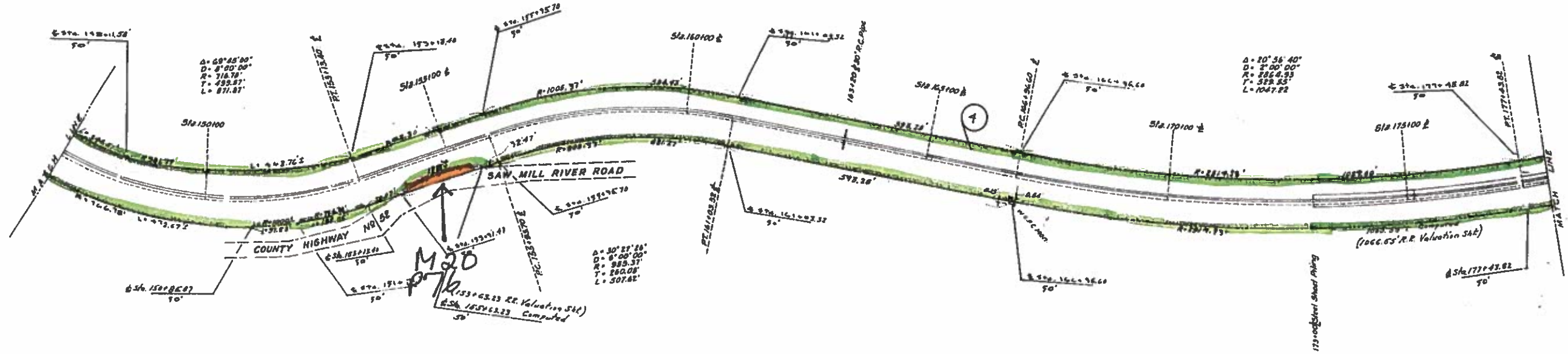
SAUTTER-HARRIS TOWN
 WESTCHESTER COUNTY





НАУЧНО-ИССЛЕДОВАТЕЛЬСКИЙ ЦЕНТР

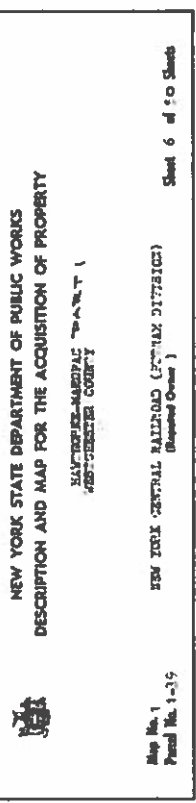
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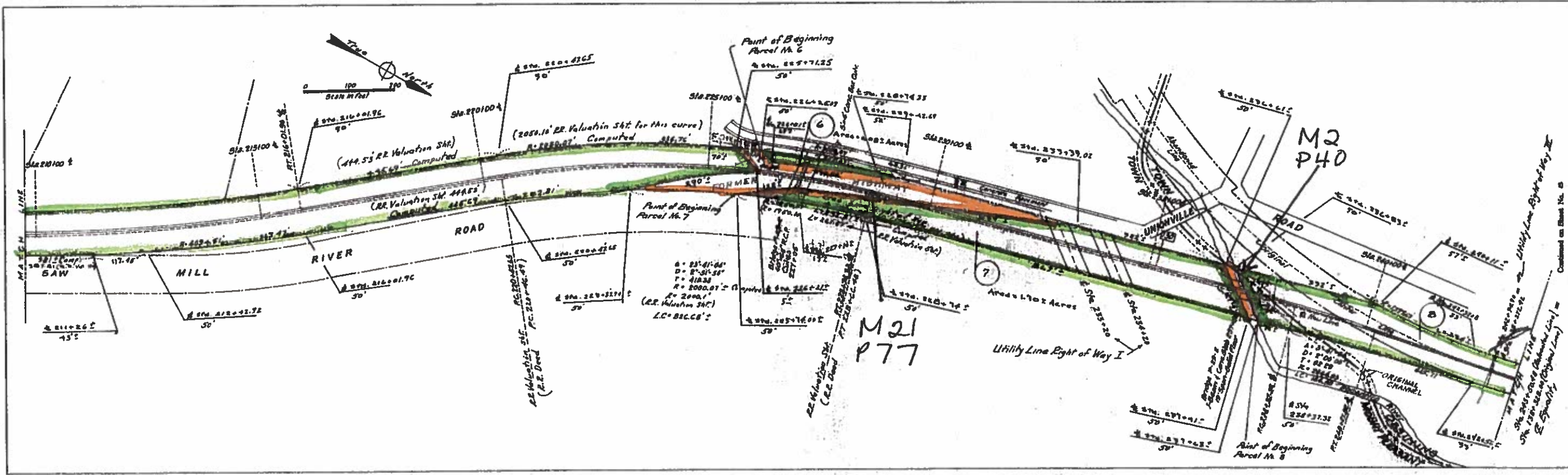


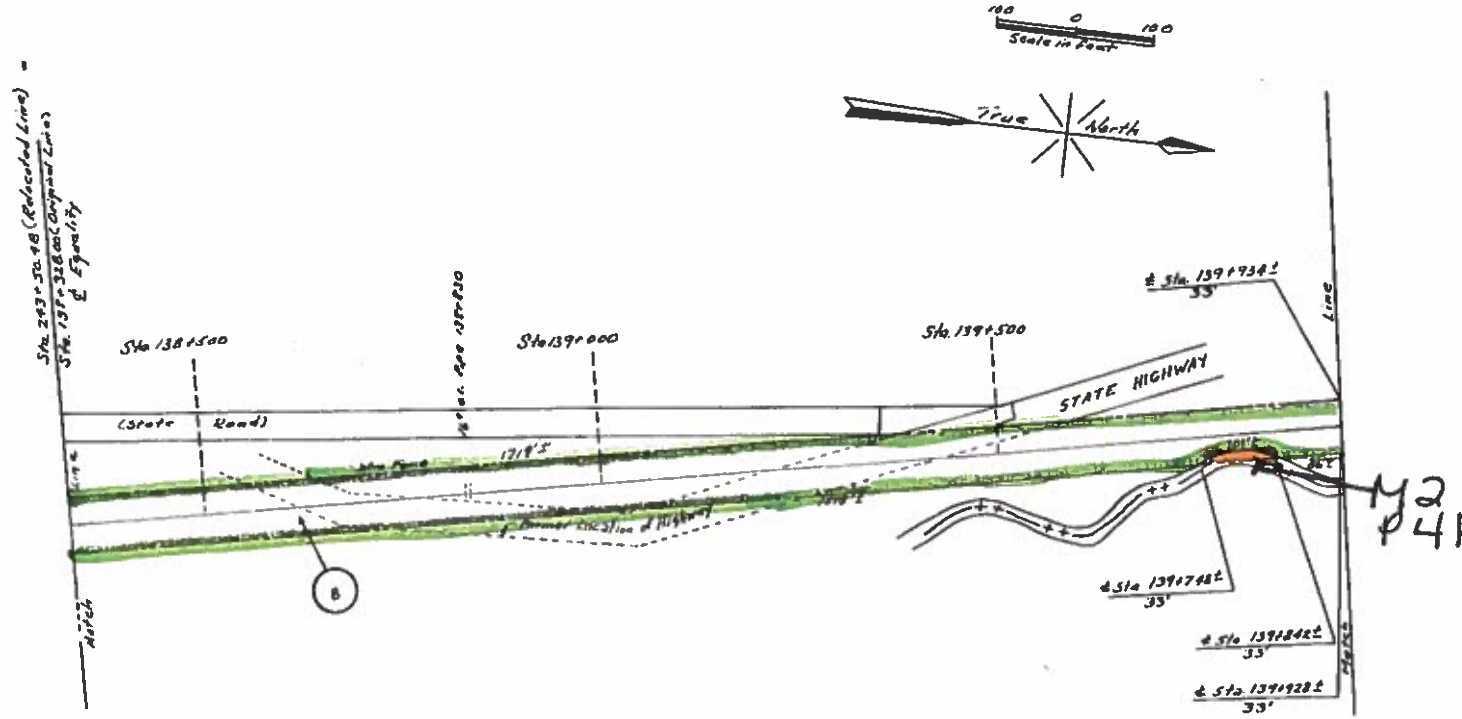
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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

SARATOGA-CATTARAUGUS
COUNTY







Continued on Sheet No. 9

NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HAVERHILL & HAVERHILL, PART 1
WESTCHESTER COUNTY



NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
EASTPORT - MADRID, PART 1
HUNTERDON COUNTY

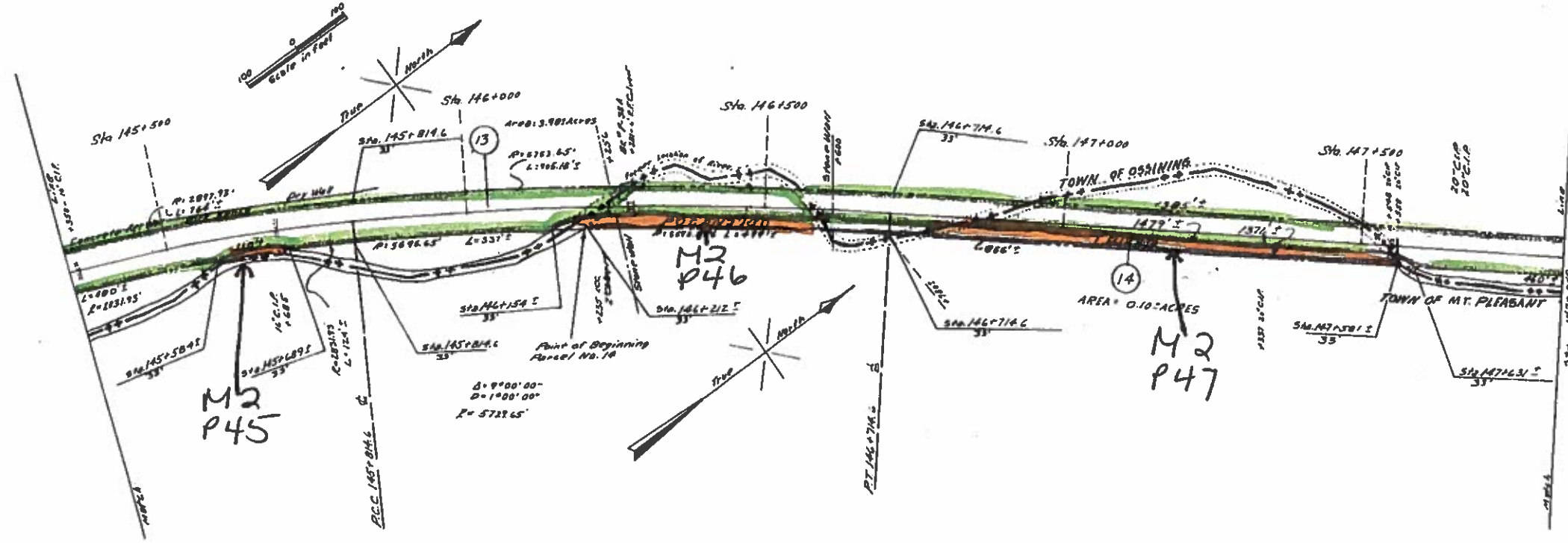
Map No. 1
Parcel No. 1-39

NEW YORK CENTRAL RAILROAD (PORTLAND DIVISION)
(Reported Correct)



