



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
September 8, 2022
6:00 PM

Council Meeting Presentations

1. Public Hearing - Site Development Agreement - 137 Smith Street, 140 Montgomery Street, and 146 Montgomery Street

There will be a public hearing on Monday, September 12, 2022 to receive public comment on the proposed site development agreement with The Kearney Realty & Development Group Inc. for the transfer and redevelopment of properties located at 137 Smith Street, 140 Montgomery Street, and 146 Montgomery Street.

Habr  una audiencia p blica el lunes 12 de septiembre de 2022 para recibir comentarios p blicos sobre el propuesto acuerdo de desarrollo de  rea con The Kearney Realty & Development Group Inc. para la transferencia y nuevo desarrollo de las propiedades ubicadas en 137 Smith Street, 140 Montgomery Street y 146 Montgomery Street.

Work Session Presentations

2. USDA Urban Agriculture Program Presentation
Presentaci n del Programa de Agricultura Urbana del USDA
3. CPL Pool Presentation
Presentaci n de la piscina por CPL

Engineering/Ingenier a

4. PIN#8761.57 Lake Street (Route 32) Bridge Supplemental Agreement No. 1
Resolution authorizing the City Manager to execute Supplemental Agreement No. 1 with the New York State Department of Transportation to fund in the first instance 100% of the Federal-Aid and Non-Federal Aid eligible costs for additional construction and construction inspection work for the Lake Street/Route 32 over Quassaick Creek Bridge Rehabilitation Project

Resoluci n que autoriza al Gerente de la Ciudad a ejecutar el Acuerdo Suplementario No. 1 con el Departamento de Transporte del Estado de Nueva York para financiar en primera instancia 100% de la ayuda federal y costos elegibles de ayuda no federal para los trabajos adicionales de construcci n e inspecci n de obras para el Proyecto de Rehabilitaci n del

Puente de Lake Street/Ruta 32 sobre Quassaick Creek

5. Change Order No. 4G TAM Enterprises, Inc. Downing Pond Outlet and Stormsewer Project

Resolution authorizing Change Order No. 4G to the construction contract with TAM Enterprises, Inc. for the Downing Pond and Third Street Storm Sewer Project

Resolución que autoriza la Orden de Cambio No. 4G al contrato de construcción con TAM Enterprises, Inc. para el Proyecto de Alcantarilla de Tormentas de Downing y Third Street

6. Change Order No. 5G TAM Enterprises, Inc. Downing Pond Outlet and Stormsewer Project

Resolution authorizing Change Order No. 5G to the construction contract with TAM Enterprises, Inc. for the Downing Pond and Third Street Storm Sewer Project

Resolución que autoriza la Orden de Cambio No. 5G al contrato de construcción con TAM Enterprises, Inc. para el Proyecto de Alcantarilla de Tormentas de Downing y Third Street

7. Change Order No. 6G TAM Enterprises, Inc. Downing Pond Outlet and Stormsewer Project

Resolution authorizing Change Order No. 6G to the construction contract with TAM Enterprises, Inc. for the Downing Pond and Third Street Storm Sewer Project

Resolución que autoriza la Orden de Cambio No. 6G al contrato de construcción con TAM Enterprises, Inc. para el Proyecto de Alcantarilla de Tormentas de Downing y Third Street

8. Proposal with CJS Engineering, PC for Design of Automated Gate to Sludge Facility at WWTP

Resolution authorizing the City Manager to accept a proposal and execute a contract with CJS Engineering, P.C. in the amount of \$28,700.00 for professional engineering design services for the automatic gate entrance to the sludge facility at the Wastewater Treatment Plant

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato con CJS Engineering, P.C. por el monto de \$28,700.00 para servicios profesionales de diseño de ingeniería para la puerta automática de entrada a la instalación de lodos en la Planta de Tratamiento de Aguas Residuales

9. Award of Bid No. 20.22 Vacuum Truck Unloading Facility

Resolution authorizing the City Manager to award Bid #20.22 to J Squared Construction Corporation in the amount of \$1,874,280.00 including the deduct alternate in the amount of \$35,000.00 for the Wastewater Treatment Plant Vacuum Truck Unloading Facility Project

Resolución que autoriza al Gerente de la Ciudad a adjudicar la Licitación #20.22 a J Squared Construction Corporation por el monto de \$1,874,280.00 incluyendo el suplente de deducción por el monto de \$35,000.00 para el Proyecto de Instalaciones de Descarga de Camiones de Vacío de la Planta de Tratamiento de Aguas Residuales

10. Proposal with ARCADIS for Construction Inspection of Vacuum Truck Dewatering Facility

Resolution accepting a proposal and authorizing the City Manager to execute a contract with Arcadis of New York Inc. for professional engineering services for construction inspection in the Wastewater Treatment Plant Vacuum Truck Unloading Facility Project in the amount of \$129,820.00

Resolución que acepta una propuesta y autoriza al Gerente de la Ciudad a ejecutar un contrato con Arcadis of New York Inc. para servicios profesionales de ingeniería para la inspección de la construcción en el PProyecto de Instalaciones de Descarga de Camiones de Vacío de la Planta de Tratamiento de Aguas Residuales por el monto de \$129,820.00

Finance/Finanza

11. 2022 PKFOD Engagement Letter (Audit)

Resolution authorizing the City Manager to execute a letter agreement between the City of Newburgh and the firm of PKF O'Connor Davies, LLP for auditing services for fiscal year ending December 31, 2022 for the price of \$91,000.00

Resolución que autoriza al Gerente de la Ciudad a ejecutar una carta de acuerdo entre la Ciudad de Newburgh y la firma PKF O'Connor Davies, LLP para servicios de auditoría para el año fiscal que termina el 31 de diciembre de 2022 por el precio de \$91,000.00

12. Amend 2022 Budget for Self Insurance

Resolution amending Resolution No: 283-2021, the 2022 Budget for the City of Newburgh, New York for a Self-Insurance Fund adjustment due to a judgment payment

Resolución que enmienda la Resolución No: 283-2021, el Presupuesto 2022 de la Ciudad de Newburgh, Nueva York para un ajuste del Fondo de Autoseguro debido al pago de una sentencia

Water Department/ Departamento de Aqueductos

13. Update Qualified Contractor List for Lead Line Replacement Program Res#53-2022

Resolution updating the list of qualified plumbing contractors to perform work in connection with the City of Newburgh Lead Service Line Replacement Program

Resolución que actualiza la lista de contratistas de fontanería cualificados para realizar trabajos en relación con el programa de sustitución de líneas de servicio de plomo de la Ciudad de Newburgh

Planning and Economic Development/Planificación y Desarrollo Económico

14. 231 Washington Street - Satisfaction of Mortgage

Resolution authorizing the City Manager to execute a Satisfaction of Mortgage in connection with a mortgage issued to Sandra D. Moore for the premises located at 231 Washington Street (Section 38, Block 2, Lot 17)

Resolución que autoriza al Gerente de la Ciudad a ejecutar una Satisfacción de Hipoteca en relación con una hipoteca emitida a favor de Sandra D. Moore para las instalaciones ubicadas el 231 Washington Street (Sección 38, Bloque 2, Lote 17)

15. 31 & 33 South Miller Street - Satisfaction of Mortgage

Resolution authorizing the City Manager to execute a Satisfaction of Mortgage in connection with a mortgage issued to SMS Associates II LP for the premises located at 31 South Miller Street (Section 30, Block 1, Lot 14) and 33 South Miller Street (Section 30, Block 1, Lot 13)

Resolución que autoriza al Gerente de la Ciudad a ejecutar una Satisfacción de Hipoteca en relación con una hipoteca emitida a favor de SMS Associates II LP para las instalaciones ubicadas en 31 South Miller Street (Sección 30, Bloque 1, Lote 14) y 33 South Miller Street (Sección 30, Bloque 1, Lote 13)

16. 70 Leroy Place - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to John Davis & Sheila Stepp to the premises known as 70 Leroy Place (Section 4, Block 10, Lot 4)

Resolución que autoriza la ejecución de una liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a John Davis y Sheila Stepp a las instalaciones conocidas como 70 Leroy Place (Sección 4, Bloque 10, Lote 4)

17. 169 Johnston Street - Extension of Time to Close

Resolution extending the time to close for the conveyance of real property

known as 169 Johnston Street (Section 18, Block 2, Lot 2) at private sale to Garfield A. Bruff (d/b/a Boss Building Company)

Resolución extendiendo el tiempo de cierre para el traspaso del bienes raíces conocida como 169 Johnston Street (Sección 18, Bloque 2, Lote 2) en venta privada a Garfield A. Bruff (d/b/a Boss Building Company)

18. License Agreement Addendum with Strongroom for use and access to 134 Grand Street (Dutch Reformed Church) for an artwork display

Resolution authorizing the City Manager to execute an addendum to a license agreement with Strongroom for exterior use and access to the Dutch Reformed Church located at 134 Grand Street (Section 19, Block 1, Lot 25) for an artwork display

Resolución que autoriza al Gerente de la Ciudad a ejecutar una adenda a un acuerdo de licencia con Strongroom para el uso exterior y el acceso a la Iglesia Reformada Holandesa ubicada en 134 Grand Street (Sección 19, Bloque 1, Lote 25) para una exhibición de obras de arte

19. Annual Agreement with Orange-Ulster BOCES for the Storage of Archived Municipal Records and Records on Microfilm

Resolution authorizing the City Manager to enter into an agreement with Orange-Ulster BOCES for the storage of archived municipal records and municipal records on microfilm

Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo con Orange-Ulster BOCES para el almacenamiento de registros municipales archivados y registros municipales en microfilm

20. Vendor Services Agreement with Marcy Handler for DRI grant consulting services

Resolution authorizing an agreement between the City of Newburgh and Marcy Handler for professional consulting services related to the preparation of the 2022 Downtown Revitalization Initiative Grant

Resolución que autoriza un acuerdo entre la Ciudad de Newburgh y Marcy Handler para servicios profesionales de consultoría relacionados con la preparación de la Subvención de la Iniciativa de Revitalización del Centro de la Ciudad de 2022

21. Vendor Services Agreement with Elizabeth McEnaney for Restore NY grant consulting services for the Dutch Reformed Church

Resolution authorizing an agreement between the City of Newburgh and Elizabeth McEnaney for professional consulting services related to the preparation of the 2022 NY Restore Communities Initiative grant application for the Dutch Reformed Church

Resolución que autoriza un acuerdo entre la Ciudad de Newburgh y Elizabeth McEnaney para los servicios de consultoría profesional relacionados con la preparación de la solicitud de subvención de la Iniciativa Restaurar Comunidades 2022 de NY para la Iglesia Reformada Holandesa

Grants/Contracts/Agreements / Becas /Contratos/Convenios

22. Schedule 2nd Public Hearing for the FY2023 Community Development Block Grant (CDBG) Annual Action Plan (AAP)

Resolution opening a second 30-day public comment period and scheduling a second public hearing for September 26, 2022 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the Annual Action Plan for Fiscal Year 2023

Resolución que abre un segundo período de comentarios públicos de 30 días y programa una segunda audiencia pública para el 26 de septiembre de 2022 para recibir comentarios públicos sobre las acciones propuestas por la Ciudad de Newburgh con respecto al Programa de Subvenciones en Bloque de Desarrollo Comunitario para el Plan de Acción Anual para el Año Fiscal 2023

23. Resolution Authorizing the City Manager to Apply for and Accept if awarded a Downtown Revitalization Initiative Grant in an Amount not to Exceed \$10,000,000

Resolution authorizing the City Manager to apply for and accept if awarded a Downtown Revitalization Initiative Grant in an amount not to exceed \$10,000,000.00

Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si es otorgada una Subvención de la Iniciativa de Revitalización del Centro de la Ciudad en una cantidad que no exceda \$10,000,000.00

24. Public Hearing - City of Newburgh's Round 6 NY Restore Communities Initiative Applications

Resolution scheduling a public hearing for September 26, 2022 to receive public comment on the City of Newburgh's Round 6 NY Restore Communities Initiative grant applications for rehabilitating three properties located on Lander Street and rehabilitating the Dutch Reformed Church

Resolución que programa una audiencia pública para el 26 de septiembre de 2022 para recibir comentarios públicos sobre las solicitudes de subvención de la Ronda 6 de la Iniciativa para la Restauración de las Comunidades de Nueva York para rehabilitar tres propiedades ubicadas en Lander Street y rehabilitar la Iglesia Reformada Holandesa

25. Agreement with Auctions International, Inc

Resolution authorizing the City Manager to execute an agreement with Auctions International, Inc. to provide liquidation services to the City of Newburgh

Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo con Auctions International, Inc. para proporcionar servicios de liquidación a la Ciudad de Newburgh

26. To Amend Resolution #147-2022 GIVE Grant

Resolution amending Resolution No. 147-2022 and authorizing the City Manager to accept an award from the New York State Department of Criminal Justice Services under the Gun Involved Violence Elimination (“GIVE”) Partnership for funding in the amount of \$418,869.00 with no City match for the period July1, 2022 to June 30, 2023

Resolución que enmienda la Resolución No. 147-2022 y autoriza al Gerente de la Ciudad a aceptar una adjudicación del Departamento de Servicios de Justicia Criminal del Estado de Nueva York en el marco de la Asociación de Eliminación de Violencia Involucrada con Armas de Fuego (GIVE) para la financiación por el monto de \$418,869.00 el cual no requiere que la Ciudad iguale los fondos durante el periodo del 1 de julio de 2022 al 30 de junio de 2023

27. To Apply for and Accept if Awarded FY 2021 Project Safe Neighborhood (PSN) Award for \$121,081

Resolution authorizing the City Manager to apply for and accept if awarded a United States Department of Justice Project Safe Neighborhoods Program Grant through the Gifford Foundation in the amount of \$121,081.00 with no City match required

Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si es otorgado una Subvención del Programa de Proyecto de Barrios Seguros del Departamento de Justicia de los Estados Unidos a través del Gifford Foundation por el monto de \$121,081.00, el cual no requiere que la Ciudad iguale los fondos

28. Agreement with Orange County to accept a Trailer and 2 CAN AM Outlanders

Resolution authorizing the City Manager to enter into an Inter-Municipal Agreement with the County of Orange as part of the FY 2018 State Law Enforcement Terrorism Prevention Program, Department of Homeland Security and Emergency Services to provide the Newburgh Police Department with one white enclosed trailer and two CAN-AM Outlander XT

Resolución que autoriza al Gerente de la Ciudad a entrar en un Acuerdo Intermunicipal con el Condado de Orange como parte del Programa

Estatul de Prevención del Terrorismo del año fiscal 2018, Departamento de Seguridad Nacional y Servicios de Emergencia para proporcionar al Departamento de Policía de Newburgh un remolque blanco cerrado y dos CAN-AM Outlander XT

Police Department

29. PIPC Permit - EVOC Training Citizens Police Academy

Resolution authorizing the City Manager to execute a New York State Office of Parks, Recreation and Historic Preservation event permit for the Citizen Police Academy Emergency Vehicle Operator Course at Lake Welch—Harriman State Park

Resolución que autoriza al Gerente de la Ciudad a ejecutar un permiso de evento de la Oficina de Parques, Recreación y Conservación Histórica del Estado de Nueva York para el Curso de Operador de Vehículos de Emergencia de la Academia de Policía Ciudadana en el Parque Estatal del Lago Welch-Harriman

30. Disposal of ballistic vests

Resolution declaring Police Department ballistic vests to be surplus and authorizing disposition pursuant to the City of Newburgh's Surplus Property Disposition Policy

Resolución por la que se declaran excedentes los chalecos balísticos del Departamento de Policía y se autoriza su disposición de acuerdo con la Política de Disposición de Bienes Excedentes de la Ciudad de Newburgh

Resolutions of Support/ Resoluciones de Apoyo

31. The Clean Slate Act (S1553D/A6399C)

Resolution of the City Council of the City of Newburgh urging the New York State Legislature to pass the "Clean Slate Act" (S1553D/A6399C)

Resolución del Concejo Municipal de la Ciudad de Newburgh urgiendo a la Legislatura del Estado de Nueva York a aprobar la "Clean Slate Act" (S1553D/A6399C)

Local Laws/Leys Locales

32. Public Hearing - Local Law to Repeal and Replace City Charter, Article IX, Department of Public Works

Resolution scheduling a public hearing for September 26, 2022 to hear public comment concerning "A Local Law Repealing and Replacing Article IX of the Charter of the City of Newburgh Entitled 'Department of Public Works.'"

Resolución que programa una audiencia pública para el 26 de septiembre de 2022 para escuchar comentarios públicos sobre "Una ley local que deroga y reemplaza el artículo IX de los Estatutos de la Ciudad de Newburgh titulado Departamento de Obras Públicas."

33. Public Hearing - Local Law amending Chapter 183, "Waste Management, Handling and Disposal"

Resolution scheduling a public hearing for September 26, 2022 to hear public comment concerning "A Local Law Amending Chapter 183 of the City of Newburgh Code of Ordinances Entitled 'Waste Management, Handling and Disposal.'"

Resolución que programa una audiencia pública para el 26 de septiembre de 2022 para escuchar comentarios públicos sobre "Una ley local que enmienda el Capítulo 183 del Código de Ordenanzas de la Ciudad de Newburgh titulado 'Gestión, manejo y eliminación de residuos'"

Discussion Items/Temas de Discusión

34. Street Naming - Nathaniel & Rebecca Youngblood

Resolution naming the intersection of Lutheran Street and Van Ness Street in honor of Nathaniel and Rebecca Youngblood

Resolución por la que se nombra la intersección de Lutheran Street y Van Ness Street en honor a Nathaniel y Rebecca Youngblood

Executive Session/ Sesión Ejecutiva

35. Proposed, pending or current litigation

Litigio propuesto, pendiente o actual

RESOLUTION NO.: 188 - 2022

OF

AUGUST 8, 2022

A RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 12, 2022
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
PROPOSED ACTION TO ENTER INTO A SITE DEVELOPMENT AGREEMENT WITH
THE KEARNEY REALTY & DEVELOPMENT GROUP INC. FOR THE TRANSFER AND
REDEVELOPMENT OF PROPERTIES LOCATED AT 137 SMITH STREET (SECTION 12,
BLOCK 4, LOT 4.1), 140 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 10),
AND 146 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 2.1)

WHEREAS, the City of Newburgh issued Request for Proposals ("RFP") No. 6.21 for the redevelopment properties located at 137 Smith Street (Section 12, Block 4, Lot 4.1), 140 Montgomery Street (Section 12, Block 4, Lot 10), and 146 Montgomery Street (Section 12, Block 4, Lot 2.1) (collectively the "Properties"); and

WHEREAS, the Mayor's Strategic Economic Development Advisory Committee ("SEDAC") reviewed all of the proposals submitted in connection with the RFP and recommended the proposal to redevelop the Properties set forth by the Kearney Realty & Development Group Inc. to the City Council; and

WHEREAS, the Properties are considered "Urban Renewal" property and thus subject to several requirements contained in the New York State General Municipal Law, one such requirement being conducting a public hearing in connection with a potential sale; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that there is scheduled a public hearing to receive public comment on the City of Newburgh's proposed actions to enter into a site development agreement for the redevelopment and sale of the Properties; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 12th day of September, 2022 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York; and

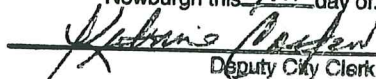
BE IT FURTHER RESOLVED, in the event that due to public health and safety concerns related to COVID-19, the state of emergency as set forth in Governor Hochul's Executive Order 11.1, as amended, is extended, and consistent with Chapter 1 of the Laws of 2022, the September 12, 2022 City Council meeting will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed action as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:
https://us06web.zoom.us/webinar/register/WN_iXnu2aL6SDux4H1Afi0eDQ. Please note that there is an underscore between the "N" and "i").

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, September 12, 2022 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_iXnu2aL6SDux4H1Afi0eDQ. Please note that there is an underscore between the "N" and "i"). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC HEARING ITEM" by 4:00 p.m. on Monday, September 12, 2022. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

I, Katrina Cottien, Deputy City Clerk of the City of Newburgh
hereby certify that I have compared the foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held 8/8/22
and that it is a true and correct copy of such original.
Witness my hand and seal of the City of
Newburgh this 9th day of Aug. 20 22

Deputy City Clerk

SITE DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWBURGH

AND

THE KEARNEY REALTY & DEVELOPMENT GROUP INC.

DATED AS OF _____, 2022

Regarding:

137 Smith Street, Tax ID 12-4-4.1
140 Montgomery Street, Tax ID 12-4-10
146 Montgomery Street, Tax ID 12-4-2.1
City of Newburgh, Orange County, New York

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SITE DEVELOPMENT AGREEMENT

THIS SITE DEVELOPMENT AGREEMENT ("Agreement") dated _____, 2022 between the City of Newburgh, a municipality of the State of New York, having a principal office at City Hall, 83 Broadway, Newburgh, NY 12550 ("City") and The Kearney Realty & Development Group Inc., a domestic business corporation having an address of 57 Route 6, Baldwin Place, New York 10505 ("Developer").

WITNESSETH:

WHEREAS, the City is the owner of three (3) parcels of property, all located in the City of Newburgh, and more accurately referred to as: (1) 137 Smith Street [Section 12, Block 4, Lot 4.1]; (2) 140 Montgomery Street [Section 12, Block 4, Lot 10]; and (3) 146 Montgomery Street [Section 12, Block 4, Lot 2.1] on the official tax map of the City of Newburgh, (collectively referred to herein as the "Property"); and

WHEREAS, the City desires to provide for the redevelopment of the Property for residential and commercial (i.e. mixed-use) uses; and

WHEREAS, pursuant to a request for proposals, based on their representations as to qualifications, experience and financial capacity, the City selected the Developer to redevelop the Property; and

WHEREAS, the Developer has proposed to acquire the Property from the City for the purposes of developing the Property, and City desires to convey the Property to the Developer pursuant to the terms set forth in this Agreement; and

WHEREAS, the Developer acknowledges that the City is conveying the Property subject to the terms and conditions set forth herein for the purpose of providing for the redevelopment of the Property in accordance with this Agreement; and

NOW THEREFORE, in consideration of mutual covenants herein contained and the payment of the sum of on dollar by the Developer to City, the receipt of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

SECTION 1.01 Definitions. Any terms set forth in this section shall have the meanings ascribed to them for all purposes of this Agreement, unless the context clearly requires otherwise.

"Approvals and Permits" shall mean, collectively, all approvals and permits actually issued from all governmental or administrative agencies or regulatory bodies having jurisdiction for the construction and operation of the redevelopment of the Property, including, without limitation, all site plan approvals, zoning variances, easement and franchise agreements. "Approvals and Permits"

shall also mean all applications for building permits, licenses, permits and permissions to construct and maintain all on-site and off-site improvements, curbscuts, roadway, mediate cuts and utility lines and services.

“Architect” shall mean a professional architect or professional engineer or firm of professional architects or professional engineers licensed by the State of New York, and reasonably acceptable to City.

“Awards” shall mean grants, loans, or any other funding from a Governmental Authority, as Governmental Authority is further defined herein.

“Business Day” shall mean a day other than i) any Saturday, Sunday, or other day on which banks located in the City of Newburgh are authorized or required to be closed, or ii) any day on which the offices of the City of Newburgh are closed.

“Certificate of Occupancy” shall mean a permanent certificate of occupancy issued by the City of Newburgh Code Compliance Bureau.

“City” shall mean the City of Newburgh, a municipal corporation of the State of New York having a place of business at 83 Broadway, Newburgh, New York 12550, its successors and/or assigns.

“Claims” shall mean any and all claims (whether in tort, Agreement or otherwise), demands, liabilities, obligations, damages, penalties, costs, charges and expenses, for losses, damage, injury and liability of every kind and nature and however caused, and taxes, including, without limitation, reasonable fees of architects, engineers and attorneys, administrative or judicial actions, suits, orders, liens, notices, notice of violations, investigations, complaints, requests for information, proceedings, or other communication (written or oral), whether criminal or civil.

“Closing Date” shall mean the date of closing of title pursuant to Section 3.03.

“Closing Deadline” shall mean the date which is set forth in Schedule “C” as the closing deadline.

“Developer” shall mean **The Kearney Realty & Development Group Inc.**, its successors and/or assigns to the extent permitted under Section 12.01 of this Agreement.

“Earnest Money” shall mean the amount payable pursuant to Section 4.01(a).

“Force Majeure” shall mean acts of God, strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the United States or any civil or military authority in the exercise of its police powers; insurrection, civil disturbances, or riots; or impossibility of procuring materials.

“Governmental Authority” shall mean the United States, State of New York, and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of

any of them having jurisdiction over the Property including, but not limited to the United States, the U.S. Environmental Protection Agency, or any state or local environmental protection agency.

“Housing Units” shall mean apartment units intended to be occupied by a single person or family other than on a transient basis.

“Improvements” shall mean any buildings, structures, or other improvements, now or hereafter constructed or place upon, under or affixed to the Property, including without limitation any fixtures.

“Lending Institution” shall mean any insurance company, bank or trust company, college, university charitable institution or union, pension, profit or retirement fund or trust, governmental agency or fund, real estate investment trust, or other financial or lending institution whose loans on real estate or respect thereto are regulated by state or federal law, and which is not a Related Party to the Developer.

“Liens” shall mean any interest in real or personal property securing an obligation owed to a person, whether such interest is based on the common law, statute or agreement, and including, but not limited to, a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” includes reservations, exceptions, encroachments, projection, easements, right of way, including but not limited to, mechanics’, materialman’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For purposes hereof, a “person” shall be deemed to be the owner of real or personal property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the property has been retained by or vested in some other person for security purposes.

“Net Proceeds” shall mean so much of the proceeds with respect to which that term is used as remain after payment of all fees for the costs of adjustment and collection, services, expenses, and taxes (including reasonable attorneys’ fees) incurred in connection with Closing.

“Person” shall mean an individual, partnership, corporation, trust, unincorporated organization or Government Authority.

“Plans and Specifications” shall mean the plans, specifications, drawings and related documents for the Improvements which shall be prepared by a New York Stated Licensed Architect or Professional Engineer, and shall be as detailed as the plans required to be submitted to the building inspector of the City for purposes of obtaining a building permit, including but not limited to a site plan that includes a landscaping plan, a drainage plan, pedestrian and vehicle ingress and egress, a floor plan, mark-outs for water, sewer and utilities, exterior materials, colors and elevations, parking, and signage, including all amendments and modifications thereof made in accordance with the terms hereof.

