

# DIVISION OF CEMETERIES

STATE OF NEW YORK  
DEPARTMENT OF STATE  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
TELEPHONE: (518) 474-6226  
FAX: (518) 473-0876  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

CEMETERY BOARD

ROSSANA ROSADO  
SECRETARY OF STATE  
CHAIR

LETITIA JAMES  
ATTORNEY GENERAL

DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

**TO:** NEW YORK STATE CEMETERY BOARD

**FROM:** MICHAEL D. SEELMAN, INVESTIGATOR II

**SUBJECT:** OAKWOOD CEMETERY ASSOCIATION, #15-052

**RE:** HAZARDOUS MONUMENT REPAIR CHECKLIST

**DATE:** October 19, 2020

Application Completed and notarized

31 Monuments Requested

**Legal Notice complete and run 3 times in The East Aurora Adviser \$80.50**

31 Monuments Appear Hazardous

Estimates: **Western New York Cemetery Service estimate \$36,184 (average (\$1,167/ monument))**

Repairs Appear Appropriate

Western New York Cemetery Services proposes 42-inch foundations and offers a twenty-year warranty.

Oakwood Cemetery was unable to solicit a second bid and included refusal letters from two other contractors

The Cemetery is up to Date on Annual Reports and Vandalism Payments

Previous disbursement used appropriately.

**Recommend Approval in the amount of \$36,264.50.**

# DIVISION OF CEMETERIES

STATE OF NEW YORK  
DEPARTMENT OF STATE

STATE OFFICE BUILDING  
44 HAWLEY STREET  
BINGHAMTON, NY 13901  
TELEPHONE: (607) 721-8756  
FAX: (607) 721-8753  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

CEMETERY BOARD

ROSSANA ROSADO  
SECRETARY OF STATE  
CHAIR

LETITIA JAMES  
ATTORNEY GENERAL  
DR. HOWARD A. ZUCKER  
COMMISSIONER OF HEALTH

## DEPARTMENT OF STATE - DIVISION OF CEMETERIES

### MEMORANDUM

**TO:** New York State Cemetery Board

**FROM:** Michael D. Seelman, Investigator II; Cynthia Craig, Investigator I

**SUBJECT:** Oakwood Cemetery Association, #15-052

**RE:** Application for Repair of Hazardous Monuments

**DATE:** October 2, 2020

#### Exhibits

- A) Application for Repair or Removal of Dilapidated or Disrepaired Monuments that Create a Hazardous Condition
- B) Western New York Cemetery Services estimate for \$36,184
- C) Stone Art Memorials and Derrick Monument Co. refusal letters
- D) Invoice and copy from The East Aurora Adviser legal notice for \$80.50

#### Introduction and Recommendation

The Division received an application (Exhibit A) for the repair of 31 hazardous monuments located in the Oakwood Cemetery of the town of East Aurora, Erie County. The application was submitted by Nancy Hibsich, secretary/ treasurer of the Oakwood Cemetery Association. Included with this application was a single estimate, from Western New York Cemetery Services (Exhibit B) totaling \$36,184. Also included were letters from Derrick Monument Co. and Stone Art Memorials (Exhibit C). Both contractors refused to provide bids as they lacked staff and equipment to complete the job. In light of this, the cemetery has requested that the single bid be deemed adequate. Also included was an invoice from the East Aurora Adviser legal notices (Exhibit D) that were run for three consecutive weeks for \$80.50.

I recommend approval of this application.



Department  
of State

## **The Monuments**

Investigator Craig visited the cemetery on, May 7, 2020 and found that all 31 of the monuments were either loose on their foundations or tipping and appeared to pose a hazard to cemetery visitors and employees. The cemetery has had no response to the legal advertisement which it placed, and has no funds dedicated to the restoration of monuments. Based on the advanced age of the monuments in question, it is assumed the foundations were laid privately by either the families or by monument contractors.

Western New York Cemetery Services proposes to: remove the monuments from the existing foundations; dig out the existing foundation; place a new foundation made of solid concrete poured to a depth of 42 inches; and replace the monument, resealing all joints with setting compound or epoxy and offers a twenty-year warranty.

## **Recommendation**

The cemetery is current with its payments to the vandalism fund and with the filing of its annual reports. They have been unsuccessful in their attempt to secure competitive bids however the Western New York Cemetery Services bid averages \$1,167 per monument. The average low bid for the last ten applications approved in western New York was \$1,085 and the average high bid was \$1,279. This appears to be a legitimate claim for \$36,264.50.

I recommend that this application be approved.