Continued on Sheet No. 17

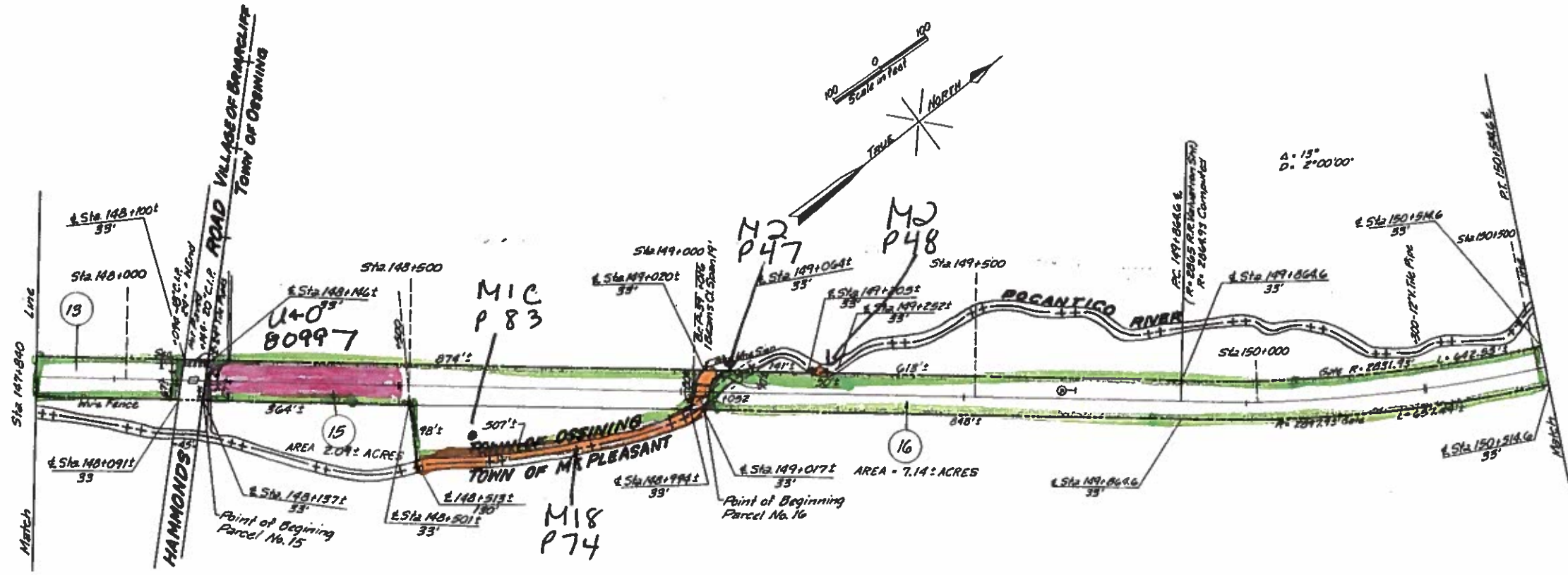
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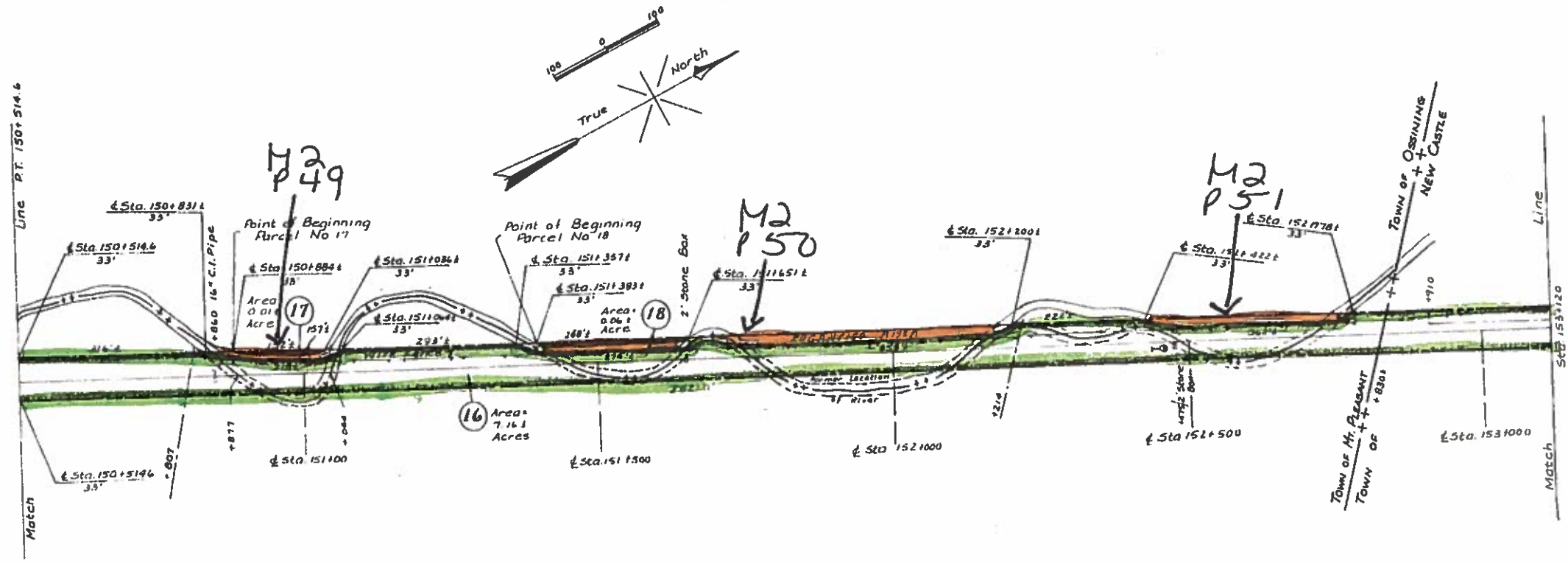
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY





Continued on Sheet No. 13

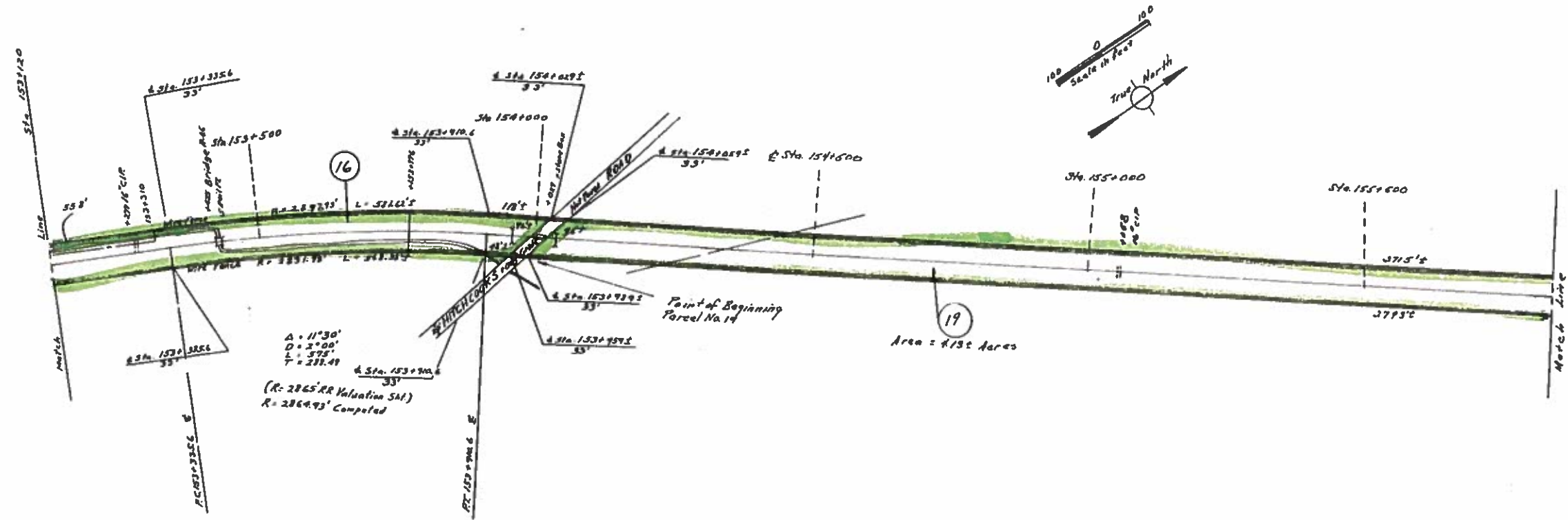
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS



Continued on Sheet No. 24

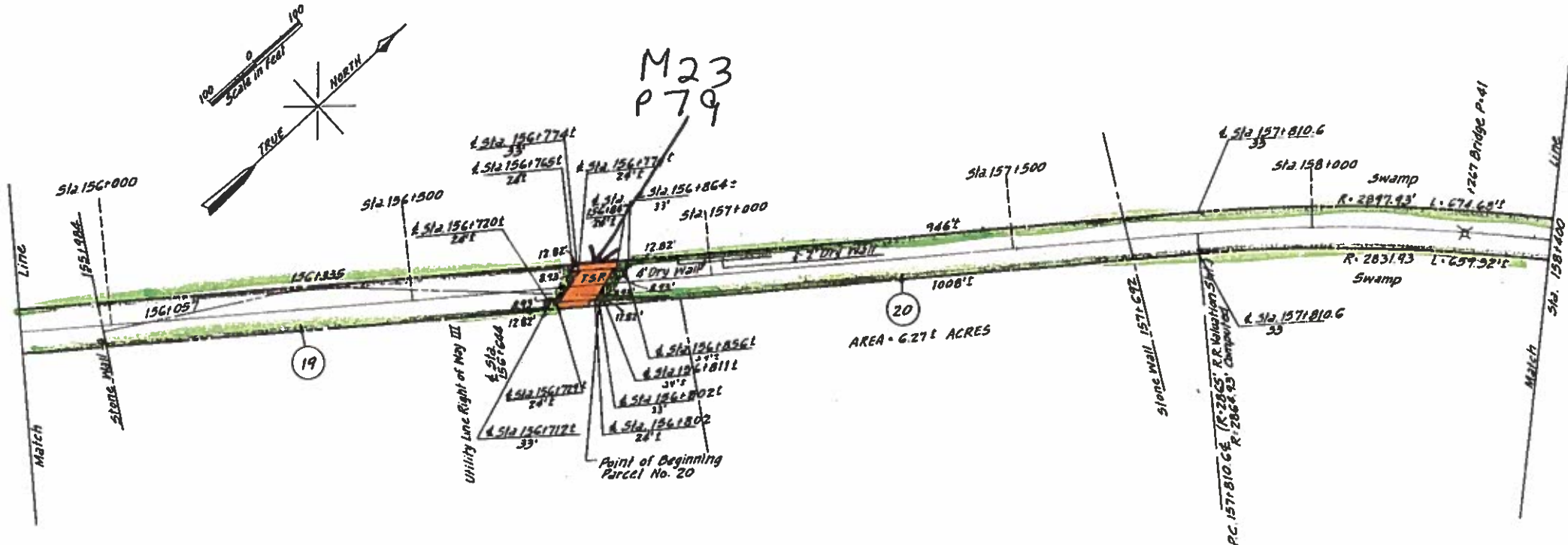
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HARTFORD - MIDDLETOWN, PART 1
HARTFORD COUNTY

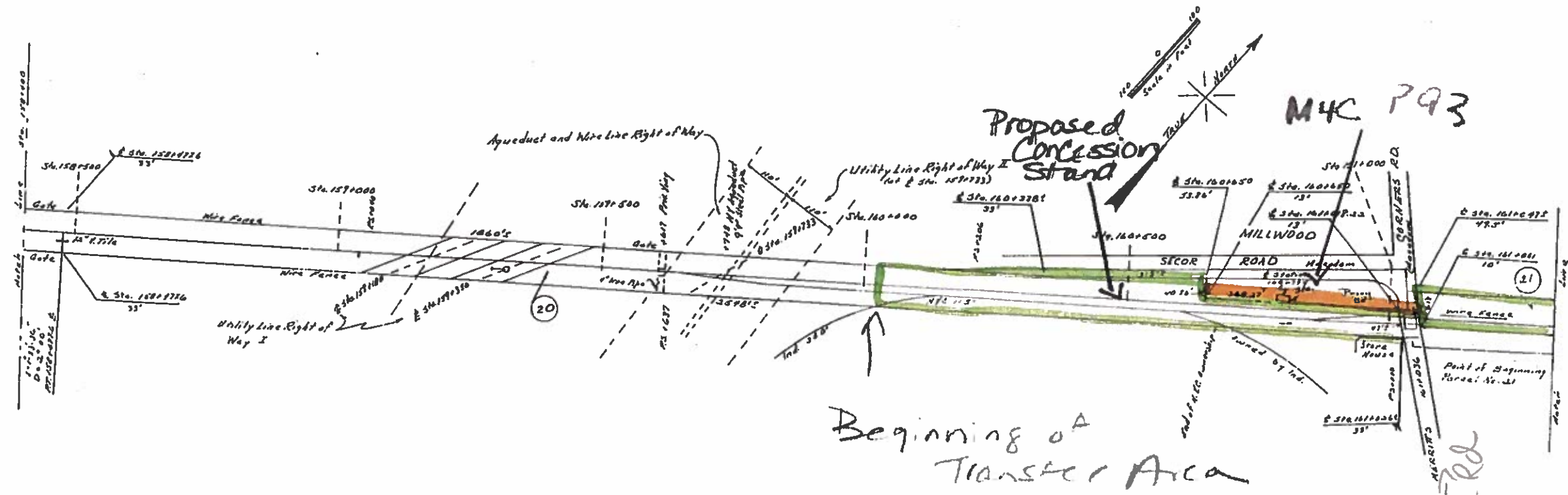


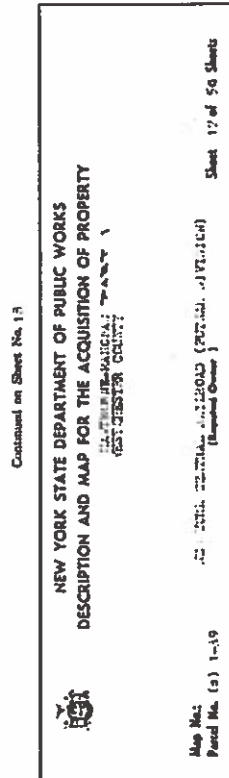


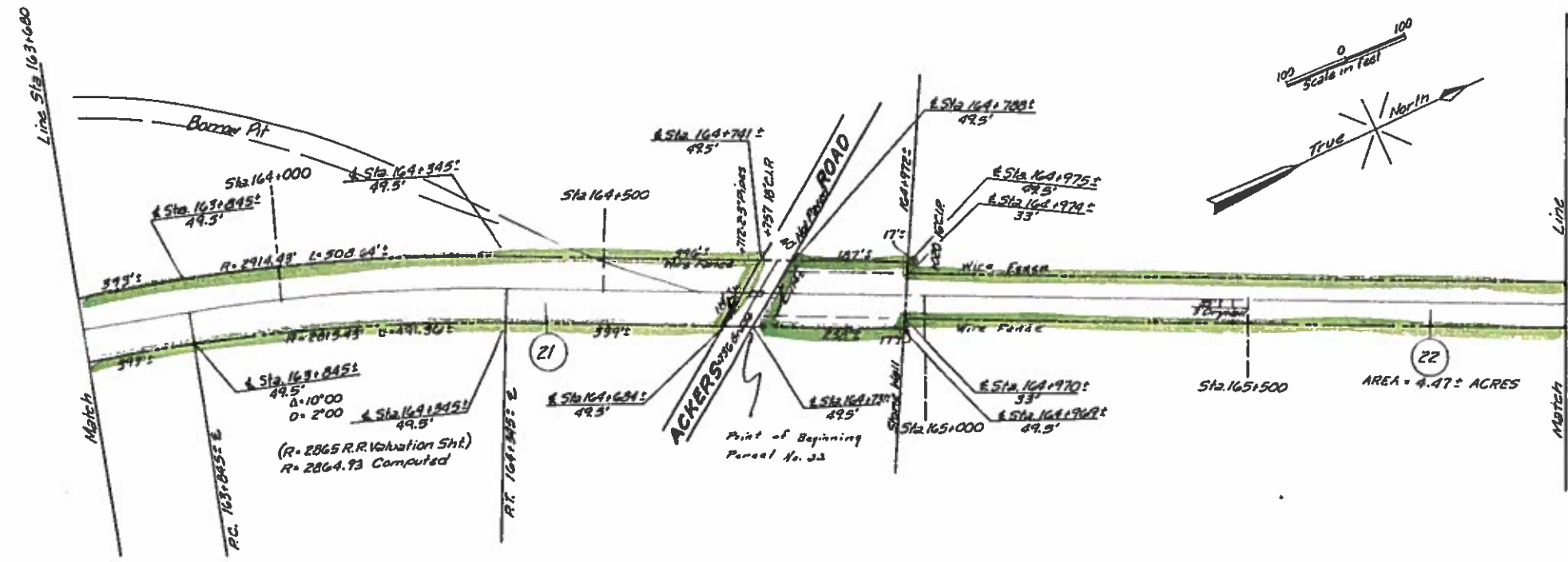
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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HARTFORD - MIDDLETOWN, PART 1
HARTFORD COUNTY





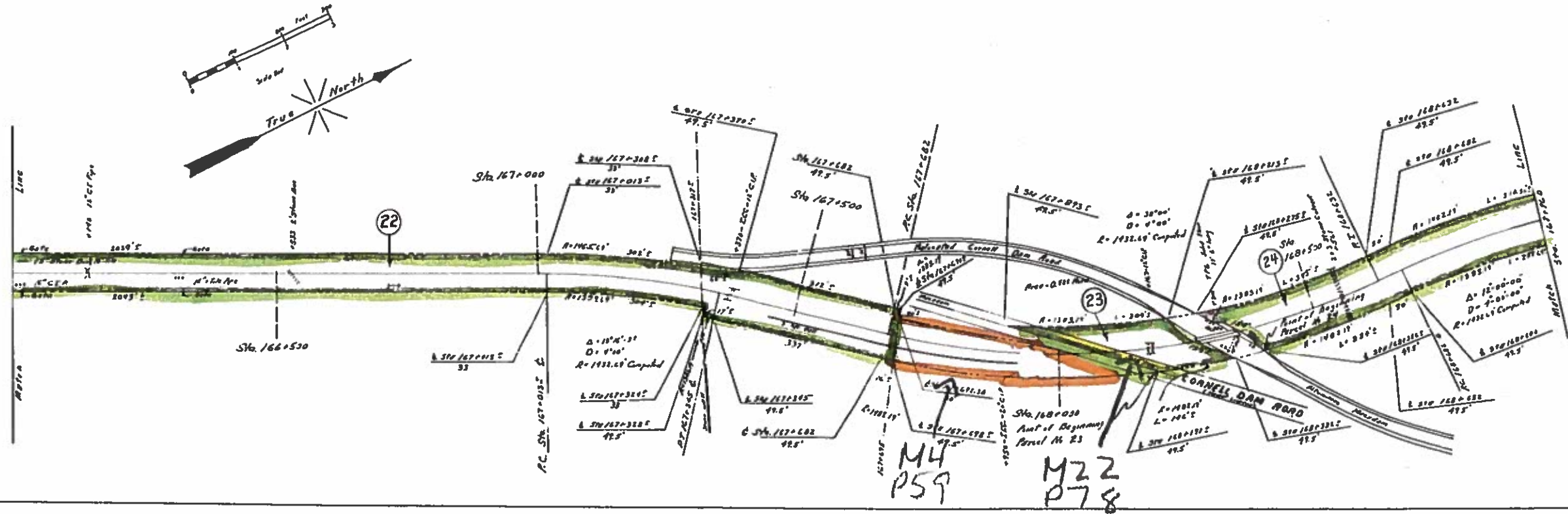




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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HANTONVILLE - MARIAPAC, PART 1
WESTCHESTER COUNTY