“Project” shall mean the development project, which shall include new construction permitted in the applicable zone(s) in accordance with all state and local code requirements, and as further set forth in this Agreement.

“Project Lender” shall mean a Lending Institution that is the mortgagee of a Project Mortgage financing construction of the Project.

“Project Mortgage” shall mean one or more mortgages on Developer’s interest in the Property and Improvements obtained from a Lending Institution, the proceeds of which are used for the development of the Project including, without limitation, soft costs, hard costs and financing costs related thereto and any refinancing by a Lending Institution.

“Property” shall mean the property described at Section 3.01 to be conveyed pursuant to this Agreement.

“Purchase Price” shall mean the purchase price set forth in Section 4.01.

“Related Party” shall mean, with respect to any Person, any other Person if such other Person controls or is controlled by or under common control with the Person.

“Taxes” shall mean all taxes, assessments, water and sewer rents, rates and charges, vault license fees or rentals, levies license and permit fees and all other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, foreseen and unforeseen, which shall be charged, levied, laid, assessed, imposed upon, become due and payable out of or in respect of, or become liens upon the whole or any part of the Property or Improvements, together with all interest and penalties, under all present or future laws, ordinances, requirements, orders, directives, rules or regulations or the federal, state, county, school and city governments and of all other Governmental Authorities whatsoever.

“Title Insurer” shall mean such title insurance company as shall be mutually acceptable to the City and the Developer for the issuance of the policies of title insurance referred to in Section 3.02.

SECTION 1.02 Interpretation. As used in this Agreement, the masculine shall include the feminine and neuter and vice versa, the singular shall include the plural and the plural shall include the singular, as the context may require. References to sections or subsections herein shall mean the applicable section of subsection of this Agreement, unless the context clearly requires otherwise.

ARTICLE 2 DEVELOPER’S REPRESENTATIONS

SECTION 2.01 Developer’s Representations. Developer makes the following representations and warranties to City in conjunction with the conveyance of the Property:

- (a) Developer is a domestic business corporation duly formed and in good standing under the laws of the State of New York; is duly qualified to transact business in the State of New York; and has the requisite corporate power and authority to enter into this Agreement and any other documents required by the Parties to effectuate this Agreement including. The execution, delivery and performance by Developer of such documents does not conflict with or result in a violation of Developer's organizing documents or any judgment, order or decree of any court or arbiter to which Developer is a party or by which it is bound. Such documents are valid and binding obligations of Developer, enforceable in accordance with their terms. There is no suit, action, proceeding or litigation pending or, to the best of Developer's knowledge, threatened, against or affecting the Developer by or before any court, arbitrator, administrative agency or other Governmental Authority which might have material effect on the validity of the transaction contemplated hereby or the ability of the Developer to perform its obligations under this Agreement.
- (b) Developer intends to proceed to seek the Approvals and Permits for the construction of the Project promptly following the execution of this Agreement.
- (c) Developer has the requisite financial capacity and technical expertise and is in all respects capable of constructing the Project.
- (d) Developer's financial capacity to complete the project relies, in whole or in part, on an Award from a Governmental Authority. As such, Developer shall provide the name of the Award(s) and the Governmental Authority(ies) charged with review and issuance of the Award(s) contemporaneous with the signing of this Agreement. Developer represents to the best of its knowledge that it is qualified to apply for and receive said Award(s), and the Award(s) may be used to fund the Project. Unless already awarded or received, Developer shall promptly apply for said Award(s) and provide the City with timely updates on application deadlines, expected Award determination dates, and actual Award funding dates.
- (e) The Project will be constructed to meet all requirements of Permits and Approvals and applicable requirements of any Governmental Authority having jurisdiction over the Developer, the Property, the Improvements or their use or operation.
- (f) All certificates or statements furnished to the City by or on behalf of the Developer in connection with the transaction contemplated hereby are true and complete.
- (g) Additional Developer representations unique to this Project are annexed hereto as "Schedule E," are jointly and severally material to inducing the City into entering into this agreement, are fully incorporated into this Agreement and made part hereof, and shall survive closing of title as contemplated in Section 3.

ARTICLE 3
CONVEYANCE OF PROPERTY AND ACCEPTABLE TITLE

SECTION 3.01 Conveyance of Property. Upon satisfaction of the conditions precedent to conveyance set forth in Article 5 of this Agreement, and subject to the further terms of this Agreement, City shall convey to Developer and Developer shall purchase, at the price and upon the terms and conditions set forth in this Agreement, the Property in the City of Newburgh, Orange County, the Property, which includes:

- (a) the real property located in Orange County and described in Schedule “A” attached hereto and made part hereof (the “Land”);
- (b) all Improvements constructed or situated on the Land as of the date of Closing;
- (c) all right, title and interest currently held by the City, if any, in and to any and all strips and gores of land adjacent to or adjoining the Land, and all of the Land lying in the bed of any street or highway in front of or adjoining the Land to the center line thereof and to any unpaid award for any taking by condemnation or any damages to the Land by reason of a change of grade of any street or highway;
- (d) all appurtenances and all the estate and rights currently held by the City in and to the Land.
- (e) the appurtenances and all the estate and rights currently held by the City in and to the Land and Improvements; and
- (f) all right, title and interest currently held by the City, if any, in and to the furniture, machinery, fixtures, equipment attached to or located on the Land or the Improvements (collectively referred to in the Agreement as the “Equipment”)

SUBJECT TO the any easements or rights-of-way of record.

SECTION 3.02. Title; Permitted Exceptions. City shall convey fee simple title to the Property in accordance with the terms of this Agreement, subject only to the following exceptions (collectively referred to as the “Permitted Exceptions”):

- (a) the matters set forth in Schedule “B” attached hereto;
- (b) statutory liens for current taxes, assessments or other governmental charges not yet delinquent; and
- (c) zoning, entitlement and other land use and environmental regulations by the City, provided that such regulations have not been violated.

SECTION 3.03 Closing. Except as otherwise provided in Schedule C, the closing of title pursuant to this Agreement (the “Closing”) shall take place at 10:00 a.m. on a specific date determined by the parties, but in no event later than 24 months from the date of this Agreement, at the offices of the Corporation Counsel at City Hall, 83 Broadway, Newburgh, NY, or at such other date or location as may be agreed to by the parties (the actual date of the Closing being herein referred to as the “Closing Date”).

ARTICLE 4
PURCHASE PRICE; ACCEPTABLE FUNDS

SECTION 4.01 Purchase Price; Down Payment. The purchase price (the “Purchase Price”) to be paid by Developer for the Property shall be \$200,000.00, payable as follows:

- (a) The Developer shall pay to the City a down payment of \$20,000.00 (the “Earnest Money”) upon the execution of this Agreement, which Earnest Money shall be non-refundable, except to the extent provided in Section 7.02.
- (b) The Earnest Money shall be applied as a credit toward the Purchase Price at Closing.
- (c) The balance of the Purchase Price shall be paid to the City at Closing.

SECTION 4.02 Acceptable Monies. All monies payable under this Agreement, unless otherwise specified in this Agreement shall be paid by:

- (a) Certified checks of the Developer on behalf of the Developer or any person making a purchase money loan to the Developer drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, payable to the order of the City;
- (b) Official bank checks drawn by any such banking institution, payable to the order of the City; or
- (c) Wire transfer to an account specified by Seller.

ARTICLE 5
CONDITIONS PRECEDENT

SECTION 5.01 Conditions to Developer’s Obligation; Right to Terminate. In addition to the conditions otherwise set forth herein, the Developer’s obligations to purchase shall be contingent upon the following conditions:

- (a) Prior to conveyance of the Property, the Developer shall have the option to terminate this Agreement, but without the right to receive a refund of the Earnest Money and any costs incurred by Developer in connection with the Project.
- (b) Developer shall be deemed to have waived all contingencies if written notice is not given to City on or prior to the Closing Date.

SECTION 5.02 Conditions to City’s Obligations. In addition to the conditions otherwise set forth herein, City’s obligations to convey the Property shall be contingent upon the following conditions:

- (a) Developer shall have paid the Purchase Price as provided in Article 3 of this Agreement.
- (b) Developer shall have deposited all Required Guarantees, if any, required by this Agreement.
- (c) Developer shall have obtained all required Approvals and Permits for the Project.

(d) Developer shall not be in default under this Agreement.

SECTION 5.03 City's Right to Terminate. City shall have the right to terminate this Agreement by written notice to the Developer, but without any obligation to refund the Earnest Money, if all of the conditions precedent to conveyance set forth in Section 5.01 have not been satisfied by the Closing Deadline.

SECTION 5.04 Termination of Agreement. Upon termination by either party pursuant to this Agreement, this Agreement shall be null and void, and no action, claim or demand may be based on any term or provision of this Agreement, other than Sections 6.03 (Indemnity) and 9.05(e) (Environmental Indemnity).

ARTICLE 6 COVENANTS

SECTION 6.01 Developer's Covenants. In addition to the agreements otherwise set forth herein, Developer makes the following covenants for the benefit of City.

(a) Design and Approvals:

- i. Developer will cause to be prepared by an Architect a project design for the Project and submit Plans and Specifications to the City's land use boards in what Developer's Architect reasonably believes is sufficient time for review and approval prior to the Closing Deadline, provided the same does not conflict with or surpass the Closing Deadline.
- ii. Developer shall use commercially reasonable efforts to obtain all necessary Approvals and Permits at least 30 days prior to the Closing Deadline.
- iii. Developer shall receive City's prior written approval, not to be unreasonably withheld or delayed, of all architects, engineers and general contractors to be engaged in the planning, design, and construction of any Public Improvements. The City may reasonably withhold prior written approval, apart from any other considerations, unless and until (1) Developer provides an insurance company bond to the City for the City's estimated value of any public improvements, plus 20 percent; and (2) any of Developer's architects, engineers, and contractors specifically agree to complete work for City, at City's request, in the event of Developer's default. City hereby approves the following, should Developer desire to engage any or all of them for the Project: Coppola Architectural, P.C. (for architectural services), Insite Engineering, Surveying & Landscape Architecture, P.C. (for civil engineering and related services), and Tern Construction & Development, LLC (as general contractor).
- iv. If any lien is filed or asserted, including, without limitation, any lien for the performance of any labor or services or the furnishing of materials, whether or not valid, as a result of any act or omission of Developer, or any person or entity claiming by, through or under Developer, and made against the Property or any part thereof in the interest therein of the City, or the interest

therein of a Party under this Agreement, other than Liens for Taxes not yet payable, or payable without the addition of any fine, penalty, interest or cost for non-payment, Permitted Encumbrances, or liens being contested as permitted by this Section, then Developer, upon receipt of notice of the filing, assertion, entry or issuance of such lien (regardless of the source of such notice) shall give written notice thereof to City within 5 business days and, except where the validity of such Lien is being contested in accordance with the provisions of this Section, take all action (including the payment of money and/or the securing of a bond) at its own expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the City for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against City's interest in the Property. The Developer may, at its sole expense contest, after prior written notice to the City, by appropriate action conducted in good faith and with due diligence in the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Property or Improvements or any part thereof or any interest therein, or in this Agreement, of the Sell or Developer or against any of the rentals or other amounts payable under this Agreement, (2) neither the Property or Improvements nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) City would not be in any reasonable danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (4) the Developer shall have furnished such security, if any, as may be required in such proceedings; if such proceeding could result in the City being in any reasonable danger of civil liability, including accrual of interest, fines and/or penalties, the Developer shall deliver a written confirmation to the City that the Developer shall indemnify and hold the City harmless from any claims, liabilities, costs or expenses as may derive with respect thereto, and the Developer shall provide to the City such security as the City may reasonably require.

- v. At the written request of the City, the Developer shall provide all reasonable information as may be requested with respect to any Lien, the status thereof, the amount in dispute, and the action taken or proposed to be taken by the Developer in connection therewith.

(b) Construction. In construction of the Project, Developer:

- i. Shall at its own cost and expense use commercially reasonable efforts to obtain all Approvals and Permits;
- ii. Shall comply with all requirements of Governmental Authorities applicable to the construction and installation of the Improvements;

- iii. Shall perform the construction and installation of the Project expeditiously, in compliance with the Plans and Specifications, in a good and workmanlike manner and in accordance with the provisions of this Agreement.
- iv. Shall pay all proper accounts for work done or materials furnished under all Agreement which it has entered into relating to the construction of the Project.

SECTION 6.02 City's Covenants. City covenants that it will comply with the following covenants between the date of this Agreement and the Closing, unless this Agreement is earlier terminated in accordance with its terms:

- (a) The City shall not encumber the Property or enter into any lease or other occupancy agreement therefor, without the prior written consent of the Developer. The City shall deliver the Property to Developer at Closing free of leases, occupants and tenancies.
- (b) The City shall allow for Developer or Developer's representatives access to the Property upon reasonable prior notice pursuant to Section 9.05 of this Agreement.
- (c) City hereby agrees that it will issue consents in its capacity as owner when reasonably requested by Developer, at Developer's expense, to any application for planning or other regulatory approvals necessary in connection with the contemplated use of the Property for the Project consistent with this Agreement (including but not limited to the Approvals and Permits), subject to Section 9.04.

SECTION 6.03 Indemnity. Developer shall at all times indemnify and hold the City harmless from and against and all Claims, including reasonable attorneys' fees, which may be imposed upon, incurred by or asserted against the Seller, its officers, employees, and agents (the "Indemnified Parties"), arising during the term of this Agreement upon or about the Property or resulting from, arising out of, or in any way connected with (1) breach of the representations and warranties set forth in Section 2.01, whether prior to or after the Closing; (2) the funding of the costs of the Project; (3) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation, or completion of the Project or any part thereof or the effecting of any work done in or about the Property by Developer or any of its agents, concessionaires, contractors, servants, employees, tenants, or invitees ("Permittees"); (4) any defects, whether latent or patent, in the Improvements constructed or renovated by Developer or its Permittees; (5) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Improvements or any portion thereof by Developer or its Permittees; or (6) any act or omission of Developer or any of its Permittees, including without limitation any failure by Developer to perform or comply with any of the covenants, agreements, terms, conditions or limitations of this Agreement, but excluding liability caused by the negligence or intentional misconduct of the Indemnified Parties. The Developer shall require any of its Permittees who perform construction work on the Property to agree to indemnify the Indemnified Parties and Developer for Claims with respect to the Permittee's scope of work, excluding negligence or willful misconduct of the party to be indemnified. If any action or proceeding is brought against Seller because of any one or more of the Claims, Developer, at its sole cost and expense, upon written

notice from Seller, shall defend that action or proceeding by competent counsel reasonably acceptable to Seller.

ARTICLE 7 OBJECTION TO TITLE, FAILURE TO PERFORM

SECTION 7.01 Developer to Deliver Title Report. Developer shall cause a copy of an updated title report from the Title Insurer to be forwarded to City within sixty (60) days of the date of this Agreement. Service of the updated title report shall constitute notice of the Developer's objections to title, as said objections might be outlined in a Schedule B or Schedule B-1. City shall be entitled to a reasonable period of time of not less than one hundred eighty (180) days to remove any defects in or objections to title noted in such title report. Developer shall be deemed to have waived any objections to title if not made within (10) days after furnishing the title report to the City, or within ten (10) days after receiving an update to the title report with respect to exceptions contained in such update which were not raised in any prior report.

SECTION 7.02 Developer's Right to Terminate. If City is unable to cause title to the Project to be conveyed at the Closing in accordance with the provisions of this Agreement, Developer may elect to accept such title as City may be able to cause to be conveyed. If Developer shall not so elect, Developer may terminate this Agreement upon thirty (30) days' notice to City. Upon such termination, the Agreement shall be null and void and the parties hereto shall be relieved of all further obligations and liability except that the provisions of Section 9.05(e) and Section 6.03 shall survive the closing.

ARTICLE 8 DESTRUCTION, DAMAGE OR CONDEMNATION

SECTION 8.01 General Obligations Law to Control. The provisions of Section 5-1311 of the General Obligations Law shall apply to the sale and purchase provided for in this Agreement.

ARTICLE 9 SITE CONDITIONS; INVESTIGATIONS; APPROVALS

SECTION 9.01 As-Is Condition. At Closing, Seller shall convey the Property in "as is" condition. The Seller expressly disclaims any warranties or representations whatsoever. After Closing, any costs related to the Property will be the responsibility of the Developer.

SECTION 9.02 No Representations. No representation, statement or warranty, express or implied, has been made by Seller as to the condition of the Property, or its permitted use under applicable zoning, building, land use and similar laws, ordinances and regulations. Developer assumes all responsibility for compliance with such use regulations, and Seller shall have no liability or responsibility for any defect in the Property or for any limitations upon the use of the Property.

SECTION 9.03 Developer to Obtain Approvals. Developer, at its sole expense, shall take all actions that it reasonably deems necessary to obtain, and shall make and diligently prosecute all applications for Approvals and Permits. Nothing in this Agreement shall be construed as the consent, request, approval, or agreement of Seller, express or implied, by inference or otherwise, to any applications for Approvals and Permits made by Developer to any agency or body of the City, nor any agreement or Agreement to change, amend, modify, or alter any local law, code, or ordinance of the City or any agency or body of the City.

SECTION 9.04 Zoning and Planning Approvals. The Developer anticipates that the development of the Project as presently contemplated will not require an amendment to the City of Newburgh zoning code or a use variance. In the event of any proposed modifications by the Developer to its proposed Project, the Developer understands that the granting of such requests is within the discretion of the applicable governmental body and that nothing in this Agreement obligates the City, the Seller, or any other governmental body to provide for such approvals. Any risks associated with obtaining land use board approvals shall be exclusively borne by the Developer. The Project shall conform with all applicable zoning requirements as they may be so amended.

SECTION 9.05 Environmental and Soil Investigation and Testing.

- (a) City grants to Developer the right to conduct an examination to obtain a report or reports by a qualified consultant or consultants (the "Consultants") concerning the presence of any (i) contamination of the Property by hazardous materials; (ii) apparent violation of environmental requirements upon or associated with activities upon the Property; (iii) potential incurrence of environmental damages by the prior or current owner(s) or operator(s) of the Property; or (iv) such other survey, soil, subsoil, geological and engineering investigations as Developer may desire or as may be required by an Governmental Authority which must approve any aspect of the development of the Project. Developer shall provide a copy of any such report(s) to City_(which obligation shall not extend to attorney-client privileged materials or other confidential materials).
- (b) Developer may terminate this Agreement on or before 180 days after the date of this Agreement, but without the right to receive a refund of the Earnest Money, in the event such report indicates the presence of any objectionable material as contemplated in paragraph (a).
- (c) Such investigation and testing may include, without limitation, (i) site inspection; (ii) drilling, core sampling, taking of samples for analysis, installing, monitoring and testing devices; (iii) interviews of present occupants of the Property; (iv) a review of public records concerning the Property and other properties in the vicinity of the Property; and (v) a review of aerial photographs of the Property and other evidence of historic land uses.
- (d) The investigation and testing any be performed at any time or times, except that entry upon the Property shall be on reasonable notice, and under reasonable conditions. The Consultants are hereby authorized to enter upon the Property for such purposes and to perform such testing, including drilling, core sampling, and the taking of such other samples as may be necessary to conduct the investigation and testing as required in the opinion of the Consultants. The Consultants may install, and monitor such testing and sampling

devices as in their opinion are reasonable and necessary. City shall have the right to be present during all testing and sampling and survey work.

- (e) Developer shall pay all costs and expenses of such investigation and testing. Developer shall indemnify and hold City harmless from and against all costs and liabilities relating to Developer's activities, but expressly excluding losses, costs and expenses arising out of latent defects, the displacement or disturbance of unknown pre-existing conditions, the negligence or misconduct of City, or any diminution in value in the Property arising from, or related to, matters discovered by Developer during its investigation of the Property. Developer shall further repair and restore any damage to the Property caused by or occurring during Developer's investigation and testing and return the Property to substantially the same condition as existed prior to such entry. Developer and Consultants shall provide evidence of insurance satisfactory to City prior to having access to the site.

ARTICLE 10 CLOSING OBLIGATIONS; APPORTIONMENTS

SECTION 10.01 City's Closing Obligations. At the Closing, the City shall deliver the following to the Developer:

- (a) A quitclaim deed, including the covenant required by Section 13 of the Lien Law, properly executed and in proper form for recording so as to convey the title required by this Agreement.
- (b) A bill of sale conveying, transferring and selling to Developer all right, title and interest of the City in and to any Equipment on the Property, if any.
- (c) A non-foreign affidavit, properly executed and in recordable form, containing such information as shall be required by Section 1445 of the Internal Revenue Code of 1986, as amended and the regulations issued therefor.
- (d) Such affidavits as Developer's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to the City's name.
- (e) A designation agreement designating the "reporting person" for purposes of completing IRS Form 1099-S
- (f) Subject to Permitted Exceptions, possession of the property in the condition required by this Agreement.
- (g) Exclusive possession of the Property in the condition required by this Agreement, subject to the Permitted Exceptions.

SECTION 10.02 Developer's Closing Obligations. At the Closing, Developer shall do the following:

- (a) Developer shall deliver to City the portion of Purchase Price payable at Closing.
- (b) Developer shall cause the deed to be recorded, duly complete all required real property transfer tax returns and cause all such returned and check in payment of such taxes to be delivered to the appropriate officers promptly after Closing.

- (c) Developer shall deliver a designation agreement designated the “reporting person” for purposes of completing IRS Form 1099-S.

SECTION 10.03 Apportionments. All real estate taxes, school taxes, and utilities with respect to the Property will be apportioned as of the date of Closing Date. Water and sewer charges and sanitation fees will be paid by the City to the Closing Date.

ARTICLE 11 DEFAULTS AND REMEDIES

SECTION 11.01 Remedies on Default.

- (a) Termination of Agreement by Seller. Upon the occurrence of any default under this Agreement by Developer, Seller may, at its option, or any time thereafter, give written notice to Developer specifying the default and stating that this Agreement shall terminate on the date specified in such notice, which shall be not less than fifteen (15) days after the date of such notice. Upon the date specified in the notice, this Agreement and all rights of Developer under this Agreement shall terminate, unless such default is cured prior to the end of such notice period. The termination of this Agreement does not relieve Developer of its liability and obligations under Section 9.05(e) and Section 6.03 of this Agreement, which shall survive. Upon such termination Seller will retain the Earnest Money as liquidated damages. The termination of this Agreement and the retention of the Earnest Money will be the sole remedy available to Seller for such default by Developer will not be liable for additional damages or for specific performance.
- (b) Termination by Developer. Upon the occurrence of any default by Seller, Developer may, at its option, at any time thereafter, give written notice to Seller specifying the default and stating that this Agreement shall terminate on the date specified in such notice, which shall not be less than fifteen (15) days after the date of such notice. Upon the date specified in the notice, this Agreement shall terminate. The termination of this Agreement shall not relieve the Developer of its liability and obligations under Section 9.05(e) and Section 6.03 of this Agreement, which shall survive. If Seller defaults under this Agreement, this provision does not preclude Developer from seeking specific performance of this Agreement but Developer shall have no right to seek monetary damages from Seller for Seller’s defaults hereunder.

SECTION 11.02 Force Majeure. If Seller or Developer shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by Force Majeure, then performance of that act shall be excused for the period of the delay (but not exceeding ninety (90) days) and the period for the performance of the act shall be extended for a period equivalent to the excusable period of the delay (but not to exceed ninety (90) days), provided the party delayed shall give the other party notice and full particulars of the Force Majeure within a reasonable time after the event occurs. The parties may agree to further time extensions pursuant to this section upon mutual written consent.

SECTION 11.03 Cumulative Rights and Remedies. Each right and remedy under this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement or not or hereafter existing at law or in equity or by statute or otherwise, and the exercise by Seller of any one or more of those rights or remedies shall not preclude simultaneous or later exercise by Seller or any or all other rights or remedies Seller may have.

ARTICLE 12 MISCELLANEOUS PROVISIONS

SECTION 12.01 Assignment and Subletting. The Developer and Seller agree that the Developer has been selected by the Seller based on unique and specific qualifications relating to the development of the Project. Prior to the Closing Date, the Developer shall not sell, assign, mortgage or transfer any interest in the Property or this Agreement without the prior written consent of the Seller, which shall be at the discretion of the Seller. City hereby consents to the assignment of this Contract to any assignee owned or controlled by Developer, or under common control with Developer. Notwithstanding, any such assignment, Developer shall remain responsible for the covenants set forth in Article 6. Developer shall be the managing partner or controlling shareholder of any transferee. Any transferee shall have the qualifications and financial responsibility necessary in the determination of the Seller to assure compliance with the obligations of the Developer herein. Any transferee, by instrument in writing satisfactory to the Seller and in recordable form, shall, for itself and its successors and assigns, have assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all conditions and restrictions herein.

SECTION 12.02 Entire Agreement; Amendment. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. In the event that any provision of this Agreement is held to be unenforceable under applicable law, this Agreement will continue in full force and effect without such provision and will be enforceable in accordance with its terms.

SECTION 12.03 No Waiver. No waiver by either party hereto of any failure or refusal by the other party hereto to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal by such party to so comply.

SECTION 12.04 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York, without giving effect to any conflict of laws principles that may apply. The State courts located in New York State, County of Orange, shall have exclusive jurisdiction to adjudicate any disputes arising out of or relating to, this Agreement. Each party hereto consents to the jurisdiction of such court and waives any right it may otherwise have to

challenge the appropriateness of the forum for any reason. Arbitration shall not be used to resolve any claims, controversies, or disputes between the parties.

SECTION 12.05 Recording. Either party shall have the right to record, at its own expense, a memorandum of this Agreement.

SECTION 12.06 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

SECTION 12.07 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

SECTION 12.08 Severability. In the event that any of the provisions, or portions, or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, Seller and Developer shall negotiate an equitable adjustment in the provision of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions or portions, or applications thereof, shall not be affected thereby.

SECTION 12.09 Notices. All notices required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by a nationally recognized reputable overnight delivery service, or sent by U.S. First Class certified mail, postage prepaid, return receipt requested, addressed to the following addresses. Notices shall be deemed effective on the earlier of the date of receipt or three business days after the date of mailing. Any party may change its address for the service of notice to the other parties as provided herein.

Developer as follows:

Kearney Realty & Development Group, Inc.
57 Route 6
Baldwin Place, New York 10505

with a copy to:

Levine & Levine, PLLC
attn.: Dale J. Lois, Esq.
2 Jefferson Plaza, Suite 100
Poughkeepsie, New York 12601

Seller as follows:

City of Newburgh
attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to

Office of the Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

SECTION 12.10 No Broker. The parties warrant and represent to each other that no broker brought about, or participated in, this Agreement or transaction. Seller and Developer shall indemnify and hold one another harmless against all liabilities and expenses (including, without limitation, reasonable attorneys' fees) arising from any claims for brokerage on this transaction.