# **EXHIBIT A**



# Division of Cemeteries

RECEIVED  
DIV. OF CEMETERIES

MAY 20 2019

ALBANY OFFICE  
DEPARTMENT OF STATE

Holly 15052 v  
New York State  
Department of State  
DIVISION OF CEMETERIES  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231-0001  
Telephone: (518) 474-6226  
www.dos.ny.gov

## Application for Repair or Removal of Dilapidated or Disrepaired Monuments that Create a Dangerous Condition

This application applies only to Not-for-Profit Cemetery Corporations and must be completed in full and signed before a notary public. Funds may be allocated for the above-captioned purposes in accordance with 19 NYCRR §200.11 (statutory authority: Not-for-Profit Corporation Law, §1510-a). The full text of this Cemetery Board Directive appears on the reverse.

AMOUNT REQUESTED	\$36,264.50	COUNTY IN WHICH CEMETERY IS LOCATED	Erie
CEMETERY NAME	Oakwood Cemetery	CEMETERY ID NUMBER	15052
NAME OF CEMETERY OFFICIAL	Nancy S. Hibsich	TITLE	Sec/Treas
STREET ADDRESS	2338 Eldridge Road		
CITY/TOWN/VILLAGE	East Aurora	ZIP CODE	14052
TELEPHONE NUMBERS:	Home (716) 807-6221	Work (807) 6221	716-807-6221
E-MAIL ADDRESS	NSHibsich@gmail.com		

Has this cemetery previously applied for and received a grant from the Vandalism, Abandonment & Monument Repair Fund?  YES\*  NO  
 \*If YES, when? 2016 Amount Received: \$ 28,556.00

Was proof of completed work forwarded to the Division of Cemeteries?  YES  NO

1. Provide a description of each damaged monument and/or marker and enclose referenced photos:  
See attached

- 2. Attach copies of bids submitted by at least two contractors for the cost of repairs or removal and replacement.
- 3. Attach proof that the cemetery corporation has given not less than 60-day notice to the last known owner to repair or remove the monument or marker and that said owner has failed to do so within the time prescribed in that notice.

I, the undersigned, duly authorized, swear or affirm under the penalties of perjury that the above-named cemetery has not been able to obtain sufficient funds from the family of the deceased, that the proposed costs of the repairs or removals and replacements are fair and reasonable and that the above-described monuments and/or markers are so badly out of repair or dilapidated as to create a dangerous condition. I further swear or affirm that the information contained in this application is true and correct. I agree that, upon receipt of monies for the repair or removal of dilapidated or disrepaired monuments that create a dangerous condition, such repairs will be made as quickly as possible and documentation (receipts and statements) of the repairs and removals will be submitted to the Division of Cemeteries within 90 days following completion of work.

Signature of Cemetery Official: Nancy S Hibsich Date: 5/14/2019

RHONDA LEE KISHEL  
NOTARY PUBLIC STATE OF NEW YORK  
ERIE COUNTY  
LIC. #01K16389467  
COMM. EXP. 03/25/2023

On this 14 day of May 20 19  
appeared Nancy S. Hibsich  
known to me to be said person.  
Rhonda L. Kishel  
Notary Public