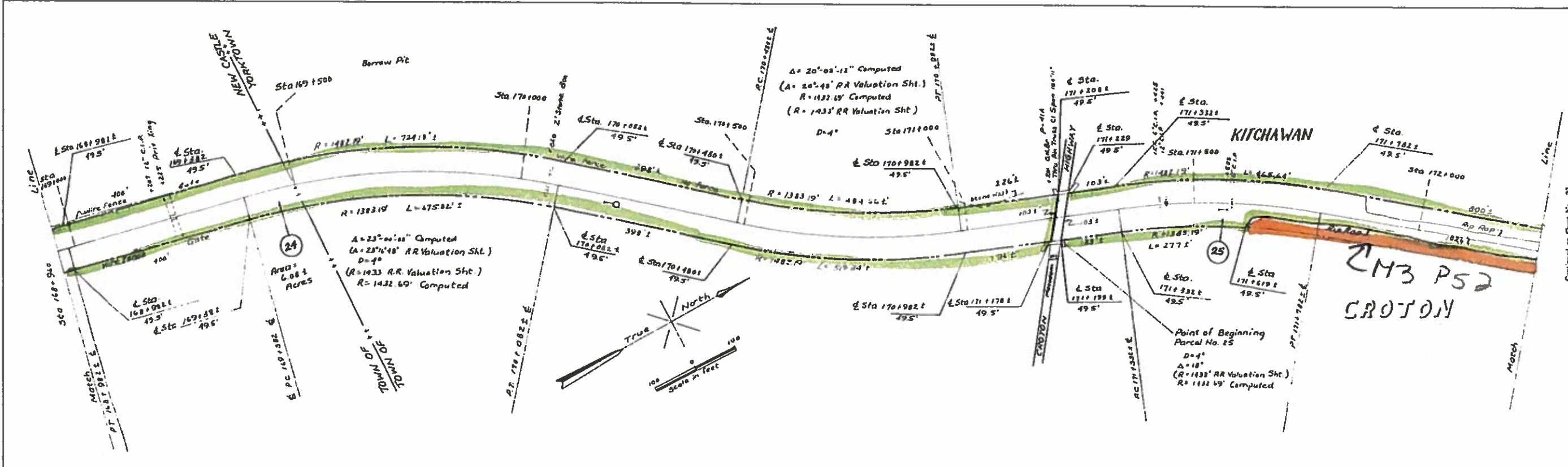
Map No. 1
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 NEW YORK CENTRAL RAILROAD (MUTUAL DIVISION)
 Sheet 2A of 50 Sheets