SECTION 12.11 Project Mortgage. Not applicable.

SECTION 12.12 No Partnership or Joint Venture. This Agreement does not create any obligation or relationship such as a partnership, joint venture or other similar legal relationship under the laws of any state or the federal government. Any correspondence or other references to "partners" or other similar terms will not be deemed to alter, amend or change the relationship between the parties hereto unless there is a formal written agreement specifically detailing the rights, liabilities and obligations of the parties as a to new, specifically defined legal relationship.

SECTION 12.13 Obligations of Governmental Agencies. Notwithstanding any statement or representation to the contrary contained herein or in any of the other implementing agreements, the obligations and agreements of the Seller contained herein and in the other implementing agreements and in any other instrument or document executed in connection therewith and any instrument or document supplemental thereto shall be deemed the obligations and agreements of the Seller, and not of any member, officer, agent or employee of the Seller in its individual capacity, and the members, officers, agents and employees of the Seller shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

SECTION 12.14. All Terms Material. All of the terms contained in this Agreement are individually and collectively material to this transaction, with the City and Developer having relied on each and every term in entering into this Agreement. Any terms not contained in this Contract have been deliberately excluded and are not material to this transaction.

SECTION 12.15 Withdrawal of Offer. This Agreement shall be deemed withdrawn unless accepted by Seller and a fully executed counterpart of this Agreement returned to Developer on or before _____ (approximately 45 days from City Council approval).

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
[Signature Page, Acknowledgments, and Exhibits A through E to follow]

DRAFT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Seller: City of Newburgh

Developer: The Kearney Realty &
Development Group Inc.

By: _____
Todd Venning, City Manager
Per Resolution No.: _____-2022

By: _____
Kenneth Kearney, President

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)

On the _____ day of _____ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)

On the _____ day of _____ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth Kearney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

Notary Public

SCHEDULE A
DESCRIPTION OF THE PROPERTY

ALL THOSE TRACTS OR PARCELS OF LAND, with buildings and improvements thereon erected, situate, lying and being in the City of Newburgh, County of Orange and State of New York, known as:

1. 137 Smith Street, being more accurately described as Section 12, Block 4, Lot 4.1 on the Official Tax Map of the City of Newburgh.
2. 140 Montgomery Street, being more accurately described as Section 12, Block 4, Lot 10 on the Official Tax Map of the City of Newburgh.
3. 146 Montgomery Street, being more accurately described as Section 12, Block 4, Lot 2.1 on the Official Tax Map of the City of Newburgh.

SCHEDULE B
PERMITTED ENCUMBRANCES

1. Any and all easements for utilities, both public and private, sewers, water lines, streets, and rights-of-way of record as of the date of this Agreement;
2. Such easements, covenants, reservations, encumbrances or restrictions as are of record as of the date of this Agreement;
3. All provisions of any zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, and any and all other provisions of municipal ordinances, regulations or public laws;
4. Real estate taxes and assessments that are a lien but not yet due and payable;
5. Any state of facts a survey or personal inspection of the premises would disclose as of the date of this Agreement.

SCHEDULE C
PROJECT AND DEVELOPMENT DEADLINES

1. Within ninety (90) days of the execution of this Agreement, the Developer shall submit a Request for Informational application to the City of Newburgh for the Project that described the development proposal in accordance with this Agreement.
2. Closing Deadline: Twenty-four (24) months from the date of this Agreement. By the Closing Deadline, Developer shall have applied for and received from the City of Newburgh all Approvals and Permits from the all Government Authorities with jurisdiction and power of approval over the Property required to construct the Project.
 - a. Developer may make a written request to the City Manager for an extension of the twenty-four (24) month Closing Deadline period. Such request shall be accompanied by a non-refundable fee of \$750.00 (\$250.00 per parcel), payable to the "City of Newburgh." The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close up to, but not to exceed, six (6) months, as measured from the end of the original Closing Deadline. Developer's diligent pursuit of Approvals and Permits, Awards and a Project Mortgage shall constitute good cause for the City Manager to grant such extension.

SCHEDULE D
SAMPLE DEED

THIS INDENTURE, made the _____ day of _____, in the year two thousand nineteen

BETWEEN:

THE CITY OF NEWBURGH, a municipal corporation organized under the laws of the State of New York and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, party of the first part, and

THE KEARNEY REALTY & DEVELOPMENT GROUP INC., a domestic business corporation company having an address of 57 Route 6, Baldwin Place, New York 10505, party of the second part.

WITNESSETH, that the party of the first part, in consideration of two hundred thousand and 00/100 dollars (\$200,000.00) paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL those certain plots, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the State of New York, County of Orange and City of Newburgh, known as:

1. 137 Smith Street, being more accurately described as Section 12, Block 4, Lot 4.1 on the Official Tax Map of the City of Newburgh.
2. 140 Montgomery Street, being more accurately described as Section 12, Block 4, Lot 10 on the Official Tax Map of the City of Newburgh.
3. 146 Montgomery Street, being more accurately described as Section 12, Block 4, Lot 2.1 on the Official Tax Map of the City of Newburgh.

SUBJECT TO all easements, covenants and restrictions of record, except as hereinafter stated.

SUBJECT TO all easements, covenants and restrictions of record and not of record existing in favor of The City of Newburgh prior to the vesting of title to the described premises in The City of Newburgh.

BEING the same premises as indicated in a deed from _____, Director of Finance and Enforcing Officer of the City of Newburgh, to the City of Newburgh, dated _____, and recorded in the Orange County Clerk's Office on _____, in Liber _____ of Deeds at Page _____.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to such premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part forever.

IN WITNESS WHEREOF, the parties have executed this deed the day and year first above written.

IN PRESENCE OF: THE CITY OF NEWBURGH

BY: _____
Todd Venning, City Manager
Pursuant to Resolution No.: _____-2022

RECORD & RETURN TO:

Levine & Levine, PLLC
attn.: Dale J. Lois, Esq.
2 Jefferson Plaza, Suite 100
Poughkeepsie, New York 12601

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)

On the ____ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

SCHEDULE E
ADDITIONAL DEVELOPER REPRESENTATIONS

1. Developer's is fully familiar with the City's zoning laws and requirements. Developer's plan does not contemplate requests for use variances or area variances, with the exception of an area variance for off-street parking.
2. Developer's plan shall include a central greenway and courtyard, community garden, rain garden, and community garden which comprise a minimum of approximately 2,000 square feet of space on the Premises.
3. Developer's plan shall include a permanent, on-site property manager to address residential and commercial tenant concerns.
4. Developer's plan shall include free wi-fi access for residential tenants.
5. Developer's plan shall include two (2) retail spaces comprising approximately 2,488 square feet and 2,829 square feet, respectively, subject to changes requested or required by City land use boards in connection with Developer's pursuit of the Approvals and Permits.
6. Developer's plan shall include a third retail space comprising approximately 1,580 square feet. Developer shall be responsible for obtaining a Certificate of Occupancy for a proposed retail use and renting said retail space to a minority or woman-owned business, where the principal operator of said business is a resident of the City of Newburgh, and rent is fixed at no greater than \$10,400.00 annually (\$866.67 monthly) for a period of 3 years. Thereafter, provided that said retail tenant is otherwise compliant in all respects with the lease in effect at the end of the third year, Developer shall offer subsequent renewal leases term(s) no less than one (1) year in length and rent increases (for the fourth and fifth years only) of no greater than four percent (4%) of the prior year's annual lease amount.
7. Developer's plan shall include approximately 101 residential units, serving households earning 40%, 60%, 80%, and approximately 110% of the then current Average Median Income for Orange County. Developer shall, subject to the review and approval by New York State Homes and Community Renewal's Fair and Equitable Housing Office, develop and administer an application process that gives primary priority rental preference to prospective tenants who:
 - a) Currently reside within three (3) square miles of the project area; and
 - b) Can demonstrate that he/she/they had one or more ancestor(s) in a direct line of descendancy (i.e. parent, grandparent, great grandparent, etc.) who owned property that was later acquired by the Newburgh Urban Renewal Agency or was the subject of an "Urban Renewal Land Disposition Agreement."and gives secondary priority rental preference to prospective tenants who meet either of the above criteria.
8. Developer's final plan shall include a certification from Developer and Developer's Architect that its plan complies with both the New York State Energy Code and Leadership in Energy and Environmental Design ("LEED") minimum requirements.

9. Supplementing Section 2.01(d), should Developer fail to receive a Governmental Award, Developer shall have one additional opportunity to apply for such Governmental Award at the next available award cycle. Should said Governmental Award no longer be available, Developer fail to timely apply, or Developer not receive said Governmental award at the next available award cycle, the City may cancel this Agreement its sole discretion, and the Parties shall owe no further obligations to each other.
10. Developer shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), as follows:
 - a) Developer agrees to comply with federal regulations in 24 CFR part 75, which implements Section 3. Developer certifies that it is under no contractual or other impediment that would prevent it from complying with the Part 75 regulations.
 - b) Developer agrees to notify potential contractors and subcontractors that are associated with Section 3 covered projects and activities about the requirements of Section 3, to include this Section 3 clause in every contract and subcontract subject to compliance with regulations in 24 CFR Part 75, and to ensure that any subcontractors also include this Section 3 clause in their subcontracts for work performed on the project.
 - c) Developer will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
 - d) Developer agrees to maintain hiring and contracting practices to the greatest extent feasible so that 25 percent of the total labor hours expended on the project are by Section 3 Workers, of which 5 percent are by Targeted Section 3 Workers as defined in 24 CFR part 75. As part of these practices, Developer agrees to provide priority consideration to eligible residents and businesses in accordance with 24 CFR Part 75, and eligible residents who reside within one (1) square mile of the Project Premises. If Developer is not able to meet this benchmark goal, it must provide a narrative of efforts taken and supporting documentation explaining why it was unable to meet that goal, despite greatest extent feasible efforts taken.
 - e) Developer shall offer opportunities to Section 3 Workers to attend social and networking events related to the Project, opportunities to attend project management meetings, and opportunities to meet and interact with Developer's senior management team throughout the course of the Project. Said efforts shall be documented in accordance with this paragraph (9).
 - f) Developer agrees to comply with all monitoring, reporting, recordkeeping, and other procedures specified by the City. Developer is responsible for providing Section 3 performance metrics and supporting documentation for all its subrecipients, contractors, and subcontractors, as applicable. At a minimum, Developer shall complete and submit to City a "New York State Homes and Community Renewal Section 3 Sub Reporting Form & Greatest Extent Feasible Efforts Checklist" within the first six (6) months of the Project start and every six (6) months thereafter until Project completion. Developer shall also submit a final report at the completion of the Project.

- g) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, penalties, and/or termination of this contract for default.

DRAFT

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 1
WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION
TO FUND IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND
NON-FEDERAL AID ELIGIBLE COSTS FOR ADDITIONAL CONSTRUCTION
AND CONSTRUCTION INSPECTION WORK
FOR THE LAKE STREET/ROUTE 32 OVER QUASSAICK CREEK BRIDGE
REHABILITATION PROJECT**

WHEREAS, a Project for the Lake Street/Route 32 over Quassaick Creek Bridge Rehabilitation in the City of Newburgh, Orange County, identified as PIN 8761.57 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal funds and 20% non-federal funds; and

WHEREAS, Resolution No. 191-2019 adopted by the City of Newburgh on August 12, 2019 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of the construction and construction inspection work; and

WHEREAS, it was subsequently found necessary to undertake additional construction and construction inspection work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional construction and construction inspection work for the Project; and

WHEREAS, the City of Newburgh desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the construction and construction inspection work for the Project or portions thereof;

NOW, THEREFORE, the Newburgh City Council duly convened does hereby

RESOLVE, that the Newburgh City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Newburgh City Council hereby authorizes the City of Newburgh to pay in the first instance 100% of the federal and non-federal share of the cost of the construction and construction inspection work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$2,187,500.00 (\$3,187,500.00 minus previous \$1,000,000.00) is hereby appropriated from H1.8761.0200.8761.2022 and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceed the amount appropriated above, the Newburgh City Council shall convene as soon as possible to appropriate said excess amount immediately upon notification by the City Manager thereof; and it is further

RESOLVED, that the Newburgh City Manager be and he is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Newburgh with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

RESOLVED, that in addition to the City Manager the following municipal titles: Commissioner of Public Works, City Engineer, and City Comptroller are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

STATE OF NEW YORK)

) ss:

COUNTY OF ORANGE)

I, _____, Clerk of the City of Newburgh, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said _____ at a meeting duly called and held at the _____ on _____ by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Newburgh, New York, this _____ day of _____, 2022.

Clerk, City of Newburgh



Department of Transportation

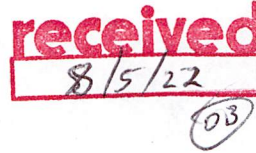
KATHY HOCHUL
Governor

MARIE THERESE DOMINGUEZ
Commissioner

LANCE MacMILLAN, P.E.
Regional Director

August 2, 2022

Todd Venning, City Manager
83 Broadway
Newburgh, NY 12550



RE: PIN 8761.57, LAKE STREET/ROUTE 32 OVER QUASSAICK
CREEK BRIDGE REHABILITATION
CITY OF NEWBURGH, ORANGE COUNTY
SUPPLEMENTAL AGREEMENT #1 – D040218

Dear Todd Venning

Enclosed are two (2) Supplemental Agreements to include the additional construction, and construction inspection funds and changes the contract end date from 06/2022 to 06/2026 for the above-referenced project. One (1) executed copy of the agreement, along with one (1) individually signed signature page, **EACH** with original signatures and notarizations, and one (1) certified seal-stamp resolution should be provided. The complete package should be returned to this office. A sample resolution is included for your use.

As a reminder per Chapter 15, Administering Construction Contracts; Section 15.4.8 Civil Rights Reporting:

The Contractor and all subcontractors and suppliers will utilize New York State Department of Transportation Equal Employment Opportunity reporting software, which is currently “Equitable Business Opportunities” (EBO). The Sponsor will monitor prime’s payments to subcontractor and ensure that subcontractors are paid promptly per specifications. In addition, the sponsor is to monitor EEO goals on a monthly basis and take corrective action if goals are not being met; reference NYSDOT Standard Specifications Section 102-11, Equal Employment Opportunity Requirements.

Your assistance in having the agreement approved by the Newburgh City Council and signed by yourself and City of Newburgh Attorney is appreciated. Of course, if you have any questions, please call me at (845) 431-5731 or e-mail me at Giselle.gutierrez@dot.ny.gov.

Sincerely,

Giselle Gutierrez
Transportation Analyst
Region 8 Local Projects Unit

Enclosures

Sponsor: **City of Newburgh**
 PIN: **8761.57** BIN: **2022260**
 Comptroller's Contract No. **D040218**
 Supplemental Agreement No. **1**
 Date Prepared: **8/31/2022** By: **gg**
 Initials

Press F1 for instructions in the blank fields:

SUPPLEMENTAL AGREEMENT No. 1 to D040218 (Comptroller's Contract No.)

This Supplemental Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State")

and

City of Newburgh (the Sponsor)
 Acting by and through the **City Manager**
 with its office at **83 Broadway, Newburgh, NY 12550**.

This amends the existing Agreement between the parties in the following respects only:

Amends a previously adopted Schedule A by (check as applicable):

☐ amending a project description

☒ amending the contract end date

☒ amending the scheduled funding by:

☐ adding additional funding (check and enter the # phase(s) as applicable):

☐ adding phase _____ which covers eligible costs incurred on/after / /

☐ adding phase _____ which covers eligible costs incurred on/after / /

☒ increasing funding for a project phase(s)

☒ adding a pin extension

☐ change from Non-Marchiselli to Marchiselli

☐ deleting/reducing funding for a project phase(s)

☐ other (_____)

☐ Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)

☐ Amends a previously adopted Agreement by replacing the Appendix A dated January 2014 with the Appendix A dated October 2019

☐ Amends the text of the Agreement as follows (insert text below):

Sponsor: City of Newburgh
 PIN: 8761.57 BIN: 2022260
 Comptroller's Contract No. D040218
 Supplemental Agreement No. 1
 Date Prepared: 8/31/2022 By: gg
 Initials

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

STATE OF NEW YORK

)ss.:

COUNTY OF ORANGE

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his/her name thereto by like order.

 Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:
 STATE OF NEW YORK ATTORNEY GENERAL

BY: _____

 For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

By: _____
 Assistant Attorney General

Date: _____

COMPTROLLER'S APPROVAL:

By: _____
 For the New York State Comptroller
 Pursuant to State Finance Law ' 112

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYSDOT/ State-Local Agreement - Schedule A for PIN 8761.57

OSC Municipal Contract #: D040218	Contract Start Date: <u>7/9/2020</u> (mm/dd/yyyy) Contract End Date: <u>6/30/2026</u> (mm/dd/yyyy) <input checked="" type="checkbox"/> Check, if date changed from the last Schedule A		
Purpose: <input type="checkbox"/> Original Standard Agreement <input checked="" type="checkbox"/> Supplemental Schedule A No. 1			
Agreement Type: <input checked="" type="checkbox"/> Locally Administered Municipality/Sponsor (Contract Payee): City of Newburgh Other Municipality/Sponsor (if applicable): _____ <input type="checkbox"/> State Administered <i>List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.</i> <input type="checkbox"/> Municipality: _____ % of Cost share <input type="checkbox"/> Municipality: _____ % of Cost share <input type="checkbox"/> Municipality: _____ % of Cost share			
Authorized Project Phase(s) to which this Schedule applies: <input type="checkbox"/> PE/Design <input type="checkbox"/> ROW Incidentals <input type="checkbox"/> ROW Acquisition <input checked="" type="checkbox"/> Construction/CI/CS			
Work Type: BR REHAB	County (If different from Municipality): Orange County		
Marchiselli Eligible <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check, if Project Description has changed from last Schedule A): <input type="checkbox"/> Project Description: Lake Street/Route 32 over Quassaick Creek Bridge Rehabilitation (BIN 2022260), City of Newburgh, Orange County.			
Marchiselli Allocations Approved FOR ALL PHASES <i>All totals will calculate automatically.</i>			
Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase	TOTAL
		PE/Design	ROW (RI & RA)
		Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$ 0.00	\$ 0.00
<input type="checkbox"/>	Current SFY	\$ 0.00	\$ 0.00
Authorized Allocations to Date		\$ 0.00	\$ 0.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES *For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00 *	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
.	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
8761.57.321	Current	NHPP	\$1,000,000.00	\$950,000.00	\$0.00	\$50,000.00
	Old	NHPP	\$1,000,000.00	\$950,000.00	\$0.00	\$50,000.00
8761.57.322	Current	HPP	\$2,187,500.00	\$1,750,000.00	\$0.00	\$437,500.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$3,187,500.00	\$2,700,000.00	\$ 0.00	\$487,500.00

C. Local Deposit(s) from Section A:

\$ 0.00

Additional Local Deposit(s)

\$

Total Local Deposit(s)

\$ 0.00

D. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$2,700,000.00	\$ 0.00	\$ 0.00	\$487,500.00	\$3,187,500.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)

Name: Giselle Gutierrez
Phone No: 845-431-5731

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

NYSDOT/State-Local Agreement – Schedule A**Footnotes:** (See [LPB](#)'s website for link to sample footnotes)

- Project description continued: The project will rehabilitate the existing metal arch culvert by adding new prefabricated corrugated arch plates along the inside face of the existing structure. Non-shrink grout will be utilized and the existing culvert will remain in place. The existing roadway will be restored as necessary in the immediate proximity of the bridge.
- This project is funded under the Bridge NY program with a 95% federal match not to exceed \$950,000.
- This Schedule A adds additional earmark construction and construction inspection phase and funds.
- This Schedule A extends the contract end date from 6/30/2022 to 6/30/2026.
- xx.322 represents an additional \$1,987,500 (Construction) and \$200,000 (Construction Inspection) Demo NY788.
- Earmark funding is capped at \$1,750,000 and expires FFY 2025.
-
-
-
-
- PIN 8761.57; 6/24/2019 mg; 8/31/2022 gg

SAMPLE RESOLUTION BY MUNICIPALITY
(Locally Administered Project)
RESOLUTION NUMBER: _____

Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.

WHEREAS, a Project for the Lake Street/Route 32 over Quassaick Creek Bridge Rehabilitation in the City of Newburgh, Orange County, identified as PIN 8761.57 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, Resolution No. 191-2019 adopted by the City of Newburgh on August 12, 2019 approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of the costs of the construction and construction inspection work.

WHEREAS, it was subsequently found necessary to undertake additional construction and construction inspection work not contemplated in the original agreement authorized by the previous Resolution; and

WHEREAS, it has been found necessary to increase the federal and non-federal share of costs for the additional construction and construction inspection work for the project; and

WHEREAS, the City of Newburgh desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the construction and construction inspection work for the Project or portions thereof.

NOW, THEREFORE, the Newburgh City Council, duly convened does hereby

RESOLVE, that the Newburgh City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Newburgh City Council hereby authorizes the City of Newburgh to pay in the first instance 100% of the federal and non-federal share of the cost of the construction and construction inspection work for the Project or portions thereof; and it is further

RESOLVED, that the sum of **\$2,187,500** (\$3,187,500 minus previous \$1,000,000) is hereby appropriated from _____ [or, appropriated pursuant to _____] and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceed the amount appropriated above, the City of Newburgh shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the City Manager thereof, and it is further

RESOLVED, that the Manager of the City of Newburgh be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Newburgh with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that in addition to the City Manager, the following municipal titles: Commissioner of Public Works, City Engineer, City Comptroller, _____ are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, _____, Clerk of the City of Newburgh, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said _____ at a meeting duly called and held at the _____ on _____ by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Newburgh, New York, this _____ day of _____, 2022.

Clerk, City of Newburgh

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 4G TO
THE CONSTRUCTION CONTRACT WITH TAM ENTERPRISES, INC. FOR
THE DOWNING POND AND THIRD STREET STORM SEWER PROJECT**

WHEREAS, by Resolution No. 218-2021 of September 27, 2021, the City Council of the City of Newburgh, New York awarded a bid to TAM Enterprises, Inc. in the amount of \$3,100,000.00 for the construction of the Downing Pond Drain Outlet and Third Street Storm Sewer Project; and

WHEREAS, additional work consisting of full depth asphalt reclamation along Third Street from Johnston Street to Robinson Avenue added \$385,934.85 to the contract price increasing the contract amount to \$3,602,934.85; and

WHEREAS, TAM Enterprises, Inc. has submitted Change Order No. 4G with funding for the change order derived from A.5112.0206; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute Change Order No. 4G with the TAM Enterprises, Inc. in the amount of \$385,934.85 in the Downing Pond Drain Outlet and Third Street Storm Sewer Project.

Date of Issuance: August 29, 2022	Effective Date: September <u> </u> , 2022
Owner: City of Newburgh	Owner's Contract No.: 11.21
Contractor: TAM Enterprises Inc	Contractor's Project No.:
Engineer: Arcadis of New York, Inc	Engineer's Project No.: 30055884
Project: New Drain Outlet at Downing Park and Third Street Storm Sewer	Contract Name: General Construction


The Contract is modified as follows upon execution of this Change Order:

Description:

Add new contingency allowance Item No. 9 "Pavement Reclamation" to the contract and \$385,934.85 added to the item for reclaiming the pavement on Third Street from Johnston Street to Robinson Avenue and to mill and pave up to 11,800 square feet. Payment for Work authorized under Item 9 will be full compensation for providing all Work authorized in writing under this contingency allowance, complete as shown, indicated, or directed by ENGINEER.

Attachments: *Change Proposals*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>3,100,000.00</u>	Original Contract Times: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase from previously approved Change Orders No. <u>3</u> : \$ <u>117,000.00</u>	Increase from previously approved Change Orders No. <u>1</u> : Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days
Contract Price prior to this Change Order: \$ <u>3,217,000.00</u>	Contract Times prior to this Change Order: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase of this Change Order: \$ <u>385,934.85</u>	Increase of this Change Order: Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days
Contract Price incorporating this Change Order: \$ <u>3,602,934.85</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:  Engineer (if required)	By: _____ Owner (Authorized Signature) Todd Venning * Res _____-2022	By: _____ Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: <u>City Manager/CEO</u>	Title: <u>Project Manager</u>
Date: <u>August 29, 2022</u>	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

114 Hartley Road
Goshen NY 10924



P: (845) 294-8882
F: (845) 294-8883

Quote

Customer City of Newburgh
83 Broadway 4th Floor- Accts Payable
Newburgh NY 12550

Date Estimate #
06/14/2022 2887

PO #:

Description	Unit	Quantity	Rate	Amount
RFCOP 7A: Reclaim in lieu of 1.5 mill and pave				
Subcontractor Cost to Reclaim and binder 3.5" Depth-includes mob.	LS	1.00	407649.150	407,649.15
Subcontractor top course - johnson to carpenter - 2022	SF	55,000.00	1.630	89,650.00
Subcontractor cost to Mobilize 2023	LS	1.00	3657.110	3,657.11
Subcontractor cost to Mill/pave 1.5" in 2023 - up to 11,800 sq ft	SF	11,800.00	5.920	69,856.00
Subcontractor Top course 2023-carpenter to 9W	SF	25,000.00	1.370	34,250.00
Subcontractor cost to Mill and Pave 1.5"(original contract scope)	LS	-1.00	213528.620	-213528.62
5 % Overhead and profit credit -subcontractor work	LS	-1.00	10676.430	-10676.43
5% Overhead and profit charge -new subcontractor work	LS	1.00	30253.110	30,253.11
total credit from reduction in TAM scope (original scope)	LS	-1.00	65186.520	-65186.52
Credit Shown previously on INVOICE # 2725. Do not duplicate credit. (this credit is shown here to present the total change order required to proceed with the Asphalt reclaim option)				

Customer Signature _____

Accepted By : _____

Subtotal	\$385,934.85
Sales Tax:	0.00
Quote Total	\$385,934.85

24 Hour Emergency Service - Certified Backflow Prevention Technician - Hydro Vacuum Excavation - Pump Station Installation & Maintenance
High Pressure Water Jetting - Video Inspection of Underground Lines - Installation of Water & Sewer Lines -Clearing of Catch Basins
Man Hole Rehabs - Sewer & Water Plant Rehabs - Confined Space Entry - Pipe Lining Services - Soil Remediation Services
Pipe Location Services - Wet Taps - Inset-A-Valves - Industrial Tank Pumping - Excavation Services - Emergency Sewer By-Pass Pumping

www.tamenterprises.com

Service Quote

Continued...