# **EXHIBIT B**

STAKE 31 STONES	NAME 1-30-19	DIVISION- PLOT- GRAVE	42 INCHES DEEP	Remove, Repair, Reset			Remove & dispose	Bronze maker	Foundation Cost	Total with Bronze	Remove & dispose	Granite Maker	Foundation Cost	Total with Granite
				Foundation	Reset	Total								
1	SAMUEL GILBERT	SECT 2	18*48	\$735.00	\$525.00	\$1,260.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
2	WILLIAM REESON	SECT 2	32*32	\$873.00	\$525.00	\$1,398.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
3	ALBERT DANNER	SECT 2	18*32	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
4	HAMBLETON	SECT 2	20*30	\$511.00	\$525.00	\$1,036.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
5	M BELLE	SECT 2	14*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
6	MARGELLA	SECT 2	14*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
7	AYRENA	SECT 2	14*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
8	MATT HEWSON	OLD SEC.	24*48	\$980.00	\$525.00	\$1,505.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
9	THOMAS WRIGHT	OLD SEC.	24*42	\$857.00	\$525.00	\$1,382.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
10	W. STEVENSON	OLD SEC.	18*30	\$860.00	\$525.00	\$1,385.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
11	FRANCIS MILLS	SECT. 1	18*38	\$900.00	\$525.00	\$1,425.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
12	LOUISA M	SECT. 1	20*28	\$470.00	\$525.00	\$995.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
13	HENERY ELLIS	SECT. 1	20*36	\$613.00	\$525.00	\$1,138.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
14	ALBERT JOHNSON	SECT. 1	22*52	\$986.00	\$525.00	\$1,511.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
15	DINGMAN	SECT. 1	24*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
16	SAMUEL JOCOY	SECT. 1	20*30	\$511.00	\$525.00	\$1,036.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
17	KENNETH HOWE	SECT. 1	12*48	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
18	BURKE BAIR	SECT. 1	14*46	\$527.00	\$525.00	\$1,052.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
19	MARY RUSHBROOK	SECT. 1	12*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
20	GEORGE RUSHBROOK	SECT. 1	12*24	\$490.00	\$525.00	\$1,015.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
21	WILCOX	SECT. 1	16*46	\$628.00	\$525.00	\$1,153.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
22	ALFRED HAINES	SECT. 3	12*36	\$400.00	\$525.00	\$925.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
23	CASE	SECT. 3	20*44	\$789.00	\$525.00	\$1,314.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
24	HENERY OFFERS	SECT. 3	20*56	\$955.00	\$525.00	\$1,480.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
25	WILLIAM DOWNEY	SECT. 3	14*32	\$400.00	\$525.00	\$925.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
26	ELIZA HAMLIN	SECT. 3	18*30	\$860.00	\$525.00	\$1,385.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
27	JOHN MCGIVERON	SECT. 3	18*34	\$880.00	\$525.00	\$1,405.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
28	WILLIAM SIEDLER	SECT. 8	14*60	\$716.00	\$525.00	\$1,241.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
29	ALOIS ALBRECHT	SECT. 8	12*50	\$510.00	\$525.00	\$1,035.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
30	THOMAS BELLO	SECT. 8	12*36	\$400.00	\$525.00	\$925.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
31	EDWARD ARNOLD	SECT. 8	16*46	\$628.00	\$525.00	\$1,153.00	\$ 165.00	\$ 1,300.00	\$ 150.00	\$ 1,615.00	\$ 165.00	\$ 950.00	\$ 150.00	\$ 1,265.00
<b>TOTAL</b>				\$19,909.00	\$16,275.00	<b>\$36,184.00</b>	\$ 4,785.00	\$ 37,700.00	\$ 4,350.00	\$ 46,835.00	\$ 4,785.00	\$ 27,550.00	\$ 4,350.00	\$ 36,685.00

Western New York lawn Service, Inc DBA WNY Cemetery Service offers written warranty for our foundation work for stone repairs for cemetery jobs are guaranteed for 20 years (Twenty), we dig below frost level stones and foundation will not move.

Western New York Lawn Service, Inc DBA WNY Cemetery Service 4085 Quakertown Rd Warsaw NY 14569 585 786 3504

**THOMAS COLLINS** NOT ON LIST 18\*28 \$428.00 \$425.00 \$853.00

# **EXHIBIT C**





NANCY HIBSCH <nshibsch@gmail.com>

---

## Foundation work for Oakwood Cemetery, East Aurora

2 messages

---

**NANCY HIBSCH** <nshibsch@gmail.com>  
To: Thomas@stoneartmemorial.com

Sat, Apr 20, 2019 at 2:39 PM

Hello,

Oakwood Cemetery is currently accepting bids for 31 foundations that are in need of repair. If you are interested in bidding, please let me know as soon as possible, and I will forward you the information needed to prepare a quote. Also, if you have no interest I would appreciate you letting me know.

Thank you,  
Nancy S. Hibschi  
Secretary/Treasurer  
Oakwood Cemetery Association

---

**Tom Koch** <thomas@stoneartmemorial.com>  
To: NANCY HIBSCH <nshibsch@gmail.com>

Tue, Apr 23, 2019 at 3:30 PM

Thank you Nancy for contacting us,

Due to the short 7-8 month season we have for completing our own memorial work it doesn't allow us to bid out restoration work however don't hesitate to contact us or stop by if there is something we can help with outside of cemetery restoration.

**Tom Koch**

**Stone Art Memorial Company, Inc.**

914 Ridge Road

Lackawanna, NY 14218

**Phone: 716-824-9278 Fax: 716-824.1861**

[Quoted text hidden]



NANCY HIBSCH <nshibsch@gmail.com>

---

## Foundation work for Oakwood Cemetery, East Aurora

3 messages

---

**NANCY HIBSCH** <nshibsch@gmail.com>  
<derrickmnt@frontiernet.net>

Sat, Apr 20, 2019 at 2:35 PM

Hello,

Oakwood Cemetery is currently accepting bids for 31 foundations that are in need of repair. If you are interested in bidding, please let me know as soon as possible, and I will forward you the information needed to prepare the quote. Also, if you have no interest I would appreciate you letting me know.