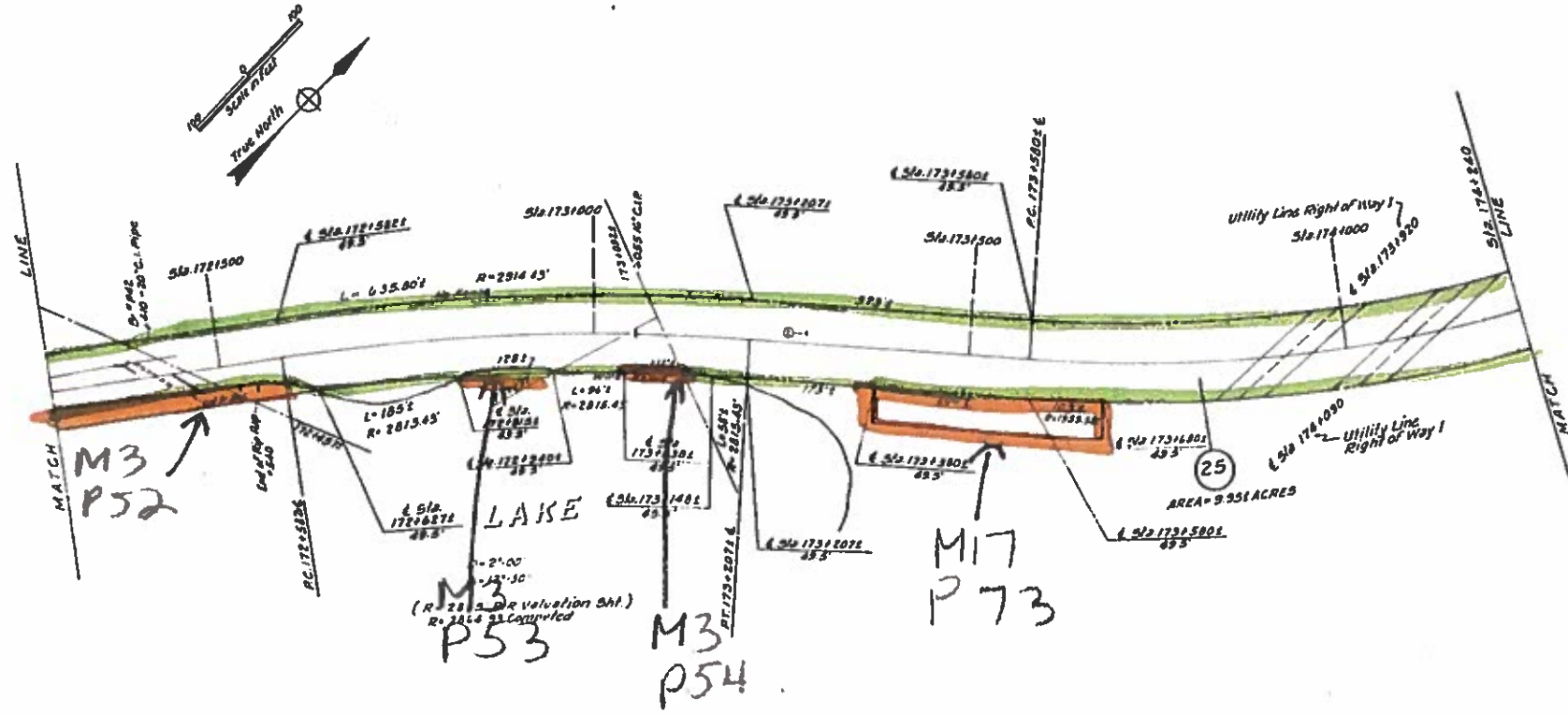


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY



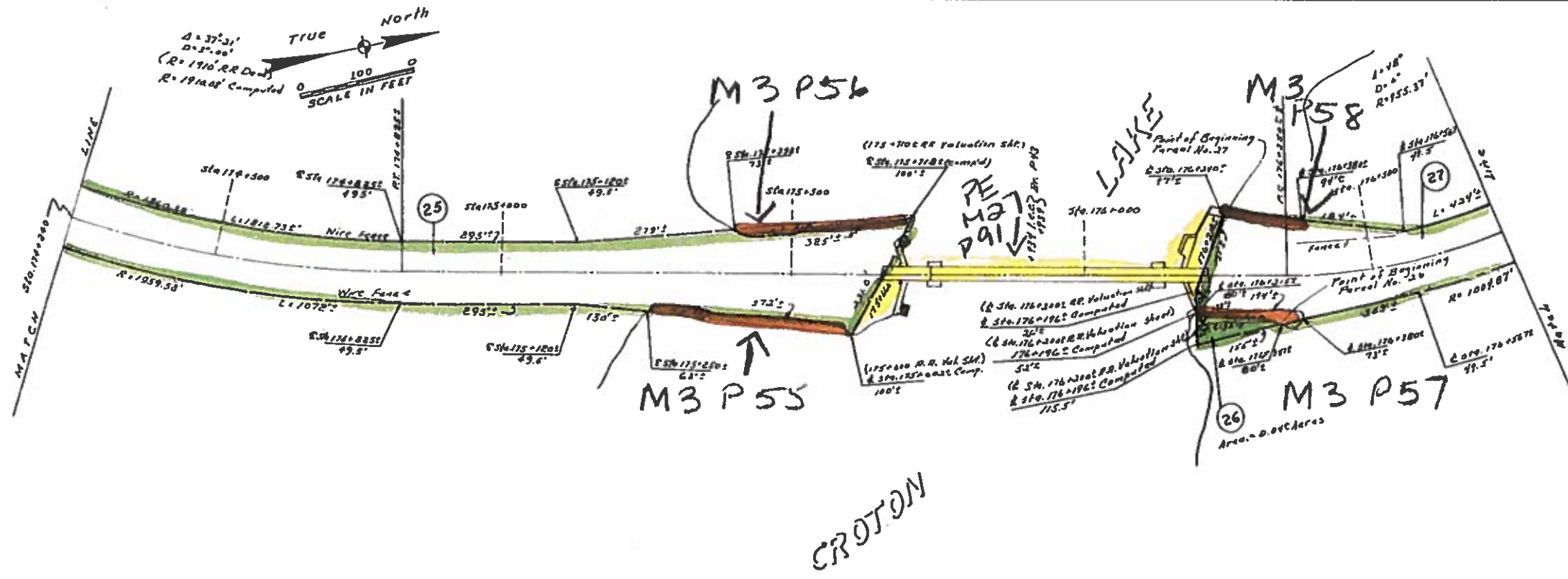


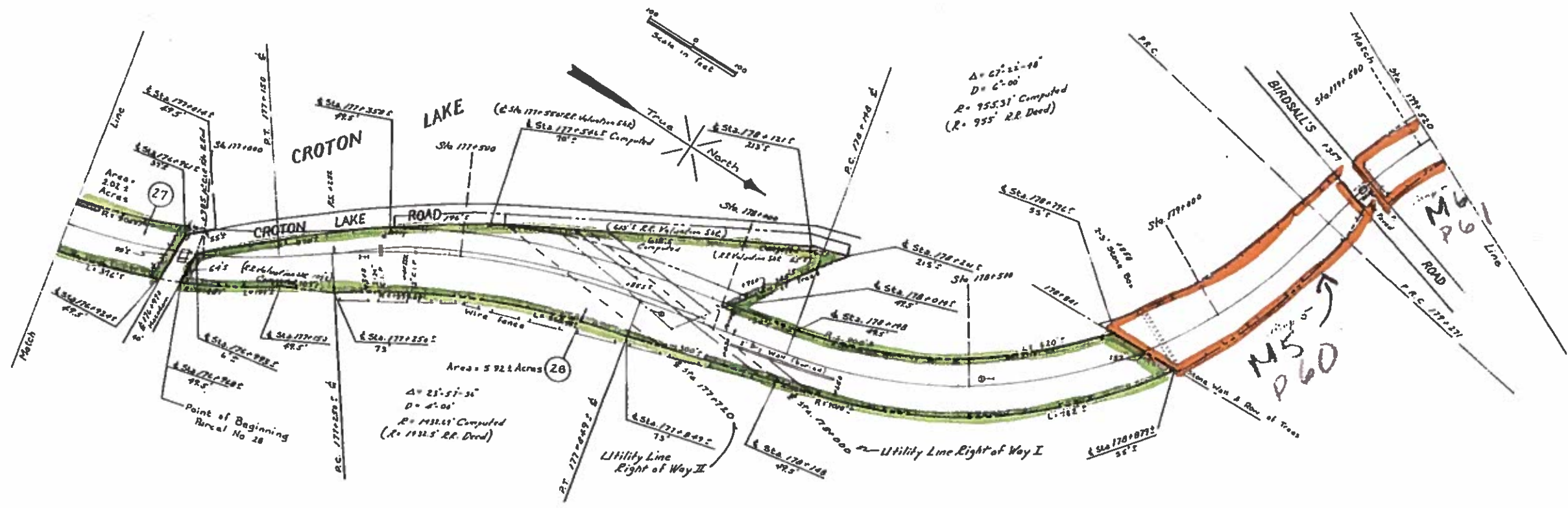


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HAVERHILL - MANHATTAN, PART 1
WESTCHESTER COUNTY







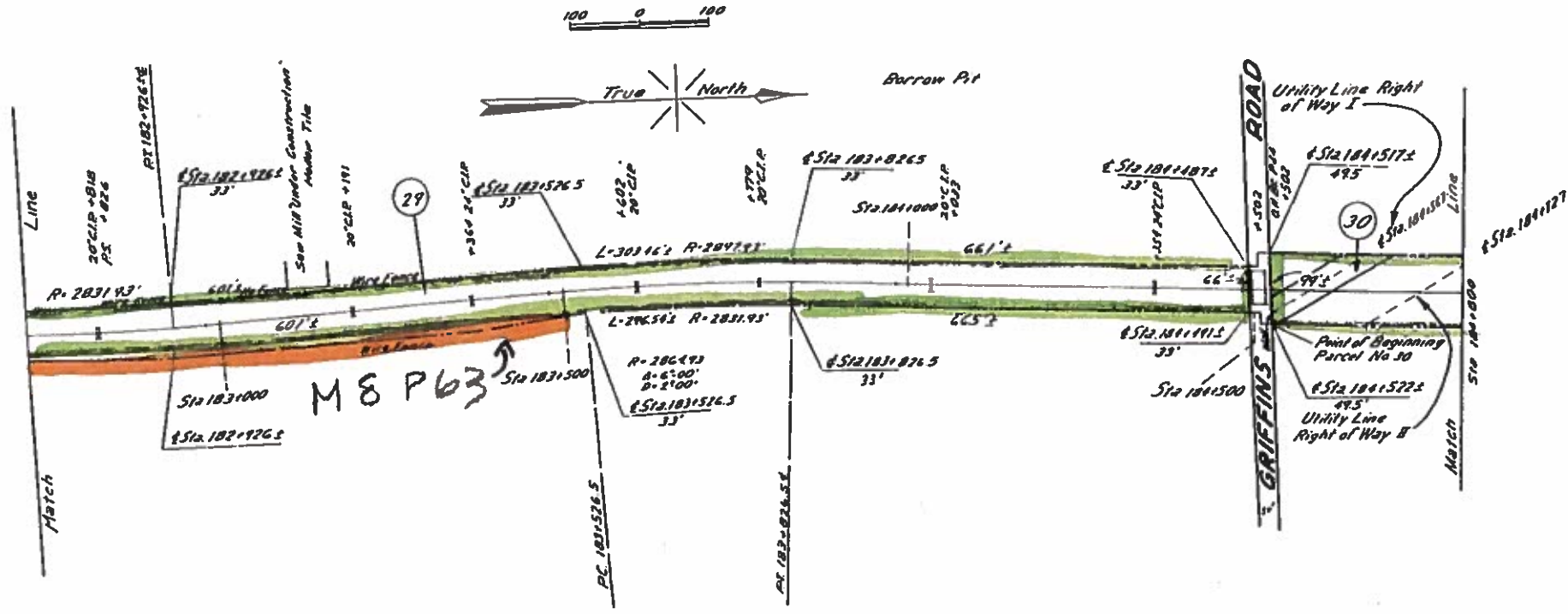
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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
WESTCHESTER COUNTY
AUTOSTRISTE UTILITY

Map No. 1
Parcel No. 13 1-19

NEW YORK CENTRAL RAILROAD (RTA DIVISION)
(Proposed Owner)