Invoice#: 2887

Date: 06/14/2022

Description	Unit	Quantity	Rate	Amount
Add for TAM to raise structures and flag for 2023 paving activities				
Phil	HR	32.00	111.360	3,563.52
Dale	HR	32.00	111.360	3,563.52
John S	HR	32.00	111.360	3,563.52
Willie	HR	32.00	93.190	2,982.08
Steve	HR	32.00	93.190	2,982.08
Hunter	HR	32.00	87.440	2,798.08
Tom	HR	32.00	93.190	2,982.08
Flaggers (2)	HR	48.00	87.640	4,206.72
Excavator - 200	HR	32.00	90.000	2,880.00
Dump Truck	HR	32.00	60.000	1,920.00
Asphalt Material	TN	20.00	110.000	2,200.00
Brick and block and mortar to raise castings	LS	1.00	1000.000	1,000.00
Overhead on TAM work - 5%	LS	1.00	1732.080	1,732.08
Profit on TAM work - 10%	LS	1.00	3637.370	3,637.37

Notes

All paving must be completed by November 15th 2022 for this pricing to remain valid. Paving after that date is subject to increase. (including the mill and top on this proposal and the final pave beyond carpenter on this proposal that will occur in

Service Quote

Continued...

Invoice#: 2887

Date: 06/14/2022

Description	Unit	Quantity	Rate	Amount
-------------	------	----------	------	--------

2023)

TAM will require a time extension at no cost for the 210 Additional days of work presented in this proposal.

All work presented in this proposal will be performed at the Cost presented or a Negotiated amount but will not be performed on a T & M basis.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 5G TO
THE CONSTRUCTION CONTRACT WITH TAM ENTERPRISES, INC. FOR
THE DOWNING POND AND THIRD STREET STORM SEWER PROJECT**

WHEREAS, by Resolution No. 218-2021 of September 27, 2021, the City Council of the City of Newburgh, New York awarded a bid to TAM Enterprises, Inc. in the amount of \$3,100,000.00 for the construction of the Downing Pond Drain Outlet and Third Street Storm Sewer Project; and

WHEREAS, additional work consisting of the full replacement of sidewalks and curbing along the south side of Third Street from Johnson Street Robinson Avenue added \$590,421.65 to the contract price increasing the contract amount to \$4,035,728.03; and

WHEREAS, TAM Enterprises, Inc. has submitted Change Order No. 5G with funding for the change order derived from CD1.8686.0400.8030.2021, CD1.8686.0400.8030.2022 and CD1.8686.0400.8030.2023; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute Change Order No. 5G with the TAM Enterprises, Inc. in the amount of \$590,421.65 in the Downing Pond Drain Outlet and Third Street Storm Sewer Project.

Date of Issuance: August 29, 2022	Effective Date: September <u> </u> , 2022
Owner: City of Newburgh	Owner's Contract No.: 11.21
Contractor: TAM Enterprises Inc	Contractor's Project No.:
Engineer: Arcadis of New York, Inc	Engineer's Project No.: 30055884
Project: New Drain Outlet at Downing Park and Third Street Storm Sewer	Contract Name: General Construction


The Contract is modified as follows upon execution of this Change Order:

Description:

Add new contingency allowance Item No. 10 "Additional Granite Curb and Sidewalk" to the contract and \$590,421.65 added to the item for additional construction granite curb and sidewalks on Third Street from Johnston Street to Robinson Avenue. Payment for Work authorized under Item 10 will be full compensation for providing all Work authorized in writing under this contingency allowance, complete as shown, indicated, or directed by ENGINEER.

Attachments: *Change Proposals*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>3,100,000.00</u>	Original Contract Times: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase from previously approved Change Orders: \$ <u>502,934.85</u>	Increase from previously approved Change Orders: Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days
Contract Price prior to this Change Order: \$ <u>3,602,934.85</u>	Contract Times prior to this Change Order: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase of this Change Order: \$ <u>590,421.65</u>	Increase of this Change Order: Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days
Contract Price incorporating this Change Order: \$ <u>4,193,356.50</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:  Engineer (if required)	By: _____ Owner (Authorized Signature) Todd Venning * Res _____-2022	By: _____ Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: <u>City Manager/CEO</u>	Title: <u>Project Manager</u>
Date: <u>August 29, 2022</u>	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

114 Hartley Road
Goshen NY 10924



P: (845) 294-8882
F: (845) 294-8883

Invoice

Bill To: City of Newburgh
83 Broadway 4th Floor- Accts Payable
Newburgh NY 12550

Date Invoice #
07/19/2022 3117

PO #:

Description	Unit	Quantity	Rate	Amount
RFCOP-7B additional curb and sidewalk RFCOP 7B: Demolish Existing / Furnish and Install new Curb and TAM Crew to Demo Existing and Prep., Support and Restore for C				
Supervisor - Phil N - Operator A rate - 30 days	HR	240.00	111.360	26,726.40
Operator A - Joe K - 30 days	HR	240.00	111.363	26,727.12
Foreman - Dale Lacey - Operator A rate - 30 days	HR	240.00	111.360	26,726.40
Laborer - William Z - 30 Days	HR	240.00	93.190	22,365.60
Laborer - Steve D - 30 Days	HR	240.00	93.190	22,365.60
Flaggers - Operator Rate - 2 Laborers for 20 days time	HR	320.00	93.190	29,820.80
Teamster Group 2 -30 days	HR	240.00	87.870	21,088.80
Equipment to support curb and sidewalk demo/install:				
Excavator	HR	240.00	55.000	13,200.00
Dump Truck	HR	240.00	60.000	14,400.00
Materials to Support curb and sidewalk demo/install and restoration				

PAYMENTS BY CREDIT CARD:

All invoices paid by credit card will incur a 3.5% transaction fee

ELECTRONIC PAYMENTS:

Salisbury Bank & Trust Co. 801 Auto Park Lane, Newburgh, NY 12550
ABA Routing #011102612
Account # 521332560
Please send payment remittance to christina@tamenterpises.com

Accounts are considered overdue on the 31st day past the invoice date.
You will be liable for all legal and collection fees.

Subtotal	\$590,421.65
Sales Tax:	\$0.00
Invoice Total	\$590,421.65

24 Hour Emergency Services - Certified Backflow Prevention Technician - Hydro Vac Excavation - Pump Station Installation & Maintenance
High Pressure Water Jetting - Video Inspection of Underground Lines - Installation of Water & Sewer Lines - Clearing of Catch Basins
Man Hole Rehabs - Sewer & Water Plant Rehabs - Confined Space Entry - Pipe Lining Services - Soil Remediation Services
Pipe Location Services - Wet Taps- Insert-AValves - Industrial Tank Pumping - Excavation Services - Emergency Sewer By-Pass Pumping

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Service Invoice

Continued...

Invoice#: 3117

Date: 07/19/2022

Description	Unit	Quantity	Rate	Amount
Item 4	TN	480.00	28.000	13,440.00
Topsoil	YD	170.00	25.000	4,250.00
Straw Mulch - rolls	RL	16.00	49.980	799.68
Grass Seed	LB	100.00	5.000	500.00
Concrete for Bedding and Backing of Curbs	YD	140.00	170.000	23,800.00
Overhead - TAMS work - 5%	LS	1.00	12310.480	12,310.48
Profit - TAMS work - 10%	LS	1.00	25852.020	25,852.02
TAM Subcontractor - Curb and Side walk Installation: AK SLip				
Install Approximately 2,200 LF of Granite Curb w/ mortar joints	LF	2,200.00	51.500	113,300.00
Install Approximately 11,500 Sq. Ft of Stamped Sidewalk and apr	SF	11,500.00	14.850	170,775.00
Overhead and Profit on TAM Subcontractor: 5%	LS	1.00	14203.750	14,203.75
TAM Subcontractor - Curb and sidewalk Layout - Lanc and ully - S				
2 Person Survey Crew - 8 Hour day (4 days to layout)	DAY	4.00	1850.000	7,400.00
TAM Overhead and Profit on Subcontractor: 5%	LS	1.00	370.000	370.00

Notes

Proposal

A & K SLIP FORMING, INC.

DBE/WBE CERTIFIED

P.O. Box 250 ♦ 774 Lawyersville Rd., Cobleskill, NY 12043

Phone: (518) 234-1944 ♦ Fax: (518) 234-1945

Project: **Downing Park, City of Newburgh**

Add-on granite curb: 8-4-22

Scope of Work:

A & K Slip Forming, Inc. will construct the following items on subject contract for the following prices based upon the following terms, conditions and exceptions in accordance with project specifications.

- Approx. 2,100 lf of 6x18 granite curb (straight curb with no batter and mortared joints) @ \$51.50 per lf.

For this price, based upon field measured quantities for payment, A & K will supply/install 6x18 granite curb using material furnished as indicated below for the above price specified. Additionally, the unit pricing above is subject to increase if the cost of the product or the constituents used in production of a product increase between the date of this proposal or contract and delivery of such items to the project.

Items Furnished & Installed by A & K

6x18 granite curb (with no batter), mortar for joints.

Items Furnished/Installed by General Contractor

All bedding & backing for granite curb.

SAFETY:

A & K considers project safety of the utmost importance – for all workers, the public and property. All employees have been properly trained, including the completion of the OSHA 10-hr. General Construction Safety Course. Additionally, all foremen/superintendents have successfully completed the OSHA 30-hr. General Construction Safety Course.

EXCEPTIONS: The prices herein EXCLUDE the cost of:

- Payment and/or performance bond, permits, licenses
- Any/all mock-ups.
- Testing and/or inspection of A & K's work.
- Furnishing and/or installing sealants/caulk.
- Wet curing, anti-spalling compound.
- Night time and weekend work.
- A&K will not furnish any shop drawings. If required, shop drawings are to be the responsibility of the Contractor.

GENERAL CONDITIONS: The Contractor will, at no cost to A & K Slip Forming, Inc.:

- 1) Excavate, prepare sub-base and provide layout/survey points offset within 2 feet behind contract items.
- 2) ***Provide surveyed layouts for all curb/sidewalk ADA ramps*** & underground utilities (notification by GC).
- 3) Provide operator to unload and store all pre-ordered materials.
- 4) Be solely responsible for the maintenance & protection of both vehicular and pedestrian traffic.
- 5) Be responsible for any damage to A & K's finish work not caused by A & K...
i.e., provide and install temporary barrels, cones, stakes, ribbon, caution tape around finished areas.
- 6) Pay any and all extra costs resulting from working this contract during cold or hot weather conditions...
...including furnishing and installing blankets to protect finished concrete – when applicable.
- 7) Furnish and place specified sub-base bedding material within tolerance limits or 0" to + 1/4".
- 8) A & K Slip Forming allowed 10% waste for concrete and will not be charged for waste due to poor grading.
- 9) Provide 13 lf of access along face side of work area for equipment.
- 10) Assure that all catch basins, DI's and curb boxes are ready prior to A & K's start date and are set to correct line and grade. If A & K can not complete catch basins, DI's and curb boxes at same time as above items, then the Contractor will be responsible to complete at their expense with no charge to A & K.
- 11) Provide access to all areas for the discharging and wash out of concrete from trucks using its own power.
- 12) Inaccessible areas that entail concrete pump trucks and or buggies will require change order for contract price.
- 13) Forward all back charges to A & K within 10 days after occurrence.
- 14) Remove any/all concrete remnants generated from installation of A & K's items.
- 15) All sections of the work that cannot be machine formed due to lack of preparation, access or clearance which entails hand forming, will require a change order for contract price.
- 16) Provide compaction per specs.
- 17) **Even though the concrete is included in the price (excluding granite curb bedding & backing), the contractor will purchase the concrete from the supplier and deduct its cost only (no overhead or profit) from payments due A & K. Contractor will give authorization to concrete suppliers for the release of account information order by A & K. (This only applies if concrete is furnished by A & K).**

ADDITIONAL CONDITIONS:

GRANITE / PRECAST:

- Provide access to bridge deck for the unloading of granite curb and materials via truck.
- Remove, clean and store reset items on dunnage.
- Bedding & backing will be billed to contractor with no deduction to A & K.

WALLS / PAVERS

- Excavate the sub base and provide layout/survey points for walls & pavers.
- Provide layout and sleeves for fencing/railing/signs for wall top or in paver areas.
- Provide operator & loader to unload & spot pavers/wall block, setting bed, backfilling & etc...
- Provide operator & equipment to work in conjunction with A & K's crew.
- Provide compaction per specs.

BARRIER

- Form & pour all transitions or curb/barrier that cannot be slip formed due to lack of access or clearance.
- Furnish & install wood bulkheads at start/end of wall, 1" smaller than barrier shape.
- Furnish/install/brace 1/4" steel plates at expansion joints/transitions, 1/2" smaller than wall.
- Furnish & install all rebar and align to ensure proper concrete coverage.
- Provide loader to unload/load mold from subcontractor's truck. (2 ton)
- Provide 20 lf of access along face side of work area for equipment and provide all equipment for A&K personnel to access the back side of wall.
- Median barrier - if rebar is required, contractor will disperse throughout site along median.

TERMS:

- ▶ All work can be completed prior to 7-1-23, with the understanding that remaining work will be charged at a unit price **10%** higher.
- ▶ A & K will be given 3 (THREE) weeks prior notice per item and per move to commence the work. At this time, the required prepared quantities are as follows for each move:
 - 1) All 6x18 granite curb...one move total.
- ▶ **A & K can complete all machine formed items as per moves listed above. Additional moves will be charged to the contractor at \$2,500.00 per move.**
- ▶ **A & K can complete all types of concrete sidewalk items, DWU, pavements, pavers and granite curbing as per moves listed above. Additional moves will be paid at \$2,000.00 per move.**
- ▶ **A & K will be paid for down time incurred due to site not being prepared at a rate of \$1,200.00 per hour.**
- ▶ The Contractor will make payment to A & K Slip Forming, Inc. for the work performed on this project within 15 (fifteen) days upon receipt from owner with no more than 5% retainage held. All invoices unpaid after 30 (thirty) days will incur interest charges at 1.5% per month plus attorney's fees if used for collection.
- ▶ If, for any cause, which is not the fault of the Subcontractor, a certificate of payment is not issued, the Contractor does not receive timely payment or does not pay the Subcontractor within 30 days after receipt of payment from the owner, payment to the Subcontractor shall be made upon demand.

If the Contractor wishes to award the work described herein to the Subcontractor, they may use this proposal as a letter of intent until formal agreement can be executed (which incorporates proposal). Please sign and date where indicated below and return this copy to the Subcontractor.

In any case whatsoever, all terms, conditions and exclusions are to be incorporated into any contract between both parties. If these requirements are not met, then prices are subject to change or will be respectfully withdrawn.

Expiration date of Proposal is 60 days from bid date.

Accepted by Contractor:

Submitted by:

Company: _____

A & K Slip Forming, Inc.

By: _____

By: _____

Date: _____

Date: _____

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 6G TO
THE CONSTRUCTION CONTRACT WITH TAM ENTERPRISES, INC. FOR
THE DOWNING POND AND THIRD STREET STORM SEWER PROJECT**

WHEREAS, by Resolution No. 218-2021 of September 27, 2021, the City Council of the City of Newburgh, New York awarded a bid to TAM Enterprises, Inc. in the amount of \$3,100,000.00 for the construction of the Downing Pond Drain Outlet and Third Street Storm Sewer Project; and

WHEREAS, additional time is required to accommodate manufacturing, delivery and installation timelines associated with the additional granite curbing authorized by Change Order No. 5G to complete the Project and TAM Enterprises, Inc. has submitted Change Order No. 6G extending the time to substantial completion and final payment until July 21, 2023 with no additional cost; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute Change Order No. 6G with the TAM Enterprises, Inc. to extend the time to substantial completion and final payment until July 21, 2023 in the Downing Pond Drain Outlet and Third Street Storm Sewer Project.

Date of Issuance: August 29, 2022	Effective Date: September __, 2022
Owner: City of Newburgh	Owner's Contract No.: 11.21
Contractor: TAM Enterprises Inc	Contractor's Project No.:
Engineer: Arcadis of New York, Inc	Engineer's Project No.: 30055884
Project: New Drain Outlet at Downing Park and Third Street Storm Sewer	Contract Name: General Construction


The Contract is modified as follows upon execution of this Change Order:

Description:

This is a zero dollar change order that modifies the Contract Times by adding a milestone and extending the Contract Times. Add Milestone 1 for completion of Work associated with the storm sewer, drain outlet, valve vault, and electrical controls. The storm sewer and draw down vault must be successfully started up and achieve substantial complete prior to November 30, 2022. Project Substantial Completion for the contracted work is extended by 284 days to June 23, 2023 and completed and ready for final payment by July 21, 2023.

Attachments: *None*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>3,100,000.00</u>	Original Contract Times: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase from previously approved Change Orders No. <u>5</u> : \$ <u>1,093,356.50</u>	Increase from previously approved Change Orders No. <u>1</u> : Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u> days
Contract Price prior to this Change Order: \$ <u>4,193,356.50</u>	Contract Times prior to this Change Order: Substantial Completion: <u>300</u> Ready for Final Payment: <u>330</u> days
Increase of this Change Order: \$ <u>0</u>	Increase of this Change Order: Substantial Completion: <u>284</u> Ready for Final Payment: <u>285</u> days
Contract Price incorporating this Change Order: \$ <u>4,193,356.50</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>584</u> Ready for Final Payment: <u>615</u> days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:  Engineer (if required)	By: _____ Owner (Authorized Signature) Todd Venning * Res ____-2022	By: _____ Contractor (Authorized Signature)
Title: <u>Project Manager</u>	Title: <u>City Manager/CEO</u>	Title: <u>Project Manager</u>
Date: <u>August 29, 2022</u>	Date: _____	Date: _____
Approved by Funding Agency (if applicable)		
By: _____	Date: _____	
Title: _____		

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT WITH CJS ENGINEERING, P.C.
IN THE AMOUNT OF \$28,700.00 FOR PROFESSIONAL ENGINEERING DESIGN
SERVICES FOR THE AUTOMATIC GATE ENTRANCE TO THE SLUDGE FACILITY
AT THE WASTEWATER TREATMENT PLANT**

WHEREAS, the City of Newburgh proposes to replace the existing manually operated gate to the dewatering pad and sludge facility at the Wastewater Treatment Plant with a new automated gate to provide easier access and improved security; and

WHEREAS, CJS Engineering, P.C. is qualified to provide the inspection services and submitted a proposal for professional engineering design services to include preparation of the plans and specifications, bid review and recommendation, and post installation inspection; and

WHEREAS, the cost for the professional engineering design services in the amount of \$28,700.00 shall be derived from G.8130.0200; and

WHEREAS, the City Council finds that entering into a professional engineering services agreement with CJS Engineering, P.C. is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to accept a proposal and execute an agreement with CJS Engineering, P.C. in the amount of \$28,700.00 for professional engineering design services for the automatic gate entrance to the sludge facility at the Wastewater Treatment Plant.

CJS ENGINEERING, PC

323 Glen Cove Avenue, Unit #1

Sea Cliff, NY 11579

Tele: 516-674-0101 • Fax: 516-674-4719 • CScolaro@cjs-eng.com

August 12, 2022

Jason C. Morris, PE
City Engineer
83 Broadway
Newburgh, New York 12550

Re: City of Newburgh WWTP
New Automated Gate

Dear Jason:

CJS Engineering, PC ("CJS") is pleased to present this proposal for engineering services to the City of Newburgh ("City") for the preparation of plans and specifications for the installation of a new automated gate at the City's Wastewater Treatment plant. This proposal has been developed in response to our recent discussions and site visits.

Background

The City of Newburgh's wastewater treatment plant, built in the 1960's, has a manual gate across River Street, on the west side of the plant. This gate provides access to the dewatering pad for the City's vector trucks and to the back of the treatment plant. The City is interested in replacing the existing manually operated gate with a new automated gate to provide easier access and improved security.

In general, the scope of this proposal is to prepare the plans and specifications required for the City to solicit bids for the removal of the existing gate and install a new automated gate.

Detailed Scope of Services

CJS proposes to provide the following engineering tasks:

- 1 **Preliminary Investigation:** Perform an initial site visit to review the location and proposed operation of the automated gate.
- 2 **Plans and Specifications:** Prepare five (5) design drawings and a bid specification for the new automated gate. This will include a site layout and fence detailed drawings of the new gate, electrical drawings for the power and controls wiring, and equipment specifications for the new gate, fencing, and control components. CJS will utilize the most recent front end

bid document provided by the City for this solicitation. CJS will also work with the City in selecting potential contractors to invite to bid on this work.

- 3 **Bid Review & Recommendations:** After the bids have been received, CJS will review the pricing and bid packages with the City and make a recommendation on which contractor to select based on price and their ability to perform.
- 4 **Post Installation Site Visit:** Following the installation of the new gate, CJS will inspect the contractor's work and provide the City with a summary of our findings.

Fee Proposal

CJS proposes to perform the above services for a lump-sum fee of \$28,700.00. Payment to be provided at the completion of each task, as follows:

Task 1:	\$1,500.00
Task 2:	\$21,500.00
Task 3:	\$4,200.00
Task 4:	<u>\$1,500.00</u>
Total	\$28,700.00

CJS proposes to perform the services under our standard Terms and Conditions

To accept this proposal, please sign and return one copy of the proposal.

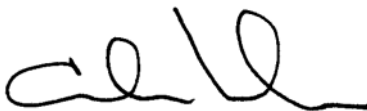
Schedule

CJS can begin work within 3-4 weeks and complete the scope in approximately 4-6 weeks after receipt of a notice-to-proceed.

Thank you for the opportunity to provide this proposal and we welcome the opportunity to discuss it with you in more detail.

Sincerely,

CJS Engineering, P.C.



Charles Scolaro, P.E.
Principal

Jason C. Morris, PE
City of Newburgh WWTP – Automated Gate at the WWTP
August 12, 2022

PROPOSAL ACCEPTANCE AGREEMENT

Proposal: City of Newburgh Automated Gate at the WWTP

Submitted to: Jason C. Morris, PE
City Engineer

Date: August 12, 2022

Lump Sum Cost: \$28,700.00

Purchase Order No: _____

Signature _____

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD BID #20.22
TO J SQUARED CONSTRUCTION CORPORATION
IN THE AMOUNT OF \$1,874,280.00 INCLUDING THE DEDUCT ALTERNATE
IN THE AMOUNT OF \$35,000.00 FOR THE WASTEWATER TREATMENT PLANT
VACUUM TRUCK UNLOADING FACILITY PROJECT**

WHEREAS, the City of Newburgh has duly advertised for bids for the construction of the City of Newburgh Wastewater Treatment Plant Vacuum Truck Unloading Facility Project (the "Project"); and

WHEREAS, 6 bids have been duly received and opened and J Squared Construction Corporation is the low bidder, having submitted a bid amount of \$1,874,280.00; and

WHEREAS, the bid includes the deduct alternate in the amount of \$35,000.00; and

WHEREAS, the funding for the Project shall be derived from the 2022 and 2023 Budget Line G.8130.0200 Equipment/Infrastructure;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the bid for the construction of the City of Newburgh Wastewater Treatment Plant Vacuum Truck Unloading Facility Project be and is hereby is awarded to J Squared Construction Corporation, in the amount of \$1,874,280.00, including the deduct alternate in the amount of \$35,000.00; and that the City Manager be and he is hereby authorized to enter into a contract for such work in these amounts.

ADVERTISEMENT FOR BIDS

City of Newburgh
Newburgh, New York
Vacuum Truck Unloading Facility

General Notice

City of Newburgh (Owner) is requesting sealed Bids for the construction of the following Project:

Vacuum Truck Unloading Facility
Bid No. 20.22

Sealed Bids for the construction of the Project will be received by the City of Newburgh Comptroller's Office located at City Hall, City of Newburgh, 83 Broadway – 4th Floor, Newburgh, New York, 12550, until **11:00 a.m.** (local time), **Tuesday, August 23, 2022** at which time the Bids received will be publicly opened and read aloud.

The Project includes the construction of a concrete vacuum truck unloading pad, pump station, force main, and other site improvements. Bids are requested for a single prime Contract.

Bid Security

Bid security shall be furnished in accordance with the Instructions to Bidders.

Obtaining the Bidding Documents

Information and Bidding Documents for the Project, becoming available to the public on **Friday, July 22, 2022**, can be found at the following designated website:

www.BidNetDirect.com/new-york/city-of-newburgh

Bidding Documents must be downloaded from the designated website. Prospective Bidders must register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. Bids received from Bidders other than those on the official Plan Holders list will not be accepted. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

Pre-Bid Conference

A pre-bid conference for the Project will be held on **Tuesday, August 2, 2022 at 11:00 a.m.** (local time) at the **City of Newburgh Water Pollution Control Plant, 2 Renwick Street, Newburgh, NY 12550**. Attendance at the pre-bid conference is encouraged but not required.

Statutory Requirements

Laws, regulations and outside funding requirements, if any, will be referenced in the Instructions to Bidders (ITB) and the text of each will be attached to Section 00 73 73 which will be a Contract Document.

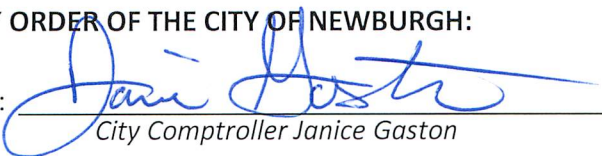
Instructions to Bidders

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

OWNER reserves the right to reject any and all Bids, to waive any and all informalities and the right to disregard all nonconforming, non-responsive or Conditional Bids.

OWNER:	Contact:	ENGINEER:	Contact:
City of Newburgh 83 Broadway Newburgh, NY 12550	Jason C. Morris, P.E. Comm. of PW/Engineer (845) 569-7448	ARCADIS of New York, Inc. 855 Route 146, Suite 210 Clifton Park, NY 12065	A.J. Brooks, P.E. Senior Engineer (518) 250-7300

BY ORDER OF THE CITY OF NEWBURGH:

By:  _____ Dated: Wednesday, July 20, 2022
City Comptroller Janice Gaston

CITY OF NEWBURGH – AN EQUAL OPPORTUNITY EMPLOYER

Justice, Equity, Diversity and Inclusion are core values to the City of Newburgh, where there is a strong commitment to establishing and maintaining an environment free of discrimination. These values are promoted through the daily practice of professionalism, respect, acceptance and understanding. As such, City residents along with women, minorities, individuals with disabilities, members of the LGBTQ community, and veterans are encouraged to apply.