Thank you,  
Nancy S. Hibschi  
Oakwood Cemetery Association

---

**Cassie Carlsen** <derrickmnt@frontiernet.net>  
To: NANCY HIBSCH <nshibsch@gmail.com>

Sat, Apr 20, 2019 at 3:33 PM

Hi Nancy,  
Thank you very much for thinking of us! Unfortunately, we aren't staffed to take on large jobs like that at this time.  
Thank you again,  
Cassie Carlsen

Sent from my iPhone  
[Quoted text hidden]

---

**NANCY HIBSCH** <nshibsch@gmail.com>  
To: Cassie Carlsen <derrickmnt@frontiernet.net>

Sat, Apr 20, 2019 at 5:33 PM

Thanks Cassie for getting back to me so quickly. I appreciate your time.

Nancy S. Hibschi  
Oakwood Cemetery Association  
[Quoted text hidden]

# **EXHIBIT D**

State of New York } ss.  
County of Erie

LEGAL NOTICE

TO: NAME LOT AND GRAVE NUMBER; SAMUEL GILBERT SECT 2, WILLIAM REESON SECT 2, ALBERT DANNER SECT 2, HAMBLETON SECT 2, MBELLE SECT 2, MARGELLA SECT 2, AYRENA SECT 2, MATT HEWSON OLD SECT, THOMAS WRIGHT OLD SECT, W. STEVENSON OLD SECT, FRANCIS MILLS SECT 1, LOUISA M SECT 1, HENERY ELLIS SECT 1, ALBERT JOHNSON SECT 1, DINGMAN SECT 1, SAMUEL JOCOY SECT 1, KENNETH HOWE SECT 1, BURKE BAIR SECT 1, MARY RUSHBROOK SECT 1, GEORGE RUSHBROOK SECT 1, WILCOX SECT 1, ALFRED HAINES SECT 3, CASE SECT 3, HENERY OFFERS SECT 3, WILLIAM DOWNEY SECT 3, ELIZA HAMLIN SECT 3, JOHN MCGIVERON SECT 3, WILLIAM SIEDLER SECT 8, ALOIS ALBRECHT SECT 8, THOMAS BELLO SECT 8, EDWARD ARNOLD SECT 8.

This notice is addressed to the last known owner or owners of the burial lot located at Oakwood Cemetery Association, and to all persons having or claiming interest in or to said burial lot sections listed above. PLEASE TAKE NOTICE THAT (1) The monument or marker located at said burial lot is so badly out of repair or dilapidated as to create dangerous condition, (2) the persons to whom this notice is addressed to must repair or remove said monument or marker with 60 days of the date this notice is mailed, and (3) if the persons to whom this notice is addressed fail to repair or remove said monument or marker within such 60 day time period, the Oakwood Cemetery Association, may remove or repair said monument or marker without further notice to the persons to whom this notice is addressed.

Very truly yours,  
Oakwood Cemetery Association  
Nancy S. Hibsich  
2338 Eldridge Road  
East Aurora, NY 14052

34-3

Grant M. Hamilton, of the Village of East Aurora, New York, being duly sworn, deposes and says that he is the publisher of the East Aurora Advertiser, a public newspaper published weekly in said village; that the notice, of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein three weeks, commencing on the 21st day of March, 2019 and ending on the 4th day of April, 2019 making three insertions.

*Grant M. Hamilton*

Sworn before me this 15th day of April, 2019

of *Casey J Dunlap*

Notary Public in and for Erie County

CASEY J DUNLAP  
Notary Public, State of New York  
Registration# C1206356825  
My Commission Expires 04/03/2021

**East Aurora Advertiser & Elma Review**

**A Publication of Neighbor to Neighbor News Inc.**

710 Main St.  
East Aurora, NY 14052

April 15, 2019

Nancy Hibschi  
2338 Eldridge Road  
East Aurora, NY 14052

Please detach this stub and return with your remittance \$ 80.50

Legal Notice

3/21	1 <sup>st</sup> insert Oakwood Cemetery Notice	\$23.10
3/28	2 <sup>nd</sup> insert	\$17.70
4/4	3 <sup>rd</sup> insert	\$17.70
	affidavit requested on 4/15	\$22.00

**2% INTEREST PER MONTH CHARGED AFTER 30 DAY**

**East Aurora Advertiser/Elma Review**

pd. 4/22/19  
ch # 1168