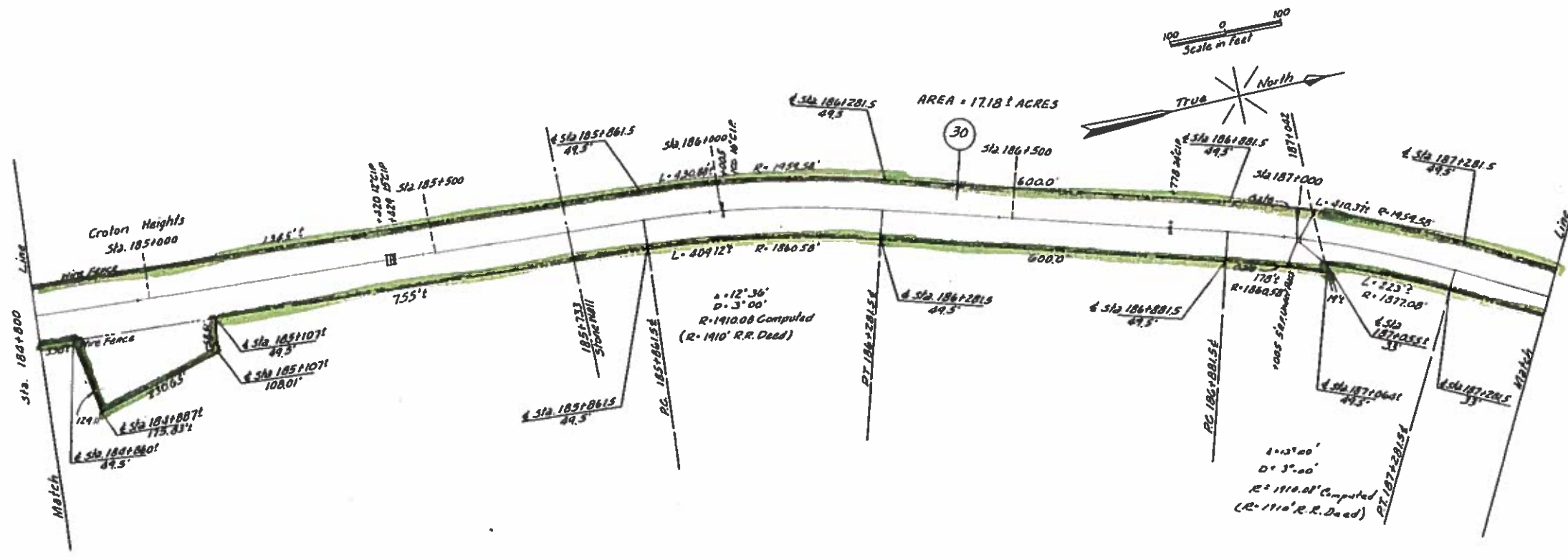
Sheet 23 of 20 Sheets

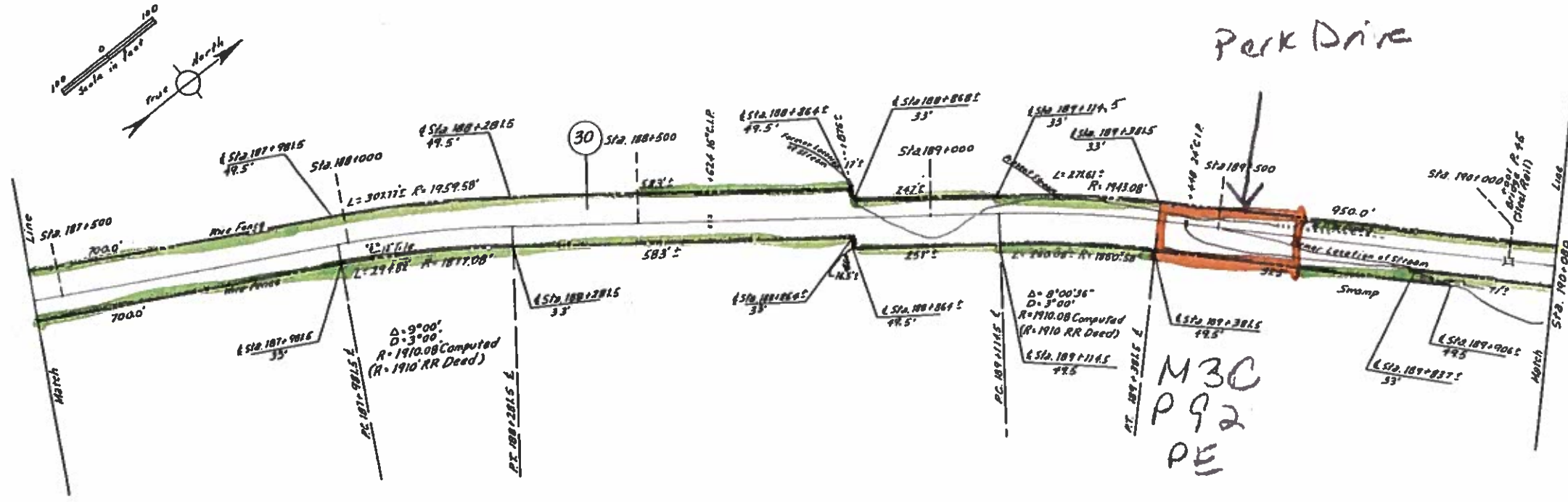


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
ALBANY - MARYLAND, PART 1

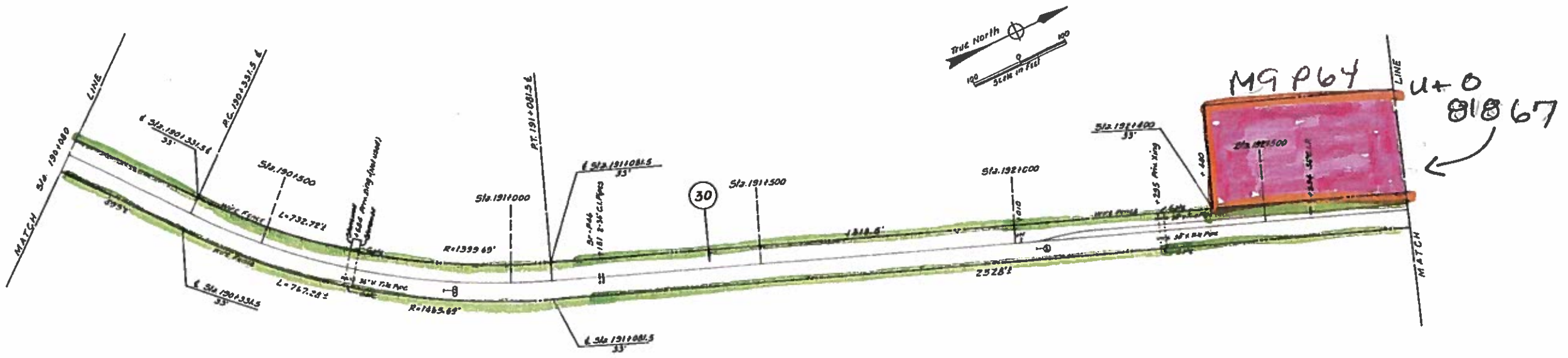






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MAP NO. 1
PARCEL NO. 1-39
SHEET 28 OF 50 SHEETS
HAYTHORNE - NARODPAC, PART 1
WESTCHESTER COUNTY



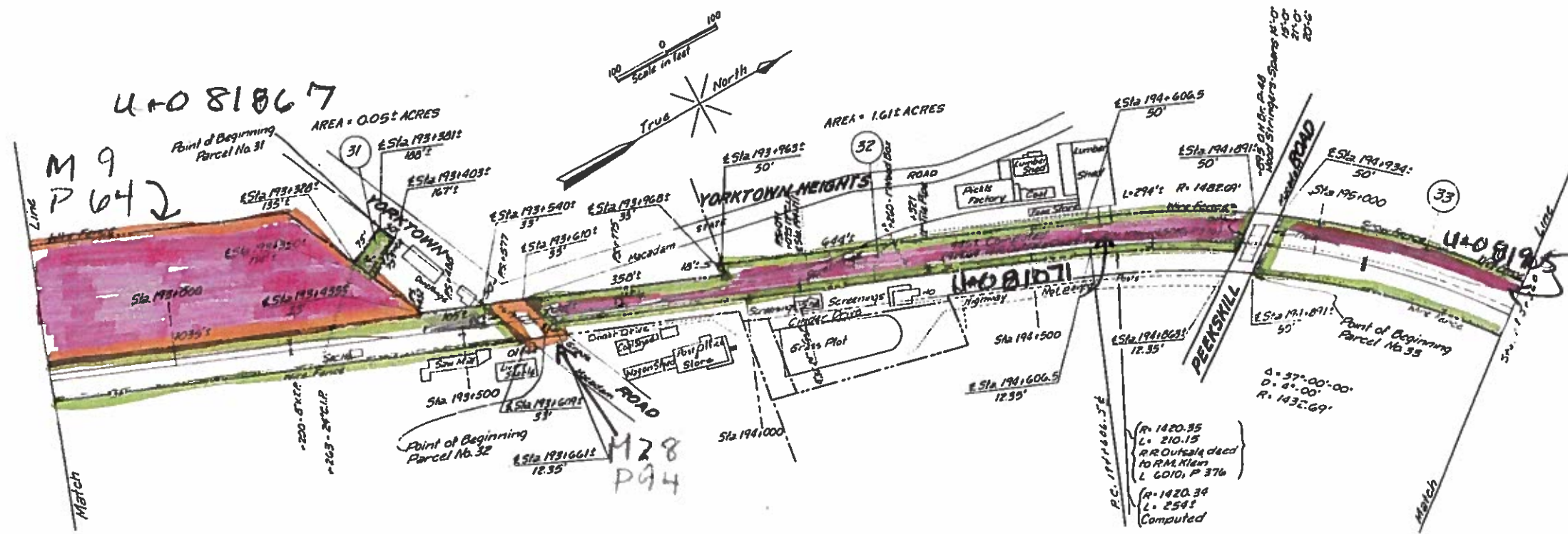
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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HAYTHORNE - NARODPAC, PART 1
WESTCHESTER COUNTY

Map No. 1
Parcel No. 1-39

NEW YORK CENTRAL RAILROAD (FUTURUM DIVISION)

Sheet 28 of 50 Sheets

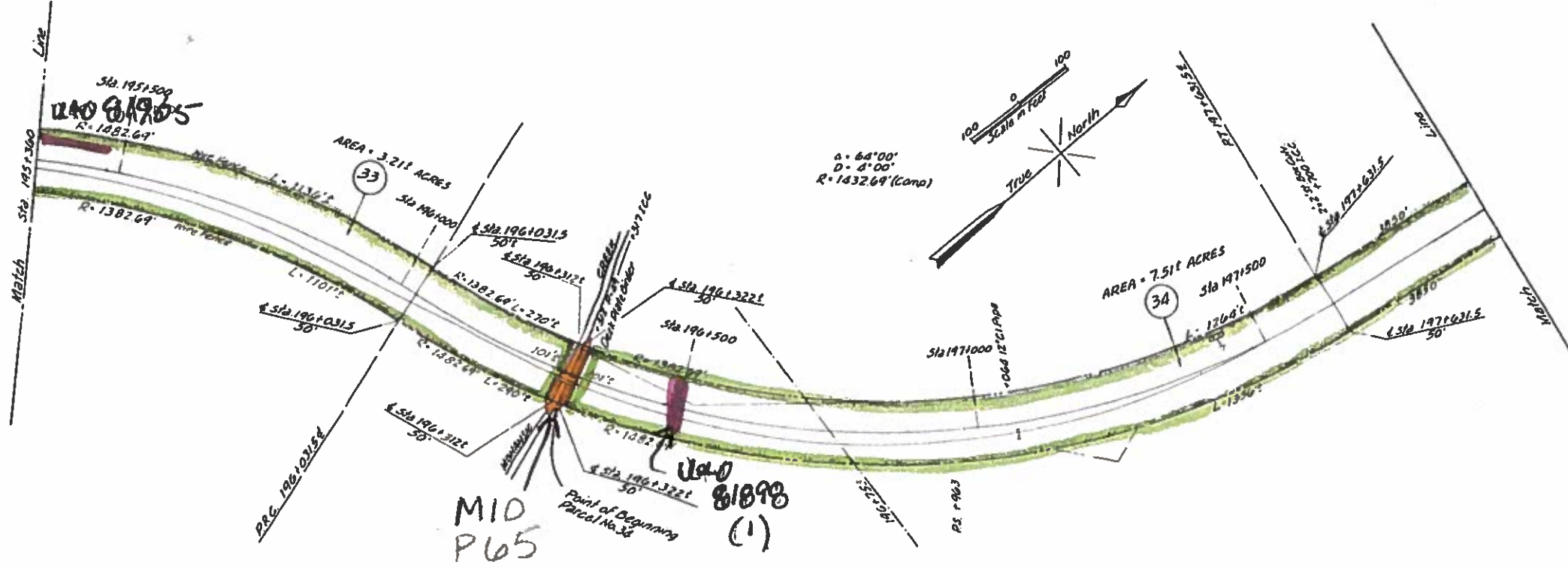


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
NATTSRONG - MARBPAC, PART 1
MONTICELLO COUNTY

Map No. 1
Parcel No. 2-39

NEW YORK CENTRAL RAILROAD (PORTLAND DIVISION)
(Revised Order)