MEDIA SOURCE	PUBLICATION DATE
Hudson Valley Press	Wednesday, July 20, 2022
Mid-Hudson Times	Thursday, July 21, 2022
BidNet Website	Friday, July 22, 2022

Squared Construction Corp.
277 Wolf Hill Road
Voorheesville, NY 12186

①



Bid For: (C) Newburgh, Vacuum Truck
Unloading Facility, BID No. 20.22
08/23/22 at 11:00 a.m.

RVV
8/23/2022
10:44 A.M.

(C) of Newburgh Comptrollers Office
City Hall
83 Broadway - 4th Floor
Newburgh, NY 12550

**City of Newburgh
Newburgh, New York
VACUUM TRUCK UNLOADING FACILITY
BID NO. 20.22**

BID FORM

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to:

CITY OF NEWBURGH COMPTROLLER

ATTN: Janice Gaston

City of Newburgh

83 Broadway

Fourth Floor

Newburgh, New York 12550

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2—ATTACHMENTS TO THIS BID

2.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. List of Proposed Subcontractors;
- C. List of Proposed Suppliers;
- D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such authority within the time for acceptance of Bids;
- E. Contractor's license number as evidence of Bidder's State Contractor's License or a covenant by Bidder to obtain said license within the time for acceptance of Bids;
- F. Required Bidder Qualification Statement with supporting data;
- G. Waiver of Immunity / Non-Collusive Bidding Certification; and
- H. Affidavit of Workers' Compensation
- I. Iranian Energy Sector Divestment Form.

ARTICLE 3—BASIS OF BID—LUMP SUM BID AND UNIT PRICES

3.01 Lump Sum Bids

A. Bidder will complete the Work in accordance with the Contract Documents for the following lump sum (stipulated) price(s), together with any Unit Prices indicated in Paragraph 3.02:

1. Lump Sum Price (Base Bid and Alternates)

Item No. 1	Lump Sum Base Bid	\$ 1,679,000. ⁰⁰
Item No. 2	Alternate A Delete Concrete Driveway and Add Asphalt Driveway	(\$ 35,000. ⁰⁰)

B. All specified contingency allowance(s) are included in the price(s) set forth below.

Item No. 3	Contingency Allowance	\$50,000.00
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Total of all Lump Sums	\$ 1,694,000. ⁰⁰
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3.02 Unit Price Bids

A. Bidder will perform the following Work at the indicated unit prices:

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Amount
4	Pile Driving	LF	2,200	\$ 55. ⁰⁰	\$ 121,000. ⁰⁰
5	Pile Splices	EA	36	\$ 230. ⁰⁰	\$ 8,280. ⁰⁰
6	Disposal of Contaminated Soil	CY	50	\$ 320. ⁰⁰	\$ 16,000. ⁰⁰
Total of All Unit Price Bid Items					\$ 145,280. ⁰⁰

B. Bidder acknowledges that:

1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

3.03 Total Bid Price (Lump Sum and Unit Prices)

Total Bid Price (Total of all Lump Sum and Unit Price Bids)	\$ 1,839,280. ⁰⁰
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ARTICLE 4—BASIS OF BID—COST-PLUS FEE (NOT USED)

ARTICLE 5—PRICE-PLUS-TIME BID (NOT USED)

ARTICLE 6—TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

7.01 *Bid Acceptance Period*

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

7.02 *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

7.03 *Receipt of Addenda*

- A. Bidder hereby acknowledges receipt of the following Addenda

Addendum Number	Addendum Date
1	08/15/2022

ARTICLE 8—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

8.01 *Bidder's Representations*

- A. In submitting this Bid, Bidder represents the following:
1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
 2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing

surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

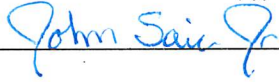
BIDDER hereby submits this Bid as set forth above:

Bidder:

J Squared Construction Corp.

(typed or printed name of organization)

By:



(individual's signature)

Name:

John Saia, Jr.

(typed or printed)

Title:

President

(typed or printed)

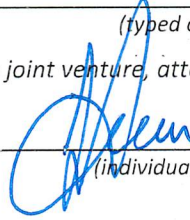
Date:

23 August 2022

(typed or printed)

If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.

Attest:



(individual's signature)

Name:

Joseph Primiano

(typed or printed)

Title:

Vice President

(typed or printed)

Date:

23 August 2022

(typed or printed)

Address for giving notices:

277 Wolf Hill Road, Voorheesville, NY 12186

Bidder's Contact:

Name:

John Saia, Jr.

(typed or printed)

Title:

President

(typed or printed)

Phone:

(518) 872-9471

Email:

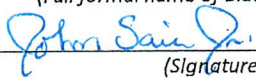

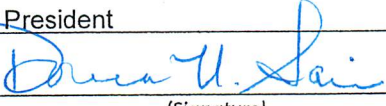
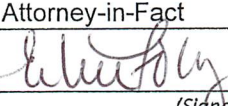
jsaia@jsquaredconstruct.com

Address:

277 Wolf Hill Road, Voorheesville, NY 12186

Bidder's Contractor License No.: (if applicable)

BID BOND (PENAL SUM FORM)

Bidder J Squared Construction Corp Name: [Full formal name of Bidder] Address (principal place of business): [Address of Bidder's principal place of business] 277 Wolf Hill Road Voorheesville, New York 12186	Surety Merchants Bonding Company (Mutual) Name: [Full formal name of Surety] Address (principal place of business): [Address of Surety's principal place of business] 6700 Westown Parkway West Des Moines, Iowa 50266
Owner Name: City of Newburgh Address (principal place of business): 83 Broadway, Newburgh, New York 12550	Bid Project (name and location): Bid No. 20.22 Vacuum Truck Unloading Facility 2 Renwick Street, Newburgh, New York 12550 August 23, 2022 Bid Due Date: [Enter date bid is due]
Bond JSQU8-12-22-1 Penal Sum: [Amount] Five Percent of the Amount Bid (5%) Date of Bond: [Date] August 12, 2022	
Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.	
Bidder <u>J Squared Construction Corp</u> <i>(Full formal name of Bidder)</i>	Surety <u>Merchants Bonding Company (Mutual)</u> <i>(Full formal name of Surety) (corporate seal)</i>
By: <u></u> <i>(Signature)</i>	By: <u></u> <i>(Signature) (Attach Power of Attorney)</i>
Name: <u>John Saia, Jr.</u> <i>(Printed or typed)</i>	Name: <u>Renee A. Manny</u> <i>(Printed or typed)</i>
Title: <u>President</u>	Title: <u>Attorney-in-Fact</u>
Attest: <u></u> <i>(Signature)</i>	Attest: <u></u> <i>(Signature)</i>
Name: _____ <i>(Printed or typed)</i>	Name: _____ <i>(Printed or typed)</i>
Title: _____	Title: _____
Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.	

Sent via E-mail

Jason Morris, PE
Commissioner of Public Works and City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Phone: 518 250 7300
Fax: 518 371 2757
www.arcadis.com

Date: August 29, 2022

Our Ref: 30125288

Subject: Bid No. 20.22 – Vacuum Truck Unloading Facility Bid Results and Recommendation

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) has reviewed the tabulated Bids received by the City of Newburgh (City) on August 23, 2022, for Bid No. 20.22 – Vacuum Truck Unloading Facility. A total of six Bids were received. The tabulated Bid results are enclosed for your convenience. The apparent low Bidder is J Squared Construction Corp. of Voorheesville, New York with a base bid of \$1,839,280.00, inclusive of a deduct alternate for \$35,000 and \$195,280 in allowances and estimated unit price work. We have reviewed the Bids and have determined the apparent low bidder to be responsive in accordance with the Instructions to Bidders.

Over the past couple of years there have been supply chain issues and labor shortages and material volatility. These factors coupled with historically high inflation has resulted in construction prices to significantly increase. J Squared Construction Corp. plans on completing the majority of the project in 2022, this would include driving piles, concrete, and drainage piping. Proposals that they have received for the pre-packaged submersible pump station has it being delivered in April 2023, therefore it is likely that there will be a winter shut down and they would come back to complete the installation of the pump station and tie in the Spring.

Arcadis recommends that the City consider awarding the Contract for Bid No. 20.22 to J Squared Construction Corp. in the amount of \$1,874,280.00, inclusive of estimated unit price work but not include the deduct alternate. If you have any further questions pertaining to this project, please call me at your earliest convenience so that we can be of further assistance.

Sincerely,
Arcadis of New York, Inc.



A.J. Brooks, PE
Project Manager

Email: a.j.brooks@arcadis.com
Direct Line: 518 250 7374

CC. R. Ostapczuk, Arcadis
Enclosures: Bid Opening Report

BID OPENING REPORT

ARCADIS

Arcadis of New York

855 Route 146, Suite 210

Clifton Park, New York 12065

Project Name:

Vacuum Truck Unloading Facility

Project Number: 30125288

Sheet 1 of 1

Location:

City of Newburgh, Orange County,
New York

Read Aloud By: A.J. Brooks, PE, Senior Engineer (Arcadis of NY)

Bid Opening Date and Time:

August 23, 2022 at 11:00 am

Recorded By: Robert Van Vlack Purchasing Agent

Location:

City Hall, 83 Broadway
Newburgh, New York 12550

Witnessed By: Janice Gaston, City Comptroller

Name of Contract: General Construction

Bid No. 20.22

Date: Tuesday, August 23, 2022

			Name of Bidder											
Bid Results			A-Tech 10:08 AM		TAM Enterprises 10:22 AM		J Squared 10:44 AM		DA Collins 10:47 AM		Butler Construction 10:50 AM		W.M. Shutlz Construction 10:58 AM	
Qty.	Unit													
Item No. 1	1 LS	General Construction	\$1,698,000.00		\$1,650,000.00		\$1,679,000.00		\$1,800,000.00		\$1,644,210.00		\$1,787,000.00	
Item No. 2	1 LS	Alternate A - Delete Concrete & Add Asphalt Driveway	(\$25,000.00)		(\$41,355.80)		(\$35,000.00)		(\$70,000.00)		(\$50,000.00)		(\$85,000.00)	
Item No. 3	1 LS	Contingency Allowance	\$50,000.00		\$50,000.00		\$50,000.00		\$50,000.00		\$50,000.00		\$50,000.00	
Total of All Lump Sum Bid Items			\$1,723,000.00		\$1,658,644.20		\$1,694,000.00		\$1,780,000.00		\$1,644,210.00		\$1,752,000.00	
Unit Price Items			Unit Price	Total Item Price	Unit Price	Total Item Price	Unit Price	Total Item Price	Unit Price	Total Item Price	Unit Price	Total Item Price	Unit Price	Total Item Price
Item No. 4	2,200 LF	Pile Driving	\$115.00	\$253,000.00	\$64.00	\$140,800.00	\$55.00	\$121,000.00	\$217.00	\$477,400.00	\$140.75	\$309,650.00	\$125.00	\$275,000.00
Item No. 5	36 LF	Pile Splices	\$850.00	\$30,600.00	\$1,680.00	\$60,480.00	\$230.00	\$8,280.00	\$3,900.00	\$140,400.00	\$375.00	\$13,500.00	\$2,100.00	\$75,600.00
Item No. 6	50 CY	Disposal of Contaminated Soil	\$275.00	\$13,750.00	\$579.00	\$28,950.00	\$320.00	\$16,000.00	\$425.00	\$21,250.00	\$275.00	\$13,750.00	\$550.00	\$27,500.00
Total of All Unit Price Bid Items				\$297,350.00		\$230,230.00		\$145,280.00		\$639,050.00		\$336,900.00		\$378,100.00
Total Bid Price			\$2,020,350.00		\$1,888,874.20		\$1,839,280.00		\$2,419,050.00		\$1,981,110.00		\$2,130,100.00	
Addenda Rec'd			✓		✓		✓		✓		✓		✓	
Bid Security			Bid Bond		Bid Bond		Bid Bond		Bid Bond		Bid Bond		Bid Bond	
Qualification Statement			✓		✓		✓		✓		✓		✓	
List of Subcontractors & Suppliers			Not Included		Not Included		Not Included		✓		Not Included		Not Included	
Non-Collusive Certificate			✓		✓		✓		✓		✓		✓	
Worker's Compensation Affidavit			✓		✓		✓		✓		✓		✓	
Iranian Divestment Form			✓		✓		✓		✓		✓		✓	

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION ACCEPTING A PROPOSAL AND AUTHORIZING
THE CITY MANAGER TO EXECUTE A CONTRACT WITH
ARCADIS OF NEW YORK INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR
CONSTRUCTION INSPECTION IN THE WASTEWATER TREATMENT PLANT
VACUUM TRUCK UNLOADING FACILITY PROJECT
IN THE AMOUNT OF \$129,820.00**

WHEREAS, the City of Newburgh has undertaken the Wastewater Treatment Plant Vacuum Truck Unloading Facility Project (the "Project"), which includes the installation of a permanent, concrete, vacuum truck dumping pad to facilitate washdown operations, contain liquid waste that will be pumped to the WWTP head works for treatment and static screens to separate larger debris for disposal in roll off containers; and

WHEREAS, by Resolution No. 26-2022 of February 14, 2022, the City Council approved a contract with Arcadis of New York, Inc., for professional engineering services for the design of and the preparation of bid documents for the Project; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for construction management and inspection professional engineering services for the Project with funding for the cost of the services an amount not to exceed \$129,820.00 to be derived from the FY 2022 and 2023 Budget Line G.8130.0200; and

WHEREAS, this Council determines that accepting the proposal and executing a contract with Arcadis of New York, Inc. in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept the letter proposal and execute a professional engineering services agreement with Arcadis of New York, Inc. for construction management and inspection services in the Waste Water Treatment Plant Vacuum Truck Unloading Facility Project in the amount of \$129,820.00.

Jason Morris, PE
Commissioner of Public Works & City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Phone: 518 250 7300
Fax: 518 371 2757
www.arcadis.com

Date: August 30, 2022
Our Ref: 30129146
Subject: Proposal for Construction Phase Services
Vac Truck Unloading Facility

Dear Mr. Morris,

Arcadis of New York, Inc. is pleased to present the City of Newburgh with this proposal for construction phase engineering services for City's Vacuum Truck Unloading Facility.

Scope of Services

Task 4 – Construction Administration

Arcadis will perform construction contract administration services based on a single-prime construction contract with an expected duration of 7 months. Arcadis will provide in-house project management to direct and coordinate services to be provided by Arcadis, such as scheduling site visits, quality review of deliverables, communications with City staff, budget management and invoicing.

Arcadis will schedule and attend, in conjunction with the City, the pre-construction conference to discuss general and specific requirements of the Contract Documents. Develop an agenda and create and distribute minutes for this meeting.

Arcadis will review the Contractor's pre-construction submittals including, but not limited to, lists of subcontractors, schedules, schedule of values, and submittal log. Arcadis will review Contractor's submittals during construction; including shop drawings, material and equipment samples, and vendor O&M manuals to determine whether such submittals are in accordance with the Contract Documents. Arcadis will indicate what changes, if any, are necessary for each submittal and review necessary re-submittals Arcadis has included up to two re-submittals in this scope of work. Arcadis will maintain a submittal log describing the current status of Contractors' submittals, as well as maintain records of vendor warranties and one set of approved shop drawings to be turned over to the City at the completion of construction.

Arcadis will review the Contractor's construction progress schedule and provide comments to the Contractor and the City. Arcadis will review and make recommendations to the City for the approval of payment requests. Recommendations for payment will be based on the Contractor's progress to date, and shop drawing and equipment procurement status.

We will prepare and support the City in the negotiation of change orders and in the review of requests for time extensions and of claims, in accordance with the Contract between the City and the Contractor. Preparation of change orders shall include necessary drawing and specification modifications.

Mr. Jason Morris, PE
City of Newburgh
August 30, 2022

Arcadis will prepare quarterly M/WBE and EEO reports to be sent to the New York State Environmental Facilities Corporation (NYS EFC) as required for NYS Clean Water State Revolving funding.

Task 5 – Field Resolutions

Arcadis will review, log, and respond to Requests for Information (RFIs), Requests for Field Changes, and Field Changes that are submitted in writing by the Contractor. We will prepare written responses for requests and prepare supplementary drawings that may be necessary for the interpretation and clarification of the Contract Documents.

Task 6 – Construction Progress Meetings

Attend up to 14 bi-weekly progress meetings with the City, the Contractor, and other stakeholders. Arcadis will develop agendas and create and distribute minutes for each progress meetings. Meetings will include a discussion of the work completed in the prior two weeks, the progress anticipated for the upcoming two weeks, the status of RFI's, change orders, and shop drawings. Progress meetings will be attended in person by our Resident Engineer and virtually by our Project Manager and Project Engineer.

Task 7 – Construction Observation and Site Visits

Arcadis will periodically visit the site with technical staff to observe the progress of the Work. Arcadis will participate in an inspection with the City to determine if the work is substantially complete and assist in determining if the work has been completed in general accordance with the Contract Documents. Arcadis will act as coordinating Special Inspector and provide inspection services for pile driving, concrete reinforcing inspection, and concrete placement, working in conjunction with the Contractor's field inspector. We will prepare a list of incomplete items (punch list) and obtain a schedule for their completion from the Contractor. Upon receiving written notice from the Contractor that the Work is complete, and a final inspection requested, Arcadis will conduct a final inspection of the completed Work.

Arcadis will provide part time inspection services during construction to assist the Resident Engineer. Arcadis will provide up to 360 hours of construction observation by a construction field representative. While inspecting the Work on site, the construction field representative will:

- Observe material and equipment delivered to the site prior to installation;
- Inform the Contractor when the Work being performed does not meet the requirements of the Contract Documents;
- Verify that deficiencies in the Work are corrected and properly documented, and;
- Prepare a daily log summarizing the day's observations. The daily log will include the date, weather conditions, construction Work in progress, size of the work force, equipment utilized, and condition of the Work.

Task 8 – Construction Closeout

Arcadis will assist the City with document collection for closeout of the project in compliance with requirements of NYS EFC and the other sources of funding for this project. Create as built drawings based upon the Contractor field mark-ups. The CADD drawing files will be submitted to the City electronically, along with 2 hard copies.

Mr. Jason Morris, PE
City of Newburgh
August 30, 2022

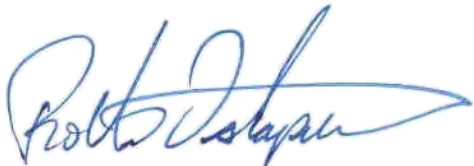
Schedule and Fee

Arcadis will complete the scope of services presented herein for a total not to exceed fee of \$129,820. The City will only be charged for actual time and expense costs incurred. If acceptable, this scope of work will be billed in accordance with the attached rates schedule for hours worked plus other direct costs markup of 10 percent. Arcadis proposes amending the current Engineering Agreement for the Reconstruction of Broadway and Separation of Sewers on Water Street Sewer Separation, to add the scope of services presented herein.

Task	Compensation
Task 4 – Construction Administration	\$29,400
Task 5 – Field Resolutions	\$17,480
Task 6 – Construction Progress Meetings	\$14,000
Task 7 – Construction Inspection & Site Visits	\$63,000
Task 8 – Construction Closeout	\$5,900
Total Not to Exceed Fee: \$129,820	

Arcadis looks forward to continuing to support the City. If you have any questions, please do not hesitate to contact me at (518) 250-7300 so that I may be of further assistance. We again thank the City for this opportunity.

Sincerely,
Arcadis of New York, Inc.



Robert Ostapczuk, PE
Vice President

Email: robert.ostpaczuk@arcadis.com
Direct Line: 518.250.7305
Mobile: 518.810.6872

This proposal and its contents shall not be duplicated, used or disclosed — in whole or in part — for any purpose other than to evaluate the proposal. This proposal is not intended to be binding or form the terms of a contract. The scope and price of this proposal will be superseded by the contract. If this proposal is accepted and a contract is awarded to Arcadis as a result of — or in connection with — the submission of this proposal, Arcadis and/or the client shall have the right to make appropriate revisions of its terms, including scope and price, for purposes of the contract. Further, client shall have the right to duplicate, use or disclose the data contained in this proposal only to the extent provided in the resulting contract.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LETTER AGREEMENT BETWEEN THE CITY OF NEWBURGH
AND THE FIRM OF PKF O'CONNOR DAVIES, LLP FOR AUDITING SERVICES FOR
FISCAL YEAR ENDING DECEMBER 31, 2022 FOR THE PRICE OF \$91,000.00**

WHEREAS, the firm of PKF O'Connor Davies, LLP has worked diligently in connection with the preparation of the City of Newburgh auditing for fiscal years ending December 31, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021; and

WHEREAS, based on experience and work history the Comptroller has recommended that the firm of PKF O'Connor Davies, LLP be retained for fiscal year ending December 31, 2022; and

WHEREAS, this Council has reviewed the letter agreement attached hereto and has determined it to be in the best interests of the City to enter into the same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a letter agreement with the firm of PKF O'Connor Davies, LLP for auditing services for the fiscal year ending December 31, 2022 for the price of \$91,000.00.



August 16, 2022

Members of the City Council
City of Newburgh
City Hall
83 Broadway
Newburgh, New York 12550

Dear Members of the City Council:

This letter sets forth our understanding of the terms and objectives of our engagement, and the nature and scope of the services we will provide to the City of Newburgh, New York (the "Entity").

Prior to the commencement of our audit(s) we may not know if an audit performed in accordance with the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards ("Uniform Guidance") is required. Consequently, this letter includes the words "if applicable" next to relevant single audit communication requirements.

Audit Scope and Objectives

We will audit the Entity's statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund and the aggregate remaining fund information and the disclosures, which collectively comprise the basic financial statements of the Entity as of and for the year ended December 31, 2022 and issue our report thereon as soon as reasonably possible after completion of our work. Within the financial statements is a component unit that will be audited by another independent accountant and the results of that audit will be included in the financial statements. We will be relying upon their work without subjecting it to any additional auditing procedures.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A"), to supplement the Entity's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Entity's RSI in accordance with auditing standards generally accepted in the United States of America, ("US GAAS"). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence

PKF O'CONNOR DAVIES, LLP
500 Mamaroneck Avenue, Harrison, NY 10528 | Tel: 914.381.8900 | Fax: 914.381.8910 | www.pkfod.com

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms

to express an opinion or provide any assurance. The following RSI is required by US GAAP and will be subjected to certain limited procedures, but will not be audited:

- Management's Discussion and Analysis
- Schedule of Changes in the Total OPEB Liability and Related Ratios
- Schedules of Contributions and Proportionate Share of the Net Pension Liability

We have also been engaged to report on supplementary information other than the RSI that accompanies the Entity's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with US GAAS, *Government Auditing Standards* issued by the Comptroller General of the United States ("GAGAS") (if applicable), and the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance") (if applicable), and we will provide an opinion on it in relation to the financial statements as a whole in a report combined with our auditor's report on the financial statements:

- Combining and Individual Fund Financial Statements and Schedules
- Schedule of Expenditures of Federal and/or State Awards (if applicable)

In connection with our audit of the basic financial statements, we will read the following other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

- Introductory section of the Annual Comprehensive Financial Report
- Statistical section of the Annual Comprehensive Financial Report

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud, error, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the Entity or to acts by management or employees acting on behalf of the Entity; and issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP; and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Because the determination of abuse is subjective, GAGAS do not expect auditors to provide reasonable assurance of detecting abuse. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, GAGAS (if applicable), and Uniform Guidance (if applicable) will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct the audit in accordance with US GAAS, GAGAS (if applicable), and Uniform Guidance (if applicable), and will include tests of accounting records, a determination of major programs in accordance with Uniform Guidance (if applicable), and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with US GAAS, GAGAS (if applicable), and Uniform Guidance, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may exist and not be detected by us even though the audit is properly planned and performed in accordance with US GAAS, GAGAS (if applicable), and Uniform Guidance (if applicable). In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements and on those programs we have determined to be major programs (if applicable). However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting or misappropriation of assets and any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit (if applicable). We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential.

The objective for our audit also includes reporting on:

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with GAGAS (if applicable).
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with Uniform Guidance, Audits of States, Local Governments and Non-Profit Organizations (if applicable).

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Entity's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to GAGAS (if applicable).

Uniform Guidance (if applicable) requires that we also plan and perform the audit to obtain reasonable assurance about whether the Entity has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the "Uniform Guidance Compliance Supplement" for the types of compliance requirements that could have a direct and material effect on each of the Entity's major programs. The purpose of these procedures will be to express an opinion on the Entity's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to Uniform Guidance. As required by Uniform Guidance, we will also perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to prevent or detect material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Uniform Guidance.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also include, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's/Entity's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement when required based on our professional judgement.

After our planning is complete, we will communicate to management and those charged with governance, the significant risk(s) of material misstatement identified in our audit planning.

Audit Procedures – Internal Control

We will obtain an understanding of the Entity and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements and the supplementary information, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to prevent and detect misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to GAGAS. An audit is also not designed to identify significant deficiencies or material weaknesses. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Entity's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report.

Reporting

We will issue a written report(s) upon completion of our audit of the Entity's financial statements and written reports required with audits performed in accordance with GAGAS and the Uniform Guidance (if applicable). We will make reference to BST's audit of the City of Newburgh Industrial Development Agency in our report on your financial statements. Our reports will be addressed to management and those charged with governance of the Entity. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these

circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or withdraw from this engagement.

We will also provide a report (which does not include an opinion) on internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements as required by GAGAS (if applicable).

The reports on internal control and compliance (if applicable) will each include a paragraph that states that the purpose of the report is solely to describe (1) the scope of testing of internal control over financial reporting and compliance and the result of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance, (2) the scope of testing internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on compliance but not to provide an opinion on the effectiveness of internal control over compliance, and (3) that the report is an integral part of an audit performed in accordance with GAGAS in considering internal control over financial reporting and compliance and Uniform Guidance in considering internal control over compliance and major program compliance. The paragraph will also state that the report is not suitable for any other purpose.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form (if applicable) that summarize our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit.

We will also communicate with those charged with governance any (a) fraud involving senior management and other fraud that causes a material misstatement of the financial statements; (b) violations of laws or governmental regulations that come to our attention (unless they are clearly inconsequential); (c) disagreements with management and other serious difficulties encountered in performing the audit; and, (d) various matters related to the Entity's accounting policies and financial statements.