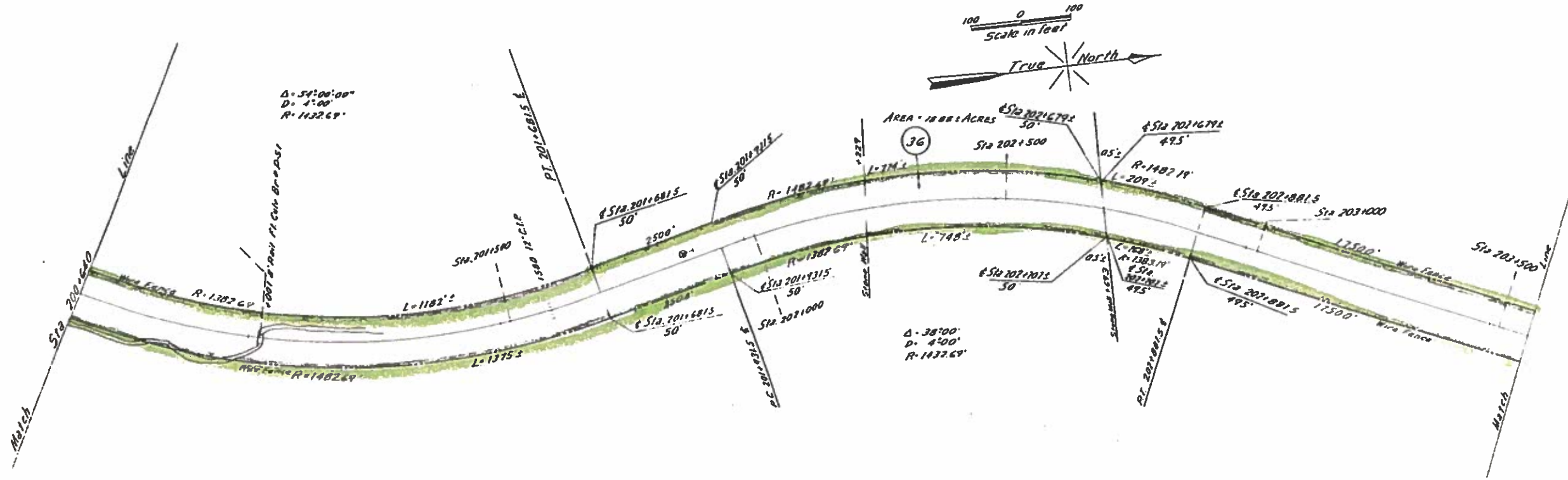


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HARTWELL - MARIOPAC, PART 1
WESTCHESTER COUNTY





Continued on Sheet No. 33

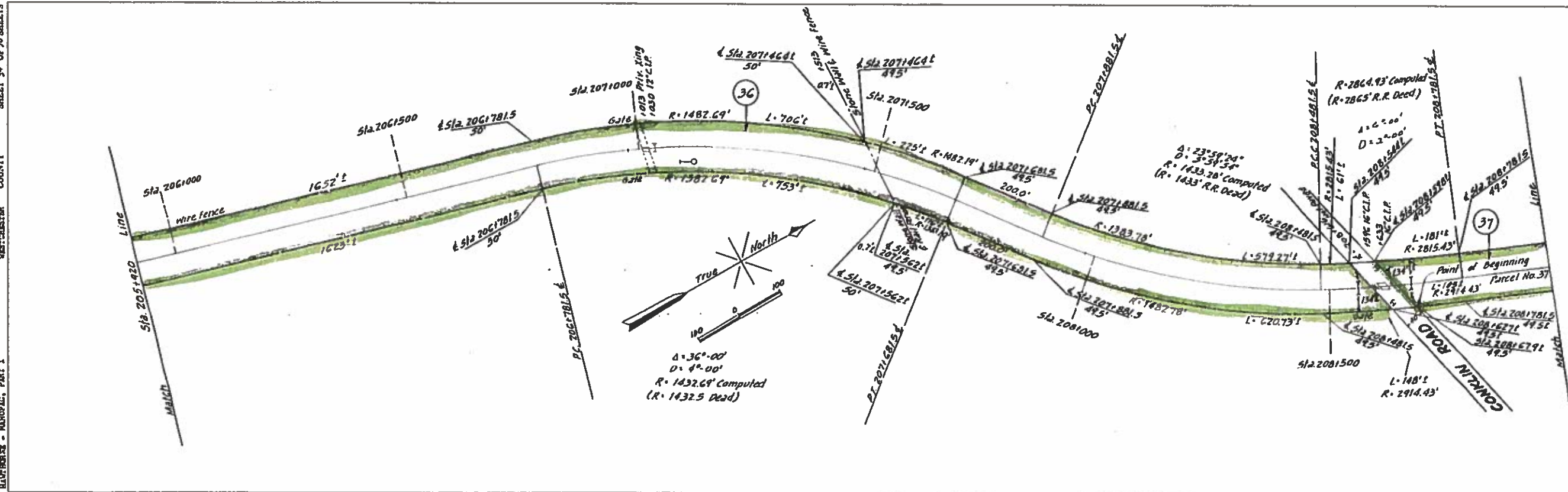


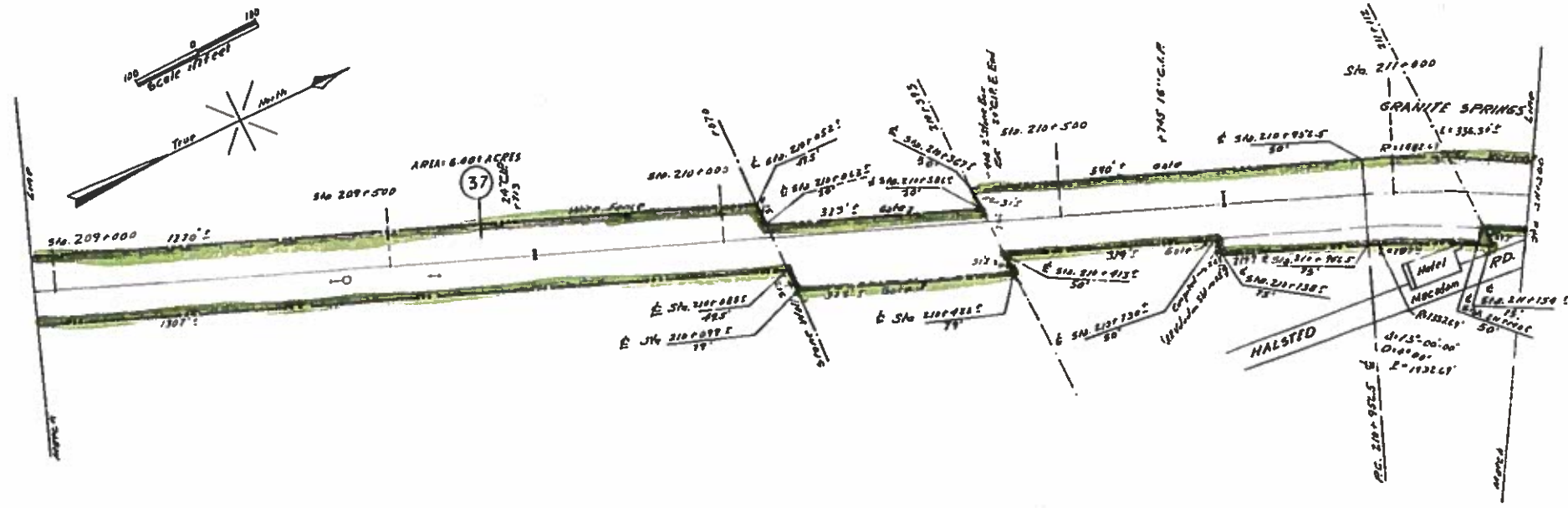
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HAUPPEURIE - MURDOCK, PART 1
WESTCHESTER COUNTY

Map No. 1
Parcel No. 1-39

NEW YORK CENTRAL RAILROAD (FORMER DIVISION)
Map No. 1-39
Sheet 32 of 50 Sheets

NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY





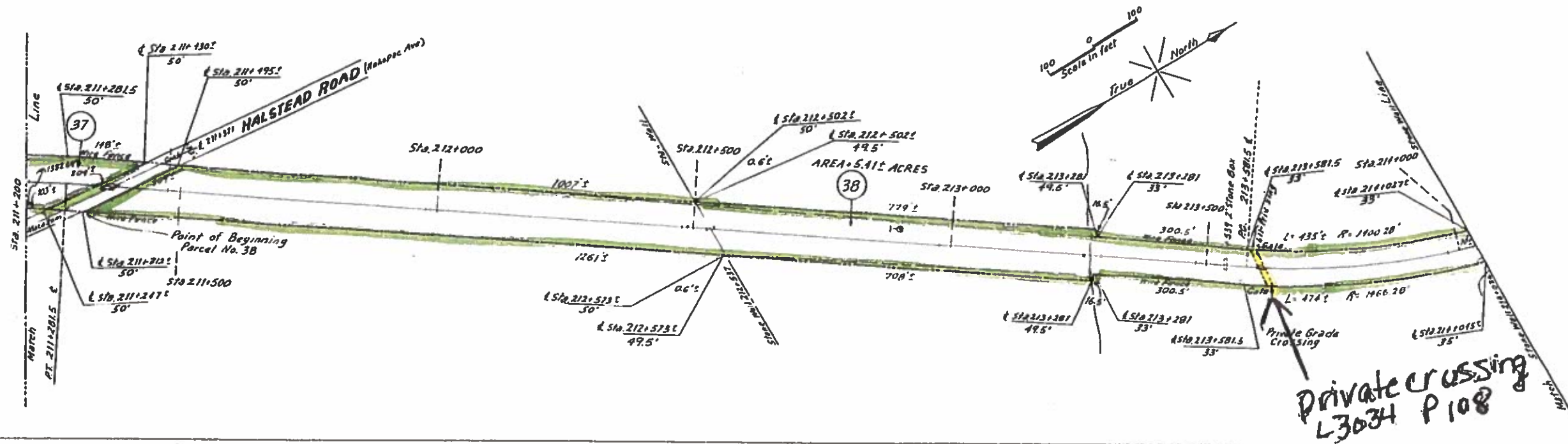
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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

WITNESSES: [Signature] [Signature]

Map No. 1
Part No. 1-33[illegible]