Other Services

We will also prepare the financial statements and the Annual Update Document (AUD) of the Entity in conformity with accounting principles generally accepted in the United States of America based on information provided by you.

We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair

presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements, including all disclosures, RSI and supplementary information, in conformity with accounting principles generally accepted in the United States of America.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Your responsibilities include adjusting the financial statements and supplementary information to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the preparation of the supplementary information in conformity with accounting principles generally accepted in the United States of America. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon.

Management's responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the RSI and supplementary information in accordance with US GAAP; (2) you believe the RSI and supplementary information, including its form and content, is fairly presented in accordance with US GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the RSI and supplementary information.

Management is responsible for management decisions and assuming all management responsibilities; for designating an individual with suitable skill, knowledge, and/or experience to oversee prepare the financial statements and the AUD other non-attest services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal *and/or state* awards in accordance with the requirements of Uniform Guidance (if applicable). As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal *and/or state* awards (if applicable), and related notes. You agree to include our report on the schedule of expenditures of federal *and/or state* awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal *and/or state* awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal *and/or state* awards that includes our report thereon. You are responsible for making all management decisions and assuming all management responsibilities relating to the financial statements, schedule of expenditures of federal *and/or state* awards and related notes, and for accepting full responsibility for such decisions.

Management is also responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the Entity involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the Entity received in communications from employees, former employees, grantors, regulators or others. In addition, you are responsible for identifying and ensuring that the Entity complies with applicable laws, regulations, contracts, agreements and grants and for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report. Additionally, as required by Uniform Guidance (if applicable), it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

In order to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements, management is responsible for establishing and maintaining effective internal control, including internal control over compliance, and for evaluating and monitoring ongoing activities.

Management's responsibilities also include identifying any significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the audit objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other engagements or studies. The Entity is also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

At the conclusion of the engagement, we will request from management written confirmation concerning representations made to us in connection with the audit. The representation letter, among other things, will confirm management's responsibility for: (1) the preparation of the financial statements in conformity with US GAAP, (2) the availability of financial records and related data, and (3) the completeness and availability of all minutes of board meetings. Management's representation letter will further confirm that: (1) the effects of any uncorrected misstatements aggregated by us during the engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole, and (2) we have been informed of, or that there were no incidences of, fraud involving management or those employees who have significant roles in the Entity's internal control. You will also be required to acknowledge in the management representation letter, when applicable, our assistance with preparation of the financial statements and related schedules, RSI and the schedule of expenditures of federal (*and/or state*) awards (if applicable) and that you have reviewed and approved the financial statements, aforementioned schedules and RSI, and related notes prior to their issuance and have accepted responsibility for them. We will place reliance on these representations in issuing our report.

In the event that we become obligated to pay any cost, settlement, judgment, fine, penalty, or similar award or sanction as a result of a claim, investigation, or other proceeding instituted by any third party, as a direct or indirect result of an intentional, knowing or reckless misrepresentation or provision to us of inaccurate or incomplete information by the Entity or, any elected official, member of management or employee thereof in connection with this engagement, and not any failure on our part to comply with professional standards, you agree to indemnify us against such obligations.

To the best of your knowledge, you are unaware of any facts which might impair our independence with respect to this engagement.

The financial statements are the property of the Entity and can be reproduced and distributed as management desires. However, you must notify us in advance and obtain our approval if you intend to make reference to our firm in a document that includes our auditors' report on the financial statements. Because our engagement does not contemplate the foregoing, there may be an additional fee in connection with our review of any such documents. In the event our auditor/client relationship has been terminated when the Entity seeks such consent, we will be under no obligation to grant such consent or approval.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

We understand that your accounting department personnel will assist us to the extent practicable in completing the audit. They will provide us with detailed trial balances, supporting schedules, and other information we deem necessary. A list of these schedules and other items of information will be furnished to you before we begin the audit. The timely and accurate completion of this information is an essential condition to our completion of the audit and the issuance of the audit report.

We keep documents related to this engagement in accordance with our records retention policy and applicable regulations or for any additional period requested by the applicable cognizant agency. If we are aware that a federal *and/or* state awarding agency or the Entity is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation. We do not keep any original client records, so we will return those to you at the completion of the services rendered under this engagement. When records are returned to you, it is your responsibility to retain and protect your records for possible future use, including potential examination by any government or regulatory agencies.

As part of our engagement, we may propose standard, adjusting, or correcting journal entries to your financial statements. Management, however, has final responsibility for reviewing the proposed entries and understanding the nature and impact of the proposed entries to the financial statements. It is our understanding that management has designated qualified individuals with the necessary expertise to be responsible and accountable for overseeing the acceptance and processing of such journal entries.

Non-reliance on oral advice

It is our policy to put all advice on which a client intends to rely in writing. We believe that is necessary to avoid confusion and to make clear the specific nature and limitations of our advice. You should not rely on any advice that has not been put in writing by our firm after a full supervisory review.

Electronic and other communication

During the course of the engagement, we may communicate with you or with Entity personnel via fax or e-mail. You should be aware that communication in those media may be unsafe to use and contains a risk of misdirection and/or interception by unintended third parties, or failed delivery or receipt. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of e-mail or other electronic transmissions, including any consequential, incidental, direct, indirect or special damages.

Access to working papers

During the course of this engagement, we will develop files of various documents, schedules and other related engagement information known as our working papers. As we are sure you can appreciate, these working papers may contain confidential information and our firm's proprietary data. You understand and agree that these working papers are, and will remain, our exclusive property. Except as discussed below, any requests for access to our working papers will be discussed with you before making them available to requesting parties:

- (1) Our firm, as well as other accounting firms, participates in a peer review program covering our audit and accounting practices. This program requires that once every three years we subject our system of quality control to an examination by another accounting firm. As part of this process, the other firm will review a sample of our work. It is possible that the work we perform for you may be selected for review. If it is, the other firm is bound by professional standards to keep all information confidential.
- (2) We may be requested to make certain working papers available to regulators pursuant to authority given to them by law, regulation or subpoena. Such regulators may include (i) a federal agency providing direct or indirect funding or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities; (ii) the American Institute of Certified Public Accountants; and (iii) the State Board of Accountancy. If requested, access to such working papers will be provided under the supervision of our personnel. Furthermore, upon request, we may provide photocopies of selected working papers to them. The regulator may intend, or decide, to distribute the photocopies or information contained therein to others, including other government agencies.

Fees and billing

The components of our fees are detailed below:

Basic Audit Fee	\$	69,500
Federal Single Audit		12,000
NYS DOT Audit (if necessary)		2,000
NYS AUD Preparation		4,000
ACFR Preparation		3,500
		<hr/>
	\$	<u>91,000</u>

The above quoted fee includes the compliance audit of one major program in accordance with Uniform Grant Guidance. If the City requires more than one major program to be audited, it will be an additional cost estimated to range from \$3,000 and \$5,000.

The fee is based on anticipated cooperation from your personnel, audit condition of the books and records and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Our fees for these services are due and payable under the payment schedule which follows. Invoices for additional amounts that may be incurred for these and other services will be rendered as such work progresses and are payable upon presentation.

<u>Payments will be due</u>	<u>Percentage</u>
Upon completion of our audit field work	75%
Upon submission of the final report and management letter	<u>25%</u>
	<u>100%</u>

Our hourly rates for any additional services for the initial year of the engagement are detailed below.

Level	2022
Sr. Partner/Partner	\$310-300
Sr. Manager/Manager	\$240-210
Supervisor	\$185
Senior Accountant	\$165
Associate	\$145

Liability

Any and all claims by the Entity arising under this engagement must be commenced by the Entity within one year following the date on which our firm delivered our report on the financial statements associated with this engagement, or the date the Entity is informed of the engagement's termination in the event our report is not delivered, for any reason.

You agree to indemnify our firm, its partners, principals and employees, to the fullest extent permitted by law for any expense, including compensation for our time at our standard billing rates and reimbursement for our out-of-pocket expenses and reasonable attorneys' fees, incurred in complying with or responding to any request (by subpoena or otherwise) for testimony, documents or other information concerning the Entity by any governmental agency or investigative body or by a party in any litigation or dispute other than litigation or disputes involving claims by the Entity against the firm. This indemnification will survive termination of this engagement.

Dispute resolution

Any claim or controversy ("dispute") arising out of or relating to this engagement, the services provided thereunder, or any other services provided by or on behalf of the firm or any of its subcontractors or agents to the Entity or at its request (including any dispute involving any person or entity for whose benefit the services in question are or were provided). This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Venue shall be in either Orange or Westchester County. Each party waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Any proceedings arising out of and/or relating to this

engagement shall be resolved by a judge trial without a jury and the right to a jury trial is waived, to the fullest extent permitted by applicable law.

Hosting services

In order to maintain our independence in accordance with the AICPA's Code of Professional Conduct, we cannot host or maintain any client information. You are expected to retain all financial and non-financial information including anything you upload to a portal and are responsible for downloading and retaining anything we upload in a timely manner. Portals are only meant as a method of transferring data, are not intended for the storage of client information, and may be deleted at any time. You are expected to maintain control over your accounting systems to include the licensing of applications and the hosting of said applications and data. We do not provide electronic security or back-up services for any of your data or records. Giving us access to your accounting system does not make us hosts of information contained within.

Employment of firm partner or professional employee

The Entity acknowledges that hiring current or former PKF O'Connor Davies personnel participating in the engagement may be perceived as compromising our objectivity, and depending on the applicable professional standards, impairing our independence in certain circumstances. Accordingly, prior to entering into any employment discussions, with such known individuals, you agree to discuss the potential employment, including any applicable independence ramifications, with the engagement partner responsible for the services.

In addition, during the term of this Engagement Letter and for a period of one (1) year after the services are completed, we both agree not to solicit, directly or indirectly, or hire the other's personnel participating in the engagement without express written consent. If this provision is violated, the violating party will pay the other party a fee equal to the hired person's annual salary in effect at the time of the violation to reimburse the estimated costs of hiring and training replacement personnel.

Confirmation and other

Jeffrey Shaver is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

GAGAS require that we provide you with a copy of our most recent external peer review report, and any subsequent peer review reports received during the period of the contract. Our latest peer review report accompanies this letter.

We will provide copies of our reports to the Entity; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Our audit engagement for each year ends on delivery of our audit report covering that year. Requests for services other than those included in this engagement letter will be agreed upon separately.

All rights and obligations set forth herein shall become the rights and obligations of any successor firm to PKF O'Connor Davies, LLP by way of merger, acquisition or otherwise.

If this letter correctly expresses your understanding of the terms of our engagement, including our respective responsibilities, please sign the enclosed copy where indicated and return it to us.

We are pleased to have this opportunity to serve you.

Very truly yours,

PKF O'Connor Davies, LLP
PKF O'Connor Davies, LLP

/

Enc.

The services and terms described in the foregoing letter are in accordance with our requirements and are acceptable to us.

CITY OF NEWBURGH, NEW YORK

BY: _____

TITLE: _____

DATE: _____

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

* * *



REPORT ON THE FIRM'S SYSTEM OF QUALITY CONTROL

June 16, 2020

To the Partners of PKF O'Connor Davies, LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of PKF O'Connor Davies, LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended December 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act, audits of employee benefit plans, audits of broker-dealers, and examinations of service organizations SOC 1 and SOC 2 engagements.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of PKF O'Connor Davies, LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended December 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. PKF O'Connor Davies, LLP has received a peer review rating of *pass*.

Davie Kaplan, CPA, P.C.

DAVIE KAPLAN, CPA, P.C.

Davie Kaplan, CPA, P.C.
Certified Public Accountants

RESOLUTION NO.: ____ - 2022

OF

SEPTEMBER 12, 2022

**RESOLUTION AMENDING RESOLUTION NO: 283-2021,
THE 2022 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
FOR A SELF-INSURANCE FUND ADJUSTMENT DUE TO A JUDGMENT PAYMENT**

WHEREAS, amendment to the 2022 Budget is necessary for an adjustment to the Self-Insurance Fund as the result of a judgment payment; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 283-2021, the 2022 Budget of the City of Newburgh, is hereby amended as follows:

<u>GL Account</u>	<u>Description</u>	<u>Decrease Budget</u>	<u>Increase Budget</u>
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Self-Insurance Fund

Revenue:

M.0000.2800.0000.0000	General Fund - Interfund Revenue		\$1,087,049.10
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Expense:

A.9923.0900.0000.0000	Contribution to Self-Insurance		\$1,087,049.10
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RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION UPDATING THE LIST OF QUALIFIED PLUMBING CONTRACTORS
TO PERFORM WORK IN CONNECTION WITH
THE CITY OF NEWBURGH LEAD SERVICE LINE REPLACEMENT PROGRAM**

WHEREAS, by Resolution No. 7-2018 of January 8, 2018, the City Council of the City of Newburgh accepted a New York State Department of Health Lead Service Line Replacement Program (“LSLRP”) Grant to facilitate the replacement of lead water service lines, and following a Request for Qualifications soliciting plumbing contractors interested in bidding on LSLRP projects in the City of Newburgh funded by the LSLRP Grant, by Resolution No. 249-2018 of September 10, 2018, the City Council designated a list of plumbing contractors as qualified to bid on and perform work under the LSLRP Grant; and

WHEREAS, by Resolution No. 75-2019 of March 25, 2019 and Resolution No. 115-2019 of March 13, 2019, the City of Newburgh updated the list of designated plumbing contractors qualified to bid on and perform the work required by the LSLRP Grant; and

WHEREAS, the City proposes to allocate a portion of the American Rescue Plan funds to continue its LSLRP; issued a new solicitation for qualified plumbing contractors interested in bidding and performing work for future LSRP projects; and by Resolution No. 53-2022 of March 14, 2022 designated a new list of qualified plumbing contractors to bid on and perform work for future LSPRP projects; and

WHEREAS the City of Newburgh continues to receive applications from plumbing contractors and now wishes to update the list of designated plumbing contractors qualified to bid on and perform the work required by the LSLRP Grant by adding new qualified contractors and removing other contractors who are no longer performing such work; the same being in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following plumbing contractors are designated as qualified to bid on and perform work for the City of Newburgh Lead Service Line Replacement Program Grant:

- | | |
|--|--------------------------------------|
| 1. Neighborhood Plumbing | 10. Spagnoli Excavating & Sons, Inc. |
| 2. Connolly Plumbing | 11. Valley Contracting Inc. |
| 3. Vitek Plumbing Inc. | 12. Perfect Cut Landscaping, Inc./ |
| 4. Valenza Plumbing Heating & AC, Inc. | Hudson Valley Trucking |
| 5. Newburgh Plumbing & Heating | 13. Bradshaw Landscaping |
| 6. UpperCut Associates, Inc. | 14. Metra Industries |
| 7. Mike Vernol Plumbing HVAC | |
| 8. Petro Plumbing & Heating Inc. | |
| 9. Consorti Bros. Paving & Sealcoating, Inc. | |

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
SATISFACTION OF MORTGAGE IN CONNECTION WITH A MORTGAGE
ISSUED TO SANDRA D. MOORE FOR THE PREMISES LOCATED AT
231 WASHINGTON STREET (SECTION 38, BLOCK 2, LOT 17)**

WHEREAS, the Newburgh Community Development Agency (“NCDA”) issued a mortgage to Sandra D. Moore in the principal sum of \$12,637.00 for premises located at 231 Washington Street (Section 38, Block 2, Lot 17), dated August 23, 1993, and recorded in the Orange County Clerk’s Office on April 8, 1994, in Liber 5071, Page 174; and

WHEREAS, the City of Newburgh is the successor in interest to the NCDA; and

WHEREAS, this Council has determined that issuing and executing a Satisfaction of Mortgage, a copy of which is annexed hereto, is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute the attached Satisfaction in connection with a mortgage issued to Sandra D. Moore for 231 Washington Street.

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

The City of Newburgh, as Successor in Interest to the Newburgh Community Development Agency, a municipal corporation with a principal place of business at 83 Broadway, Newburgh, New York 12550;

Does hereby consent that the following mortgage be discharged of record:

MORTGAGE bearing the date of August 23, 1993, made by Sandra D. Moore to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$12,637.00, and duly recorded in the office of the Orange County Clerk's Office on April 8, 1994, in Liber 5071, Page 174; and

which mortgage has not been further assigned of record.

Dated: September ____, 2022

CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Resolution No.: ____-2022

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the_____ day of September, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD & RETURN TO:

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
SATISFACTION OF MORTGAGE IN CONNECTION WITH A MORTGAGE
ISSUED TO SMS ASSOCIATES II LP FOR THE PREMISES LOCATED AT
31 SOUTH MILLER STREET (SECTION 30, BLOCK 1, LOT 14) AND
33 SOUTH MILLER STREET (SECTION 30, BLOCK 1, LOT 13)**

WHEREAS, the Newburgh Community Development Agency (“NCDA”) issued a mortgage to SMS Associates II LP (by Drew Kartiganer, President) in the principal sum of \$24,000.00 for premises located at 31 South Miller Street (Section 30, Block 1, Lot 14) and 33 South Miller Street (Section 30, Block 1, Lot 13) (collectively referred to in this resolution as “Premises”) dated April 29, 1998, and recorded in the Orange County Clerk’s Office on May 8, 1998, in Liber 6603, Page 136; and

WHEREAS, the City of Newburgh is the successor in interest to the NCDA; and

WHEREAS, this Council has determined that issuing and executing a Satisfaction of Mortgage, a copy of which is annexed hereto, is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute the attached Satisfaction in connection with a mortgage issued to SMS Associates II LP for the Premises.

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

The City of Newburgh, as Successor in Interest to the Newburgh Community Development Agency, a municipal corporation with a principal place of business at 83 Broadway, Newburgh, New York 12550;

Does hereby consent that the following mortgage be discharged of record:

MORTGAGE bearing the date of April 29, 1998, made by SMS Associates II LP to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$24,000.00, and duly recorded in the office of the Orange County Clerk's Office on May 8, 1998, in Liber 6603, Page 136; and

ASSIGNED to the City of Newburgh by Assignment and Assumption of Mortgage Without Covenant dated November 15, 2010, and duly recorded in the office of the Orange County Clerk's Office on November 22, 2010, in Liber 13085, Page 839; and

which mortgage has not been further assigned of record.

Dated: September ____, 2022

CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Resolution No.: ____-2022

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the_____ day of September, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD & RETURN TO:

RESOLUTION NO.: _____-2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO JOHN DAVIS AND SHEILA STEPP TO THE PREMISES KNOWN AS
70 LEROY PLACE (SECTION 4, BLOCK 10, LOT 4)**

WHEREAS, on September 30, 2010, the City of Newburgh conveyed property located at 70 Leroy Place, being more accurately described on the official Tax Map of the City of Newburgh as Section 4, Block 10, Lot 4, to John Davis and Sheila Stepp; and

WHEREAS, the attorney for the current owner, Shawn Jackson, has requested a release of the restrictive covenant contained in said deed; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenant number 1 of the aforementioned deed.

**RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY**

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 70 Leroy Place, Section 4, Block 10, Lot 4 on the Official Tax Map of the City of Newburgh, from restrictive covenant number 1 in a deed dated September 30, 2010, from THE CITY OF NEWBURGH to JOHN DAVIS & SHEILA STEPP, recorded in the Orange County Clerk's Office on October 19, 2010, in Liber 13070 of Deeds at Page 1841 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2022

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: _____-2022

STATE OF NEW YORK)
) ss.:
COUNTY OF ORANGE)

On the ____ day of _____ in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION EXTENDING THE TIME TO CLOSE FOR THE
CONVEYANCE OF REAL PROPERTY KNOWN AS 169 JOHNSTON STREET
(SECTION 18, BLOCK 2, LOT 2) AT PRIVATE SALE TO
GARFIELD A. BRUFF (D/B/A BOSS BUILDING COMPANY)**

WHEREAS, by Resolution No. 226-2021, the City of Newburgh authorized the conveyance of real property known as 169 Johnston Street (Section 18, Block 2, Lot 2) ("Property") to Garfield A. Bruff (d/b/a Boss Building Company) in the amount of \$20,000.00; and

WHEREAS, by Resolution No. 40-2022, the City of Newburgh authorized the extension of time to close on the Property to August 31, 2022; and

WHEREAS, the prospective purchaser has proceeded in good faith by timely applying for financing and a policy of title insurance, and by securing project approvals from the City's Zoning Board of Appeals and from the City's Architectural Review Commission; and

WHEREAS, due to delays and issues related to obtaining a policy of title insurance outside of the prospective purchaser's control, the prospective purchaser sought a new company that would issue a title insurance policy, and obtained a commitment for said insurance policy, such that the prospective purchaser will be ready and able to close within 60 days; and

WHEREAS, this Council has determined that granting the additional requested extension to close title would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the Property is hereby authorized until November 14, 2022.

RESOLUTION NO.: 40 - 2022

OF

FEBRUARY 28, 2022

A RESOLUTION AMENDING THE TERMS AND CONDITIONS OF SALE AND
EXTENDING THE TIME TO CLOSE FOR THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 169 JOHNSTON STREET (SECTION 18, BLOCK 2, LOT 2)
AT PRIVATE SALE TO GARFIELD A. BRUFF (D/B/A BOSS BUILDING COMPANY)

WHEREAS, by Resolution No. 226-2021, the City of Newburgh authorized the conveyance of real property known as 169 Johnston Street (Section 18, Block 2, Lot 2) ("Property") to Garfield A. Bruff (d/b/a Boss Building Company) in the amount of \$20,000.00; and

WHEREAS, the prospective purchaser has applied for financing with the New York State Homes and Community Renewal Small Building Participation Loan Program ("HCR PLP"); and

WHEREAS, the approval process for HCR PLP funding takes about 6 months, and owner-occupancy is not allowed as one of the conditions of applying for HCR PLP funding; and

WHEREAS, the prospective purchaser would still qualify as the highest bidder for the Property even after removing the bonus award for an owner-occupant pursuant to the City's Surplus Real Property Disposition Policy; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer with a closing date no later than August 31, 2022, and upon the amended terms and conditions as provided herein; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the closing date be extended to no later than August 31, 2022, according to the amended terms and conditions as provided herein.

I, Lorane Vittek, City Clerk of the City of Newburgh,
hereby certify that I have compared the foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held March 2022
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this March day of 2022

Lorane Vittek
City Clerk

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN ADDENDUM TO A LICENSE AGREEMENT WITH STRONGROOM
FOR EXTERIOR USE AND ACCESS TO THE DUTCH REFORMED CHURCH
LOCATED AT 134 GRAND STREET (SECTION 19, BLOCK 1, LOT 25)
FOR AN ARTWORK DISPLAY**

WHEREAS, by Resolution No. 116-2022 of May 9, 2022, the City of Newburgh authorized license agreement with Strongroom to allow access to City-owned property known as the Dutch Reformed Church located at 134 Grand Street (Section 19, Block 1, Lot 25) for the purpose of installing and displaying a temporary art exhibit for public viewing; and

WHEREAS, the License Agreement will expire on September 30, 2022 and as the result of a positive response to the art installation, Strongroom has requested an extension of the term of the license agreement through April 30, 2023; and

WHEREAS, the City Council of the City of Newburgh finds that extending the term and modifying certain health and safety provisions of under the license agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached addendum to license agreement with Strongroom to modify certain health and safety provisions and extend the term until April 30, 2022 to allow the continued exterior use of and access to City-owned property known as the Dutch Reformed Church located at 134 Grand Street (Section 19, Block 1, Lot 25) for the purpose of installing and displaying a temporary art exhibit for public viewing.

ADDENDUM TO LICENSE AGREEMENT

THIS ADDENDUM TO LICENSE AGREEMENT OF LEASE (“Addendum”), made as of this _____ day of September, 2022, by and between the City of Newburgh, a New York municipal corporation, with offices at 83 Broadway, City Hall, Newburgh, New York 12550 (“City” or “Licensor”) and Strongroom, a non-profit corporation with an address of 234 Grand Street, Newburgh, New York 12550 (“Licensee”).

WITNESSETH:

WHEREAS, Licensor and Licensee executed a License Agreement for license or privilege of use and access to City-owned property identified as the Dutch Reformed Church, located at 134 Grand Street in the City of Newburgh, and more accurately described as Section 19, Block 1, Lot 25 on the official tax map of the City of Newburgh (the “Property”), for the purpose of undertaking the installation and exhibition of a temporary art exhibit (the “Project”); and

WHEREAS, the License Agreement will expire on September 30, 2022 and Licensee desires to continue to access and use of the Property for the Project; and

WHEREAS, recent environmental testing results require health and safety modifications to the License Agreement;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Use of and Access to the Property and the Dutch Reformed Church as set forth in Section 2 of the License Agreement is limited to the property exterior and the exterior of the building only. No access and/or entry to the building interior is permitted for any reason. Licensee’s electrician shall possess a City master electrician license; obtain a permit for electrical work at Licensee’s sole cost and expense as required by applicable law, rule and regulation; and shall not access the building interior for any reason. No public access to exterior grounds inside the existing safety fences is permitted.
2. The term of the license or privilege set forth in Section 6 of the License Agreement shall expire without further notice to either party to the other at 11:59 pm on April 30, 2023.
3. All other terms and conditions set forth in the License Agreement shall remain in full force and effect during the extended term of the license.

Remainder of this page intentionally left blank

Signature Page

IN WITNESS WHEREOF, the Landlord and the Tenant have duly executed this Lease in duplicate as of the day and year first above written.

THE CITY OF NEWBURGH
LICENSOR

STRONGROOM
LICENSEE

By: _____
Todd Venning, City Manager
Per Resolution No.:

By: _____
Kelly Schroer, Founder

Approved as to form:

MICHELLE KELSON
Corporation Counsel

JANICE GASTON
City Comptroller

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of May 13, 2022, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("City" or "Licensor"); and

STRONGROOM, a non-profit corporation with an address of 234 Grand Street, Newburgh, New York 12550 ("Licensee").

WHEREAS, the City is the owner of the Dutch Reformed Church located at 134 Grand Street in the City of Newburgh, and more accurately described as Section 19, Block 1, Lot 25 on the official tax map of the City of Newburgh (hereinafter referred to as "the DRC"); and

WHEREAS, the Licensee has requested use of and access to the DRC for the purpose of undertaking the installation and exhibition of a temporary art exhibit;

NOW, THEREFORE, it is hereby agreed between the parties as follows:

Section 1. Grant of License. The City hereby represents that it owns the Dutch Reformed Church, located at 134 Grand Street in the City of Newburgh, and more accurately described as Section 19, Block 1, Lot 25 on the official tax map of the City of Newburgh, and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee's employees, volunteers, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at 134 Grand Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary, for the purposes of and to install and display a temporary art exhibit for public display.

Section 2. Use of and Access to 134 Grand Street ("the DRC"). Use of and access to the DRC is limited to the exterior of the building for the purpose of installing and displaying a temporary art exhibit for public viewing under the conditions as set forth herein:

- a. No access and/or entry to the building interior is permitted with the exception of an electrician retained by Licensee for the sole purpose of installing and removing the electrical wiring between the individual lights comprising the art display and installing a GFCI circuit breaker. Licensee's electrician shall possess a City master electrician license and obtain a permit for electrical work at Licensee's sole cost and expense as required by applicable law, rule and regulation. No public access to exterior grounds inside the existing safety fences is permitted.
- b. Licensee will install temporary fencing along the west side of the building along the basement window wells.
- c. Licensee agrees to perform all work hereunder in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

- d. Licensee acknowledges the historic significance of the DRC and shall perform all work hereunder using the least intrusive methods to install components of the temporary art exhibit consistent with Federal and State historic preservation guidelines. The components of the art exhibit shall be temporary and removable wherever and whenever possible, except for affixing the wood supports which will hold the lighting on the upper façade of the building, provided that no other less intrusive method is feasible.
- e. Licensee will perform regular trash clean-up on the grounds around the DRC and will maintain the lighting, equipment and components of the temporary art exhibit in a safe condition and working order throughout the term of this License Agreement.
- f. Licensee shall give Licensor no less than forty-eight (48) hours advance notice of its commencement of work in, on, or around the DRC.
- g. At the conclusion of the temporary art exhibit, the Licensee and its agents, employees, volunteers, and contractors shall restore the DRC to a clean and orderly state in substantially the same condition as existed prior to the granting of this license.

Section 3. Insurance. The Licensee shall not commence or perform work nor operate machinery under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance at the time of the public opening of the installation shall be as follows:

- 1. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.
- 2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement. For the purpose of creating and displaying the art installation, Licensee shall maintain liability insurance in the amount of \$1,000,000.00 per occurrence.

C. Licensee may retain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall

provide and maintain insurances as required by this Section 3 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 4. Damages. The relation of the Licensee to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 5. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the DRC under this License Agreement.

Section 6. Term of License. The license or privilege hereby given shall commence on May 29, 2022 and shall expire without further notice to either party to the other at 11:59 pm on September 30, 2022.

Section 7. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 8. Termination of License. Either party may terminate this license prior to the expiration of the term specified in paragraph 6, with or without cause, on at least thirty (30) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. The City may terminate this license agreement by ten (10) days' written notice when and if in its sole judgment it deems such termination is necessary in the City's sole reasonable discretion.

Section 9. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

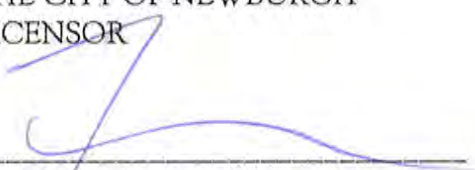
Section 12. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and

all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By:



Todd Venning, City Manager
Per Resolution No.: 116-2022

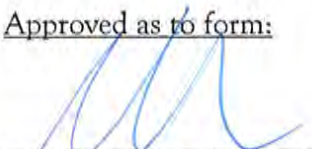
STRONGROOM
LICENSEE

By:



Kelly Schuber, Founder

Approved as to form:



MICHELLE KELSON
Corporation Counsel



JANICE GASTON
City Comptroller

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
AN AGREEMENT WITH ORANGE-ULSTER BOCES FOR THE STORAGE OF
ARCHIVED MUNICIPAL RECORDS AND MUNICIPAL RECORDS ON MICROFILM**

WHEREAS, by Resolution No. 271-2017 of September 25, 2017, the City Council of the City of Newburgh authorized an agreement with Orange-Ulster BOCES for pick-up, delivery, retrieval and storage of the City's archived municipal records; and

WHEREAS, by Resolution No. 45-2019 of February 25, 2019, Resolution No. 170-2019 of July 8, 2019, Resolution No. 208-2020 of September 14, 2020, and Resolution No. 172-2021 of July 12, 2021, the City Council authorized one-year renewal agreements for the periods June 2018 to June 2019, June 2019 to June 2020, June 2020 to June 2021, and July 2021 to June 2022 respectively, with Orange-Ulster BOCES for pick-up, delivery, retrieval and storage of the City's archived municipal records; and

WHEREAS, by Resolution No. 196-2021 of August 9, 2021, the City Council of the City of Newburgh authorized an agreement with Orange-Ulster BOCES for microfilm storage of certain municipal records of the City of Newburgh; and

WHEREAS, the Orange-Ulster BOCES has combined both the archived municipal records agreement and the microfilmed municipal records agreement into a single renewal agreement for a new one-year term; and

WHEREAS, the approximate annual cost is \$3,672.00 for the archival records and \$768.00 for the microfilm storage for an approximate total annual cost of \$4,440.00 and shall be derived from A.1460.0448 Records Management—Other Services; and

WHEREAS, this Council has determined that entering into the renewal agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a one-year renewal agreement with Orange-Ulster BOCES for the period July 2022 through June 2023 at a cost of \$4,440.00 for pick-up, delivery, retrieval and storage of the City's archived municipal records and storage of the City's microfilm records.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND MARCY HANDLER FOR
PROFESSIONAL CONSULTING SERVICES RELATED TO THE PREPARATION OF
THE 2022 DOWNTOWN REVITALIZATION INITIATIVE GRANT**

WHEREAS, the City of Newburgh intends to apply for a 2022 Downtown Revitalization Initiative grant; and

WHEREAS, the City of Newburgh wishes to enter into the attached agreement with Marcy Handler to provide professional grant consulting assistance to the City of Newburgh by working with the City staff to prepare the 2022 Downtown Revitalization Initiative grant application; and

WHEREAS, the cost of these services will not exceed \$4,750.00 and will be derived from A.8684.0448 Other Services; and

WHEREAS, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Marcy Handler, in substantially the same form as annexed hereto with any other provision that Counsel may require, at cost not to exceed \$4,750.00 for grant consulting services related to the preparation of the City's 2022 Downtown Revitalization Initiative grant application.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2022, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the “**CITY**,” with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **MARCY HANDLER**, an individual with principal offices at _____, _____, New York _____ hereinafter referred to as “**VENDOR**.”

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and identified in Schedule A, (the “SERVICES”) which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter “Department Head”).

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall remain the property of VENDOR, except that CITY shall have VENDOR’s permission to make full use for the completion and implementation of the Project for which the material was prepared without compensation in addition to the amounts set forth in Article 3 and Schedule B of this Agreement. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of

the CITY’s rights regarding same for any purpose outside the scope of the Project and its implementation.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning August 9, 2022, and ending September 30, 2022.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR shall submit to the CITY an itemized invoice for SERVICES rendered, as set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within 30 days after the CITY receives Claimant’s Certification form. If the Claimant’s Certification form is objectionable, the CITY will notify VENDOR, in writing, of the CITY’S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$4,750.00 has been established for the scope of SERVICES rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by an Addendum to this Agreement, after consultation with the Department

Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than six (6) months after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a

waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted does not constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means

and methods of performing the SERVICES and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

In accordance with such status as independent contractor, VENDOR covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the CITY, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CITY including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

The provisions of this clause shall not hinder, prevent, or affect any assignment by VENDOR for the benefit of its creditors made pursuant to the laws of the State of New York.

This agreement may be assigned by the CITY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

VENDOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. CITY, or any State and/or Federal auditors, and any other persons duly authorized by the CITY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic

inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, insurance as may be required by law. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Where applicable, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

When applicable, VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with the following requirements:

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall

not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;

C. If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of

the SERVICES performed pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation,

reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDOR'S obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

The CITY may, by written notice to VENDOR effective upon mailing, terminate this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any

unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 18. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 19. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 20. DISPUTE RESOLUTION

All disputes shall be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. VENDOR shall render all SERVICES under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such SERVICES are rendered.

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an

actual or perceived conflict of interests due to their position with the CITY.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 23. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum to this Agreement, which Addendum shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

THE CITY OF NEWBURGH

VENDOR

BY: _____
TODD VENNING
CITY MANAGER

BY: _____
MARCY HANDLER
TITLE:

Per Resolution No.:

DATE: _____

DATE: _____

APPROVED AS TO FORM:

Michelle Kelson
Corporation Counsel

Janice Gaston
City Comptroller

SCHEDULE A

SCOPE OF SERVICES

Objectives:

To assist the City of Newburgh prepare and submit a 2022 Downtown Revitalization Initiative grant application.

Deliverables:

Consultant will collaborate with the Director of Planning and Development regarding goals, plans, intentions, and program ideas relevant to the application. Deliverables are as follows:

- Development, research and completion of narratives for:
 - Vision for Downtown
 - Justification
 - Downtown Identification
 - Boundaries for proposed DRI area
 - Past investment, future investment potential
 - Recent or impending job growth
 - Quality of life
 - Supportive local policies
 - Public support
 - Transformative opportunities and readiness
 - Administrative capacity
- \$10 million request
- Support plan strategy to align City of Newburgh goals with MHREDC goals
- Attend meetings as needed
- Collaborate with the City of Newburgh Department of Planning and Development, specifically Alexandra Church, Director of Planning
- Documents released in draft form for approval by Department of Planning and Development and refined as needed including ample time for review and discussion
- Final narratives and documents will be electronically submitted on or before September 23, 2022 at 4:00 pm

Timeline:

Immediate until September 23, 2022 which is the grant submission deadline

SCHEDULE B

FEES AND EXPENSES

The Vendor, will be compensated at a rate of \$95.00 per hour for 50 hours in total amount not to exceed \$4,750.00.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND ELIZABETH MCENANEY FOR
PROFESSIONAL CONSULTING SERVICES RELATED TO THE PREPARATION OF
THE 2022 NY RESTORE COMMUNITIES INITIATIVE GRANT APPLICATION
FOR THE DUTCH REFORMED CHURCH**

WHEREAS, the City of Newburgh intends to apply for a Round 6 NY Restore Communities Initiative grant for a special project for the rehabilitation of the Dutch Reformed Church (DRC); and

WHEREAS, the City of Newburgh wishes to enter into the attached agreement with Elizabeth McEnaney to provide professional grant consulting assistance to the City of Newburgh by working with the City staff to prepare the Round 6 NY Restore Communities Initiative grant application; and

WHEREAS, the cost of these services will not exceed \$5,000.00 and will be derived from A.8684.0448 Other Services; and

WHEREAS, this Council has determined that entering into this agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Elizabeth McEnaney, in substantially the same form as annexed hereto with any other provision that Counsel may require, at cost not to exceed \$5,000.00 for grant consulting services related to the preparation of the City's Round 6 NY Restore Communities Initiative grant for a special project for the rehabilitation of the Dutch Reformed Church.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2022, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the **“CITY,”** with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **ELIZABETH MCENANEY**, an individual with principal offices at 2288 U.S. Route 9, Hudson, New York 12534 hereinafter referred to as **“VENDOR.”**

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and identified in Schedule A, (the “SERVICES”) which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter “Department Head”).

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall remain the property of VENDOR, except that CITY shall have VENDOR’s permission to make full use for the completion and implementation of the Project for which the material was prepared without compensation in addition to the amounts set forth in Article 3 and Schedule B of this Agreement. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of

the CITY’s rights regarding same for any purpose outside the scope of the Project and its implementation.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning September 15, 2022, and ending October 30, 2022.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR shall submit to the CITY an itemized invoice for SERVICES rendered, as set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within 30 days after the CITY receives Claimant’s Certification form. If the Claimant’s Certification form is objectionable, the CITY will notify VENDOR, in writing, of the CITY’S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$5,000.00 has been established for the scope of SERVICES rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by an Addendum to this Agreement, after consultation with the Department

Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than six (6) months after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

VENDOR represents and warrants that no person or selling agency has been employed or retained by VENDOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. VENDOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a

waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment to or to take any other action provided for by law, in equity or pursuant to this Agreement.

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted does not constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means

and methods of performing the SERVICES and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

In accordance with such status as independent contractor, VENDOR covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the CITY, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the CITY including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

VENDOR shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the SERVICES to be performed by it under this Agreement, without the prior express written consent of the City Manager of the CITY. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any SERVICES provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the CITY shall be subject to all of the terms and conditions of this Agreement.

Failure of VENDOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the CITY and if so terminated, the CITY shall thereupon be relieved and discharged from any further liability and obligation to VENDOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to the CITY except so much thereof as may be necessary to pay VENDOR'S employees for past service.

The provisions of this clause shall not hinder, prevent, or affect any assignment by VENDOR for the benefit of its creditors made pursuant to the laws of the State of New York.

This agreement may be assigned by the CITY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

VENDOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. CITY, or any State and/or Federal auditors, and any other persons duly authorized by the CITY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic

inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, insurance as may be required by law. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Where applicable, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

When applicable, VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with the following requirements:

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall

not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede VENDOR'S start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. VENDOR will maintain similar insurance for at least six (6) years following final acceptance of the SERVICES;

C. If the insurance is terminated for any reason, VENDOR agrees to purchase an unlimited extended reporting provision to report claims arising from the SERVICES performed or goods provided for the CITY; and

D. Immediate notice shall be given to the CITY through the City Manager of circumstances or incidents that might give rise to future claims with respect to the SERVICES performed under this Agreement.

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of

the SERVICES performed pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation,

reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDOR'S obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 17. TERMINATION

The CITY may, by written notice to VENDOR effective upon mailing, terminate this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any

unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

The rights and remedies of the CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 18. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 19. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 20. DISPUTE RESOLUTION

All disputes shall be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. VENDOR shall render all SERVICES under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such SERVICES are rendered.

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an

actual or perceived conflict of interests due to their position with the CITY.

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 23. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum to this Agreement, which Addendum shall specifically set forth the scope of such extra or additional SERVICES and the amount of compensation and the extension of the time for performance, if any, for any such SERVICES. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

THE CITY OF NEWBURGH

VENDOR

BY: _____
TODD VENNING
CITY MANAGER

BY: _____
ELIZABETH MCENANEY
TITLE:

Per Resolution No.:

DATE: _____

DATE: _____

APPROVED AS TO FORM:

Michelle Kelson
Corporation Counsel

Janice Gaston
City Comptroller

SCHEDULE A

SCOPE OF SERVICES

Objectives:

To assist the City of Newburgh prepare and submit a Restore NY grant application for funding for the remediation and stabilization of the Dutch Reformed Church.

Deliverables:

1. Drafting the application packet, including drafting and gathering all supplemental materials, including, but not limited to, project site map, individual property packet, façade photos, written credentials of individuals and/or lead entities involved in the project, and SHPO review material, and entering relevant data into the application portal.
2. Collaborating with the City of Newburgh Department of Planning and Development, specifically Alexandra Church, Director of Planning and Development, and David Kohl, Economic Development Specialist.

Timeline:

Immediate until October 11, 2022 which is the grant submission deadline

SCHEDULE B

FEES AND EXPENSES

The Vendor, will be compensated in a lump sum payment of \$5,000.00 upon completion of the services defined in Schedule "A".

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION OPENING A SECOND 30-DAY PUBLIC COMMENT PERIOD AND
SCHEDULING A SECOND PUBLIC HEARING FOR SEPTEMBER 26, 2022
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
PROPOSED ACTIONS WITH RESPECT TO
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE
ANNUAL ACTION PLAN FOR FISCAL YEAR 2023**

WHEREAS, the City of Newburgh has prepared a five-year Consolidated Housing and Community Development Strategy and Plan in accordance with the planning requirements of the Housing and Community Development Act of 1974 and applicable regulations; and

WHEREAS, the City is now preparing a one-year Annual Action Plan for FY 2023 in order to implement various elements of the strategies identified in its Consolidated Plan and must satisfy all statutory requirements, including those related to citizen participation; and

WHEREAS the City has convened and completed a public hearing and 30-day public comment period on its proposed one-year Annual Action Plan for FY 2023 and continues to solicit citizen participation in the preparation of same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the time for citizen participation is continued by opening a second 30-day period beginning on September 27, 2022 and closing on October 27, 2022 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the FY 2023 Annual Action Plan; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that there is scheduled a second public hearing to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for FY 2023; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 26th day of September, 2022 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York; and

BE IT FURTHER RESOLVED, in the event that due to public health and safety concerns related to COVID-19, the state of emergency as set forth in Governor Hochul's Executive Order 11.1, as amended, is extended, and consistent with Chapter 1 of the Laws of 2022, the September 26, 2022 City Council meeting will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed CDBG FY2023 Annual Action Plan as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, September 26, 2022 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

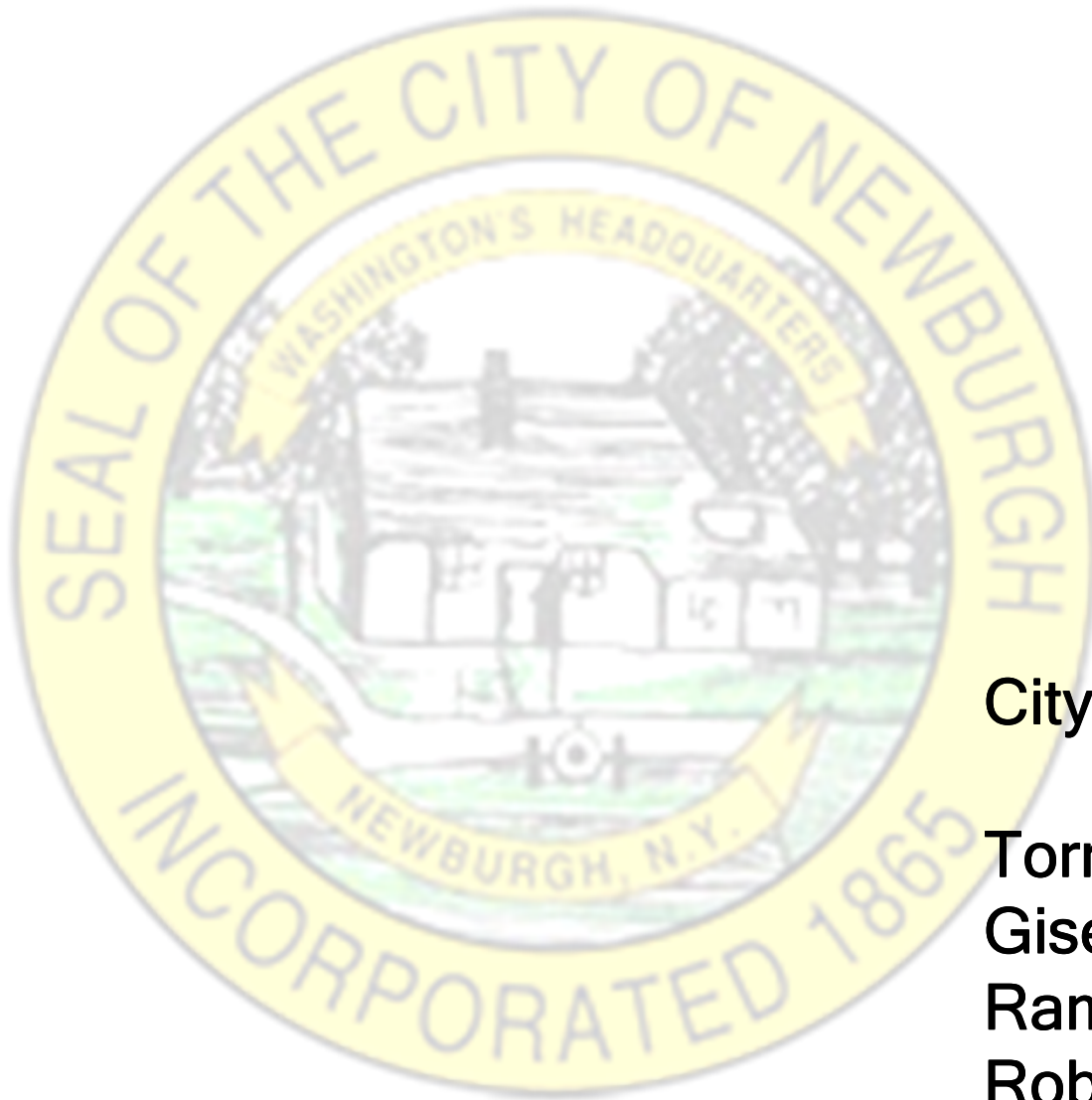
Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, September 26, 2022. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.



Community Development Block Grant (“CDBG”) FY2023 Annual Action Plan

Department of Planning &
Development
September, 2022





City of Newburgh City Council:

Torrance Harvey, Mayor

Giselle Martinez, Ward 1

Ramona Monteverde, Ward 2

Robert Sklarz, Ward 3

Patty Sofokles, Ward 4

Anthony Grice, At-Large

Omari Shakur, At-Large



City of Newburgh Community Development Goals - Refresher

- Economic Development without Displacement.
- Enhance outreach and communications with the community.
- Support a climate that values diversity, rewards independence, nourishes creativity, and brings all of us together.

Successful community building requires reestablishing trust, which takes time, patience, outreach and communication.



“CDBG” - Brief Primer



- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is under the Orange County Consortium (Orange County, City of Newburgh, City of Middletown).
- The City of Newburgh is required to prepare and submit a **Consolidated Plan** that establishes goals for the use of CDBG funds. The current City of Newburgh Consolidated Plan: **FY2020-FY2024**
- Projects **MUST** be consistent with national priorities for CDBG:
 - Activities that benefit low- and moderate-income people;
 - The prevention or elimination of slums or blight; or
 - Community development activities to address an urgent threat to health or safety.



Proposed FY2023 CDBG Projects/Funding

Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding
Projects Funded through Entitlement Grant	Housing	Housing	\$210,000.00
		In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	
	Housing	Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient.	\$20,000.00
	Infrastructure Improvements	Infrastructure Improvements	\$275,000.00
		To continue funding Curb Ramp & Sidewalk Improvements project.	
	Infrastructure Improvements	Public Facility Improvements	\$100,000.00
		Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.	
	Economic Development	Economic Development	\$20,000.00
	Quality of Life Improvements	Neighborhood Services	\$15,000.00
		Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).	
	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: City of Newburgh Community Outreach Activities (Activities Subject to City of Newburgh operational approval).	\$10,000.00
	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Workforce On-the-Job-Training (Activities Subject to City of Newburgh operational approval).	\$25,000.00
	Administration	Administration	\$175,169.00
		Administration Subject to 20% Annual Allocation Cap. Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	
Proposed Total FY2023 Allocation			\$850,169.00



Contingency Funding

If the actual annual allocation amount exceeds the proposed estimate, the project budgets will increase by:

Project Name	Proposed Activities (Examples)	Project Funding	% Project increase, if HUD allocation greater than proposed (approx.)
Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$210,000.00	No Change
Housing	Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient.	\$20,000.00	30%
Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	30%
Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.	\$100,000.00	20%
Economic Development	Economic Development Activities	\$20,000.00	No Change
Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).	\$15,000.00	5%
Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: City of Newburgh Community Outreach Activities (Activities Subject to City of Newburgh operational approval).	\$10,000.00	5%
Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Workforce On-the Job-Training (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%
Administration	Administration Subject to 20% Annual Allocation Cap. Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$175,169.00	No Change
Proposed Total FY2023 Allocation		\$850,169.00	



Contingency Funding

If the actual annual allocation amount is less than the proposed estimate, the project budgets will decrease by:

Project Name	Proposed Activities (Examples)	Project Funding	% Project decrease, if HUD allocation less than proposed (approx.)
Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$210,000.00	10%
Housing	Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient.	\$20,000.00	10%
Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	20%
Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.	\$100,000.00	10%
Economic Development	Economic Development Activities	\$20,000.00	10%
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Administration	Administration Subject to 20% Annual Allocation Cap. Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$175,169.00	10%
Proposed Total FY2023 Allocation		\$850,169.00	



Project: Housing

Proposed Activities:

- In Rem Property Program
- Homeowner Repair Assistance Program
(Implemented by City of Newburgh
Housing Partner)



Proposed Housing Activity: In Rem Property Program

Budget: \$210,000.00

Description:

- Activity staffed by 2 full-time Department of Public Works employees and 1 employee of the Planning & Development Department dedicated to the in rem program.
- Provides maintenance and security of vacant properties. Keeps properties habitable, neighborhoods looking good, maintains/increases property values.



Proposed Housing Activity: Home Repair Assistance Program

Budget: \$20,000.00

Description:



- Funding for Home Repair Assistance Program for Low/Moderate Income City of Newburgh Homeowners.* Implemented through City of Newburgh Housing Partner.

*Repairs may include: roofs, railings, steps, etc., as identified by City of Newburgh Housing Partner.

Proposed Infrastructure Improvements Activity: Curb Ramp and Sidewalk Upgrades

Budget: \$275,000.00

Description:

- Funding to continue funding Curb Ramp & Sidewalk Improvements project.



Proposed Infrastructure Improvements

Activity: Public Facility Improvements

Budget: \$100,000.00

Description:

- Funding for Public Accessibility
Improvements to City of Newburgh
Buildings, Parks, Other Public Spaces.



Proposed Economic Development Activity:

Business Assistance

Budget: \$20,000.00

Description:

- Funding for business assistance, such as business signage.



Proposed Quality of Life Activity: Neighborhood Services

Budget: \$15,000.00

Description (Anticipated Services):

- 2023 Summer Film Festival
- National Night Out

Important: Public Service Activity, subject to 15% Annual Allocation Cap.



Proposed Quality of Life Activity: Neighborhood Services

Budget: \$10,000.00

Description (Anticipated Services):

- City of Newburgh Community Outreach Activities, such as Community Violence Intervention (CVI) Activities.

Important: Public Service Activity, subject to 15% Annual Allocation Cap.



Proposed Quality of Life Activity: Neighborhood Services

Budget: \$25,000.00

Description (Anticipated Services):

- Workforce On-the Job-Training (Activities Subject to City of Newburgh operational approval)

Important: Public Service Activity, subject to 15% Annual Allocation Cap.