Page 10 of 10

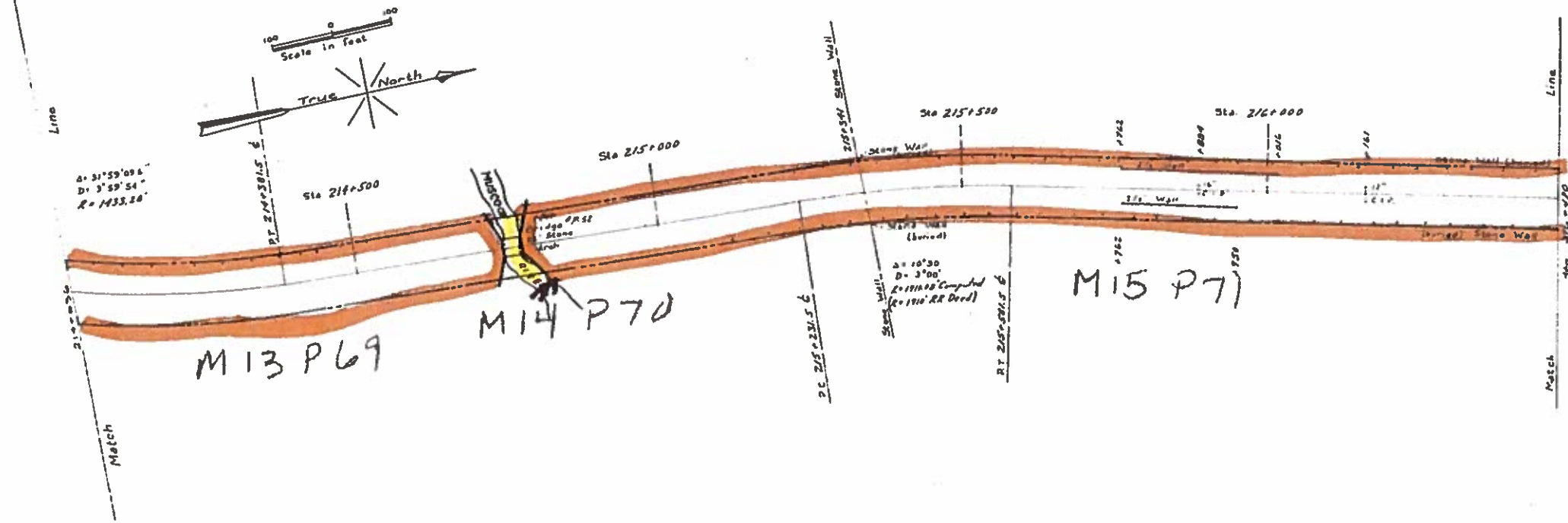


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NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
HARTFORD - MAHOPAC, PART 1
WESTCHESTER COUNTY



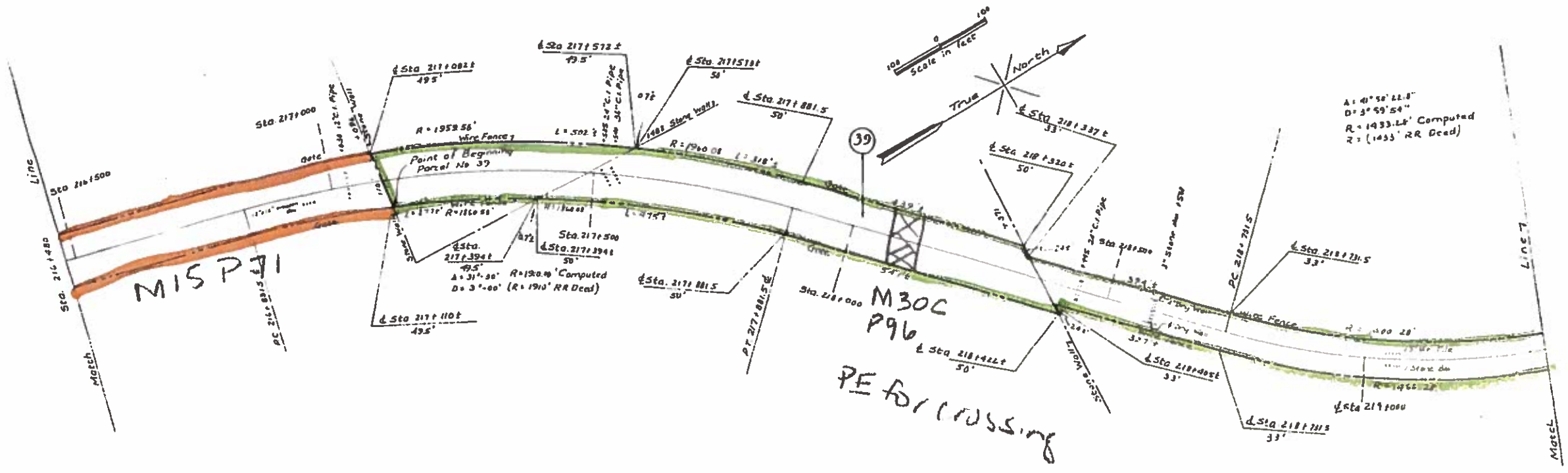
Note: The mapping of the following railroad right-of-way, between connecting station 214+00 and connecting station 217+00, is filed for information purposes only and is not for application purposes. Appropriation is covered under Met 13, Parcel 69, Met 14, Parcel 70, and Met 15, Parcel 71.



Continued on Sheet No. 38

NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

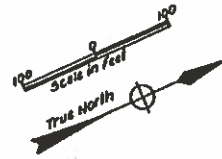




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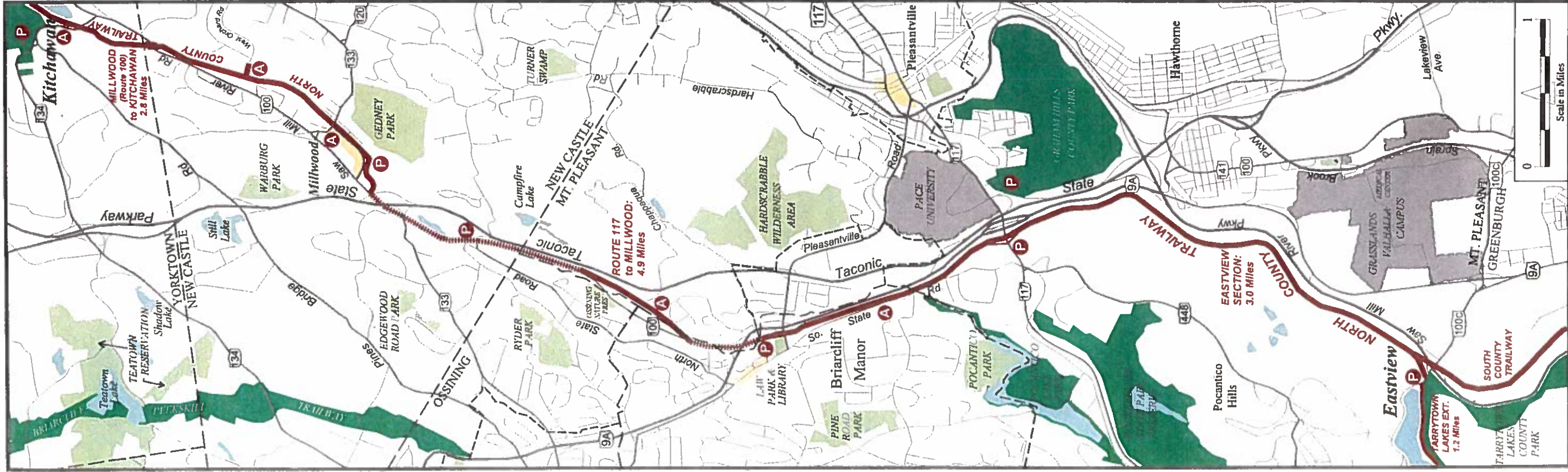
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY

UNITED STATES DEPARTMENT OF PUBLIC WORKS
BUREAU OF PUBLIC ROADS
WASHINGTON, D. C.



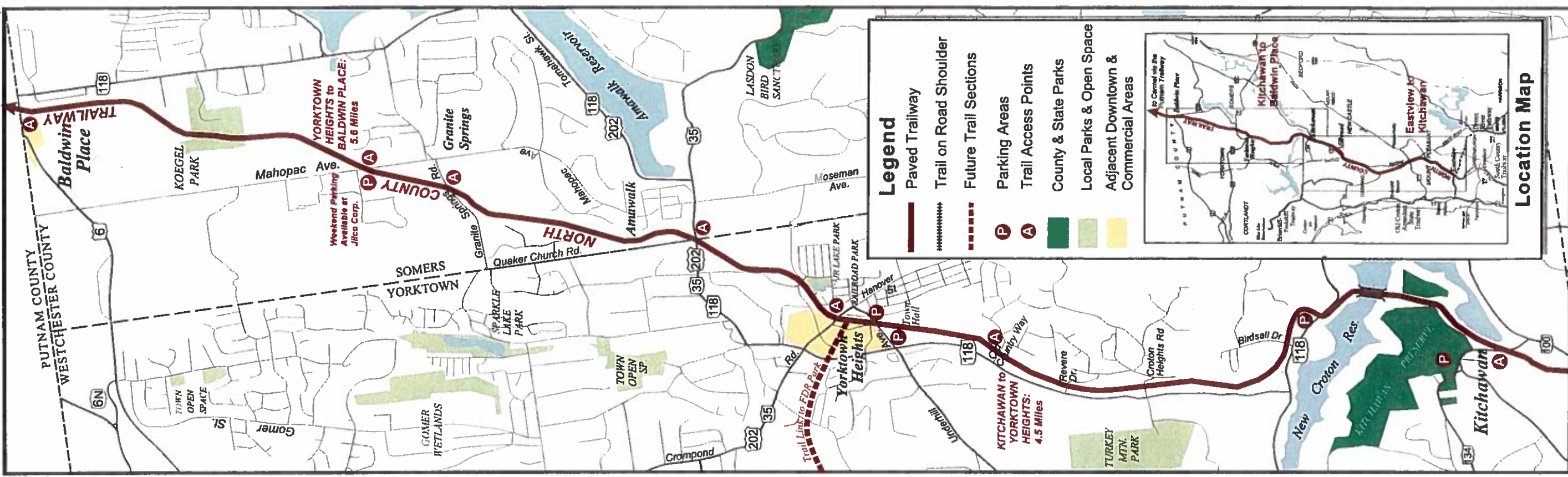
NEW YORK STATE DEPARTMENT OF PUBLIC WORKS
DESCRIPTION AND MAP FOR THE ACQUISITION OF PROPERTY
EASTBORO - WALBRIDGE, PART 1
WESTCHESTER COUNTY

EXHIBIT B – NORTH COUNTY TRAILWAY MAP



Eastview to Kitchawan

To Carmel via the Putnam Trailway



Kitchawan to Baldwin Place