Proposed Activity: Administration

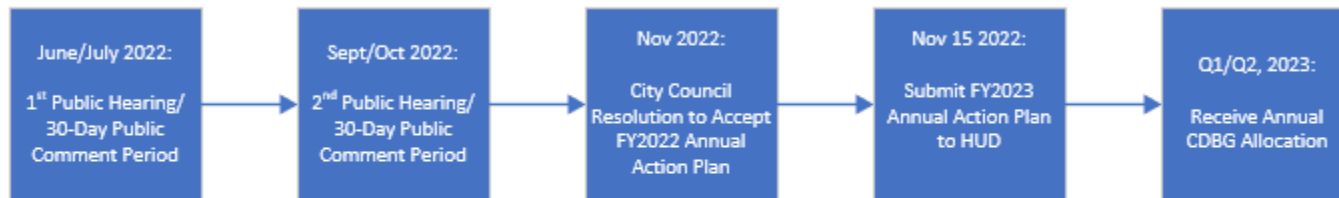
Budget: \$175,169.00

Description:

- Funding for program administration, staff salary and benefits, language translation services, program operating costs (including mailings), program trainings/conference.



FY2023 CDBG AAP Timeline



FY 2023 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS TIMELINE

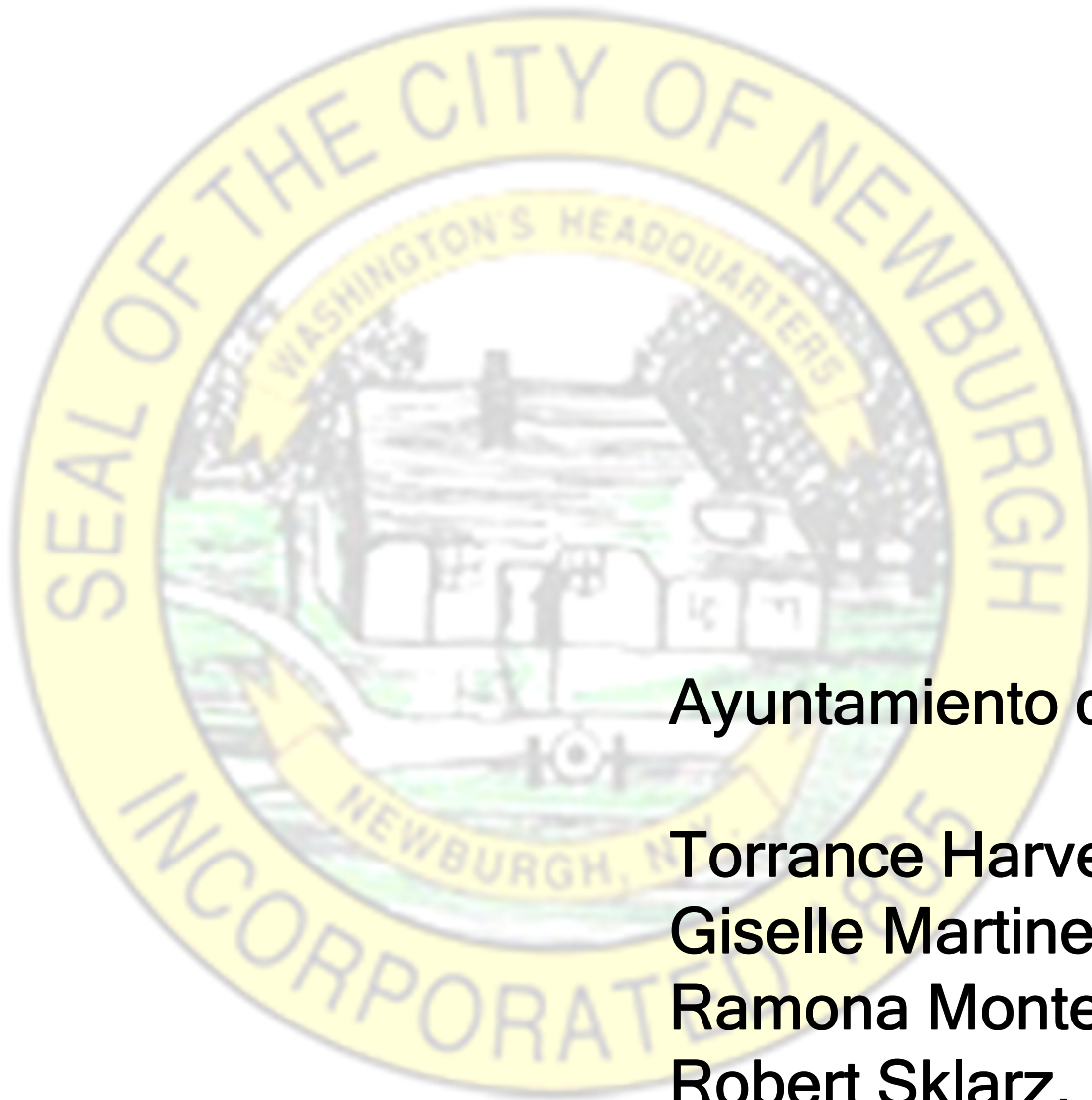


Subvención de Desarrollo de los Bloques Comunitarios(“CDBG”) Plan de Acción Anual del Año Fiscal 2023

**Departamento de Planificación y
Desarrollo
Septiembre, 2022**



EQUAL HOUSING
OPPORTUNITY



Ayuntamiento de la Ciudad de Newburgh:

Torrance Harvey, Alcalde

Giselle Martinez, Distrito Electoral 1

Ramona Monteverde, Distrito Electoral 2

Robert Sklarz, Distrito Electoral 3

Patty Sofokles, Distrito Electoral 4

Anthony Grice, En-General

Omari Shakur, En-General



Metas del Desarrollo Comunitario de la Ciudad de Newburgh - Actualización

- Desarrollo Económico sin Desplazamiento.
- Mejorar el alcance y Comunicaciones con la comunidad.
- Apoyar un ambiente que valore la diversidad, recompense la independencia, alimente la creatividad, y nos reúna a todos.

El éxito de la construcción de una comunidad requiere reestablecer la confianza; lo cual lleva tiempo, paciencia, comunicación y la inclusión de todos.



“CDBG” – Introducción Breve



- Subvención para Desarrollo de los Bloques Comunitarios (CDBG) – Administrado por el Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos (HUD).
- Asignados a los gobiernos locales y estatales sobre la base de una fórmula.
- La Ciudad de Newburgh está bajo el Consorcio del Condado de Orange, (Condado de Orange, Ciudad de Newburgh, Ciudad de Middletown).
- La Ciudad de Newburgh está obligada a preparar y presentar un **Plan Consolidado** que establece metas para el uso de los fondos del CDBG. El Plan Consolidado Actual de la Ciudad de Newburgh: **AF2020-AF2024**
- Los proyectos **DEBEN** ser consistentes con las prioridades nacionales del CDBG:
 - Actividades que beneficien a personas de ingresos bajos-o-moderados;
 - La prevención o eliminación de suburbios o deterioros; o
 - Actividades de desarrollo comunitario para hacer frente a una amenaza urgente a la salud o a la seguridad.



Proyectos/Financiación Propuestos CDBG AF2023

	Necesidad Prioritaria Ptendida	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	Financiación de proyectos
Proyectos Financiados a Traves de la Subvencion de Subcidios	Vivienda	Vivenda		\$210,000.00
			Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También fondos para materiales necesarios para mantener propiedades hipotecadas, como palas de nieve, malezas, cerraduras/llaves.	
	Vivienda	Vivienda	Programa de asistencia de Reparacion para Propietarios Administrado por Subreceptor de la Ciudad de Newburgh.	\$20,000.00
	Mejoras de infraestructura	Mejoras de infraestructura	Continuar financiando el proyecto de mejoras de Rampas y aceras.	\$275,000.00
	Mejoras de infraestructura	Mejoras en las InstalacionPúblicas	Mejoras de Accesibilidad Pública a los Edificios, Parques y otros Espacios Públicos de la Ciudad de Newburgh.	\$100,000.00
	Desarrollo Economico	Desarrollo Economico	Actividades de Desarrollo Economico	\$20,000.00
	Mejoras de Calidad de Vida	Servicios a los Vecindarios	actividad de servicio público, sujeta a un límite de asignación anual del 15%. ejemplos de actividades: festival de cine de verano (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).	\$15,000.00
		Servicios a los Vecindarios	Actividad de Servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Actividades de Alcance Comunitario de la Ciudad de Newburgh (actividades sujetas a la aprobación operacional de la Ciudad de Newburgh).	\$10,000.00
		Servicios a los Vecindarios	Actividad de servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh).	\$25,000.00
	Administración	Administración	Administración Sujeta al 20% del límite de asignación anual. Las actividades incluyen: Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de idiomas, costos de operación del programa (incluyendo envíos por correo), capacitación/conferencias del programa.	\$175,169.00
Asignación Total Propuesta para el Año Fiscal 2023				\$850,169.00

Financiación de Contingencias

Si el monto real de la asignación anual excede la estimación propuesta, los presupuestos del proyecto aumentarán en:

	Necesidad Prioritaria Ptendida	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	Financiación de proyectos	% De aumento del proyecto, si la asignación de HUD es mayor que la propuesta (aprox.
Proyectos Financiados a Traves de la Subvencion de Subcidios	Vivienda	Vivienda	Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También fondos para materiales necesarios para mantener propiedades hipotecadas, como palas de nieve, malezas, cerraduras/llaves.	\$210,000.00	No Cambio
	Vivienda	Vivienda	Programa de asistencia de Reparacion para Propietarios Administrado por Subreceptor de la Ciudad de Newburgh.	\$20,000.00	30%
	Mejoras de infraestructura	Mejoras de infraestructura	Continuar financiando el proyecto de mejoras de Rampas y aceras.	\$275,000.00	30%
	Mejoras de infraestructura	Mejoras en las InstalacionPúblicas	Mejoras de Accesibilidad Pública a los Edificios, Parques y otros Espacios Públicos de la Ciudad de Newburgh.	\$100,000.00	20%
	Desarrollo Economico	Desarrollo Economico	Actividades de Desarrollo Economico	\$20,000.00	No Change
	Mejoras de Calidad de Vida	Servicios a los Vecindarios	actividad de servicio público, sujeta a un límite de asignación anual del 15%. ejemplos de actividades: festival de cine de verano (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).	\$15,000.00	5%
		Servicios a los Vecindarios	Actividad de Servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Actividades de Alcance Comunitario de la Ciudad de Newburgh (actividades sujetas a la aprobación operacional de la Ciudad de Newburgh).	\$10,000.00	5%
		Servicios a los Vecindarios	Actividad de servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh).	\$25,000.00	10%
	Administración	Administración	Administración Sujeta al 20% del límite de asignación anual. Las actividades incluyen: Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de idiomas, costos de operación del programa (incluyendo envíos por correo), capacitación/conferencias del programa.	\$175,169.00	No Cambio
	Asignación Total Propuesta para el Año Fiscal 2023			\$850,169.00	

Financiación de Contingencias

Si el monto real de la asignación anual es menor que la estimación propuesta, los presupuestos del proyecto disminuirán en:

	Necesidad Prioritaria Ptendida	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	Financiación de proyectos	% Disminución del proyecto, si la asignación de HUD es inferior a la propuesta (aprox.)
Proyectos Financiados a Traves de la Subvencion de Subcidios	Vivienda	Vivenda	Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También fondos para materiales necesarios para mantener propiedades hipotecadas, como palas de nieve, malezas, cerraduras/llaves.	\$210,000.00	10%
	Vivienda	Vivienda	Programa de asistencia de Reparacion para Propietarios Administrado por Subreceptor de la Ciudad de Newburgh.	\$20,000.00	10%
	Mejoras de infraestructura	Mejoras de infraestructura	Continuar financiando el proyecto de mejoras de Rampas y aceras.	\$275,000.00	20%
	Mejoras de infraestructura	Mejoras en las InstalacionPúblicas	Mejoras de Accesibilidad Pública a los Edificios, Parques y otros Espacios Públicos de la Ciudad de Newburgh.	\$100,000.00	10%
	Desarrollo Economico	Desarrollo Economico	Actividades de Desarrollo Economico	\$20,000.00	10%
	Mejoras de Calidad de Vida	Servicios a los Vecindarios	actividad de servicio público, sujeta a un límite de asignación anual del 15%. ejemplos de actividades: festival de cine de verano (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).	\$15,000.00	10%
		Servicios a los Vecindarios	Actividad de Servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Actividades de Alcance Comunitario de la Ciudad de Newburgh (actividades sujetas a la aprobación operacional de la Ciudad de Newburgh).	\$10,000.00	10%
		Servicios a los Vecindarios	Actividad de servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh).	\$25,000.00	10%
	Administración	Administración	Administración Sujeta al 20% del límite de asignación anual. Las actividades incluyen: Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de idiomas, costos de operación del programa (incluyendo envíos por correo), capacitación/conferencias del programa.	\$175,169.00	10%
	Asignación Total Propuesta para el Año Fiscal 2023			\$850,169.00	

Proyecto: Vivienda

Actividades Propuestas:

- Programa de Propiedades In Rem
- Programa de Asistencia de Reparación para Propietarios de Vivienda (Implementado Socios de Vivienda de la Ciudad de Newburgh)



Actividad de Vivienda Propuesta: Programa de Propiedad In Rem

Presupuesto: \$210,000.00

Descripción:

- Actividad compuesta por 2 empleados a tiempo completo del Departamento de Obras Públicas y 1 empleado del Departamento de Planificación y Desarrollo dedicados al programa in rem.
- Proporciona mantenimiento y seguridad de propiedades vacantes. Mantiene las propiedades habitables, vecindarios con buen aspecto, mantiene/aumenta los valores de propiedad.



Actividad de Vivienda Propuesta: Programa de Asistencia de Reparación en el Hogar

Presupuesto: \$20,000.00

Descripción :



- Financiamiento para el Programa de Asistencia de Reparación del Hogar para Propietarios de Viviendas de la Ciudad de Newburgh de Ingresos Bajos/Moderados.* Implementado a través de Socios de Vivienda de la Ciudad de Newburgh.

*Las reparaciones pueden incluir: Techos, barandillas, escalones, etc., según lo identificado por el Socio de Vivienda de la Ciudad de Newburgh.

Actividad de Mejoras de Infraestructura

Propuesta: Mejoras en Rampas y Aceras

Presupuesto: \$275,000.00

Descripción:

- Financiamiento para continuar financiando el proyecto de Mejoras en Rampas y Aceras.



Actividad de Mejoras de Infraestructura

Propuesta: Mejoras en las Instalaciones Públicas

Presupuesto: \$100,000.00

Descripción:

- Financiamiento para mejoras de accesibilidad pública a edificios, parques y otros espacios públicos de la Ciudad de Newburgh.



Actividad de Desarrollo Económico Propuesta:

Asistencia a Negocios

Presupuesto: \$20,000.00

Descripción:

- Financiación de asistencia para negocios, como carteles para negocios.

Actividad de Calidad de Vida Propuesta:

Servicios para Vecindario

Presupuesto: \$15,000.00

Descripción (Servicios Anticipados):

- Festival de Cine de Verano2023
- Noche Nacional

**Importante: Actividad de servicio público,
sujeta a un Límite de Asignación Anual del 15%.**



Actividad de Calidad de Vida Propuesta:

Servicios para Vecindario

Presupuesto: \$10,000.00

Descripción (Servicios Anticipados):

- Actividades de alcance comunitario de la Ciudad de Newburgh, como las actividades Comunitarias de Intervención de Violencia (CVI).

Importante: Actividad de servicio público, sujeta a un Límite de Asignación Anual del 15%.



Actividad de Calidad de Vida Propuesta :

Servicios para Vecindario

Presupuesto: \$25,000.00

Descripción (Servicios Anticipados):

- Capacitación de fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh)

Importante: Actividad de servicio público, sujeta a un Límite de Asignación Anual del 15%.



Actividad Propuesta: Administración

Presupuesto: \$175,169.00

Descripción:

- Financiamiento para la administración del programa, salario y beneficios del personal, servicios de traducción de idiomas, costos operativos del programa (incluyendo envíos por correo), capacitaciones / conferencias del programa.



Línea de Tiempo del Plan de Acción Anual CDBG para el Año Fiscal 2023



**CRONOGRAMA DE PROYECTOS DE SUBVENCIÓN DEL
BLOQUE PARA EL DESARROLLO COMUNITARIO (CDBG)
DEL AÑO FISCAL 2023**

**FY2023 Annual Action Plan
Community Development Block Grant (CDBG)**

	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding	% Project increase, if HUD allocation greater than proposed (approx.)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$210,000.00	No Change	10%
	Housing	Housing	Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient.	\$20,000.00	30%	10%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	30%	20%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.	\$100,000.00	20%	10%
	Economic Development	Economic Development	Economic Development Activities	\$20,000.00	No Change	10%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).	\$15,000.00	5%	10%
		Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: City of Newburgh Community Outreach Activities (Activities Subject to City of Newburgh operational approval).	\$10,000.00	5%	10%
		Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap. Examples of Activities: Workforce On-the Job-Training (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%	10%
	Administration	Administration	Administration Subject to 20% Annual Allocation Cap. Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$175,169.00	No Change	10%
Proposed Total FY2023 Allocation				\$850,169.00		

**FY2023 Annual Action Plan
Community Development Block Grant (CDBG)**

				Financiación de proyectos	% De aumento del proyecto, si la asignación de HUD es mayor que la propuesta (aprox.
Necesidad Prioritaria Ptendida	Nombre del Proyecto	Actividades Propuestas (Ejemplos)			
Proyectos Financiados a Traves de la Subvencion de Subcidios	Vivienda	Vivenda	Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También fondos para materiales necesarios para mantener propiedades hipotecadas, como palas de nieve, malezas, cerraduras/llaves.	\$210,000.00	No Cambio
	Vivienda	Vivienda	Programa de asistencia de Reparacion para Propietarios Administrado por Subreceptor de la Ciudad de Newburgh.	\$20,000.00	30%
	Mejoras de infraestructura	Mejoras de infraestructura	Continuar financiando el proyecto de mejoras de Rampas y aceras.	\$275,000.00	30%
	Mejoras de infraestructura	Mejoras en las InstalacionPúblicas	Mejoras de Accesibilidad Pública a los Edificios, Parques y otros Espacios Públicos de la Ciudad de Newburgh.	\$100,000.00	20%
	Desarrollo Economico	Desarrollo Economico	Actividades de Desarrollo Economico	\$20,000.00	No Change
	Mejoras de Calidad de Vida	Servicios a los Vecindarios	actividad de servicio público, sujeta a un límite de asignación anual del 15%. ejemplos de actividades: festival de cine de verano (actividades sujetas a la aprobación operativa de la ciudad de Newbureh).	\$15,000.00	5%
		Servicios a los Vecindarios	Actividad de Servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Actividades de Alcance Comunitario de la Ciudad de Newburgh (actividades sujetas a la aprobación operacional de la Ciudad de Newburgh).	\$10,000.00	5%
		Servicios a los Vecindarios	Actividad de servicio público, sujeta al límite de asignación anual del 15%. Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la Ciudad de Newbureh).	\$25,000.00	10%
	Administración	Administración	Administración Sujeta al 20% del límite de asignación anual. Las actividades incluyen: Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de idiomas, costos de operación del programa (incluyendo envíos por correo), capacitación/conferencias del programa.	\$175,169.00	No Cambio
			Asignación Total Propuesta para el Año Fiscal 2023	\$850,169.00	

FY2023 Annual Action Plan
Community Development Block Grant (CDBG)

**% Disminucion del
proyecto, si la
asignación de HUD es
inferior a la propuesta
(aprox.)**

10%

10%

20%

10%

10%

10%

10%

10%

10%

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A DOWNTOWN REVITALIZATION INITIATIVE GRANT
IN AN AMOUNT NOT TO EXCEED \$10,000,000.00**

WHEREAS, New York State's Downtown Revitalization Initiative (DRI), a cornerstone of the State's economic development program, transforms downtown neighborhoods into vibrant centers that offer a high quality of life and are magnets for redevelopment, business, job creation, and economic and housing diversity reflecting compact, walkable downtowns that are a key ingredient to helping New York State rebuild its economy from the effects of the COVID-19 pandemic, as well as to achieving the State's bold climate goals by promoting the use of public transit and reducing dependence on private vehicles; and

WHEREAS, Round 6 of the program will invest \$100 million in up to 10 additional downtowns statewide in which participating communities will be nominated by the state's ten Regional Economic Development Councils to receive \$10 million each to develop a downtown strategic investment plan and implement key catalytic projects that advance the community's vision for revitalization through larger private, mixed-use projects, adaptive reuse, new construction projects on developable properties, creating new spaces and projects that elevate urban- and employment-based downtown qualities and enhance the regional draw of the DRI area; and

WHEREAS, the City of Newburgh is a qualified applicant for the DRI program; and

WHEREAS, this Council finds that applying for and accepting funding from the DRI is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Downtown Revitalization Initiative grant in an amount not to exceed \$10,000,000.00; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 26, 2022
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
ROUND 6 NY RESTORE COMMUNITIES INITIATIVE GRANT APPLICATIONS FOR
REHABILITATING THREE PROPERTIES LOCATED ON LANDER STREET AND
REHABILITATING THE DUTCH REFORMED CHURCH**

WHEREAS, the 2022-23 State Budget provided new funding for the Restore New York's Communities Initiative to be implemented by the Empire State Development Corporation ("ESDC") purpose of revitalizing urban and rural areas, disadvantaged communities, and stabilizing neighborhoods; and

WHEREAS, the City of Newburgh intends to submit a Round 6 NY Restore Communities Initiative application for a normal project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street and for a special project to rehabilitate the Dutch Reformed Church; and

WHEREAS, the City of Newburgh must hold a public hearing to receive comment on its Restore NY application and the Property Assessment List that comprises a description of each building, including the location, size and residential or commercial natures of each building, and whether the building is proposed to be demolished, deconstructed, rehabilitated or reconstructed;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that there is scheduled a public hearing to receive public comment on the City of Newburgh's proposed Round 6 NY Restore Communities Initiative application, including the Property Assessment List, for a normal project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street and for a special project to rehabilitate the Dutch Reformed Church; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 26th day of September, 2022 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York; and

BE IT FURTHER RESOLVED, in the event that due to public health and safety concerns related to COVID-19, the state of emergency as set forth in Governor Hochul's Executive Order 11.1, as amended, is extended, and consistent with Chapter 1 of the Laws of 2022, the September 26, 2022 City Council meeting will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed Round 6 NY Restore Communities Initiative application, including the Property Assessment List, as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, September 26, 2022 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, September 26, 2022. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT WITH AUCTIONS INTERNATIONAL, INC.
TO PROVIDE LIQUIDATION SERVICES TO THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh from time to time has surplus vehicles, machinery and other equipment which is no longer needed for City purposes; and

WHEREAS, such property may have some inherent commercial value to private parties; but cannot be used by the City departments or agencies; and the City has no efficient means of storing, preserving, using or otherwise deriving value from such property; and

WHEREAS, by Resolution No. 242-2016 of September 12, 2016, Resolution No. 278-2018 of September 24, 2018, and Resolution No. 251-2020 of October 13, 2020, the City Council of the City of Newburgh authorized agreements with Auctions International, Inc., an experienced and proven online government surplus sales service provider which sells items to anyone on the public site only charges for the items sold and buyer's premium with no charge to the municipality; and

WHEREAS, the terms of the prior agreements with Auctions International, Inc. were for 2 years and the City of Newburgh finds that entering into a new agreement would continue to generate revenue for the City of Newburgh from property which would otherwise go to waste, and thus would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to enter into an agreement with Auctions International, Inc. to provide liquidation services to the City of Newburgh, with such other terms and conditions as may be required by Corporation Counsel, same as being in the best interest of the City of Newburgh.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AMENDING RESOLUTION NO. 147-2022 AND AUTHORIZING
THE CITY MANAGER TO ACCEPT AN AWARD FROM
THE NEW YORK STATE DEPARTMENT OF CRIMINAL JUSTICE SERVICES
UNDER THE GUN INVOLVED VIOLENCE ELIMINATION (“GIVE”) PARTNERSHIP
FOR FUNDING IN THE AMOUNT OF \$418,869.00
WITH NO CITY MATCH FOR THE PERIOD JULY 1, 2022 TO JUNE 30, 2023**

WHEREAS, by Resolution No. 147-2022 of June 13, 2022, the City Council authorized the City Manager to apply for and accept if awarded a grant award from the New York State Department of Criminal Justice Services under the Gun Involved Violence Elimination (“GIVE”) Partnership in the amount of \$364,284.00 with no City match required for New York State Fiscal Year beginning July 1, 2022 and ending June 30, 2023; and

WHEREAS, the City of Newburgh received its award notice for New York State fiscal year beginning July 1, 2022 and ending June 30, 2023 for funding in the amount of \$418,869.00; and

WHEREAS, this Council has determined that accepting such award is in the best interests of the City of Newburgh and the safety of its residents and visitors alike;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh be and hereby amends and supersedes Resolution No. 147-2022 of June 13, 2022; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to accept a funding award from the New York State Department of Criminal Justice Services under the Gun Involved Violence Elimination (“GIVE”) Partnership, in the amount of \$418,869.00 with no City match required for the period beginning July 1, 2022 and ending June 30, 2023, to be used to carry out the program; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.



Division of Criminal Justice Services

KATHY HOCHUL
Governor

ROSSANA ROSADO
Commissioner

YVONNE TURNER
Director of Funding

Grant Award Notice

Grantee/Contractor: Newburgh City Police Department	Date: July 26, 2022
Program Name: GIVE (2022-2023)	Award Amount: \$418,869 ¹
Signatory Name and Title: Anthony Geraci Chief	Term Dates: July 1, 2022 – June 30, 2023
Email: AGeraci@cityofnewburgh-ny.gov	Contract Number: C484889
Additional Programmatic Information : The New York State Division of Criminal Justice Services (DCJS) is pleased to provide funding to your county to support the DCJS Gun Involved Violence Elimination (GIVE) initiative. Please find attached the approved budget for the funded agencies within your county. If you have any programmatic questions, please contact Raymond Neves in the DCJS Office of Public Safety (OPS) at (518) 402-8455, or e-mail at Raymond.Neves@dcjs.ny.gov. Should you have any contract related questions please contact: Dave Martin Public Safety Grants Representative 3 NYS Division of Criminal Justice Services Office of Program Development and Funding Phone: 518-485-9607 Email: David.Martin@dcjs.ny.gov Thank you for all you do to enhance public safety. DCJS remains committed to working with you in our continued efforts to support the well-being and safety of all New York residents and visitors. Attachment (1) – Approved Budget Sheet	

^[1] The award amount listed above is contingent upon the completion and submission (as applicable) of all contractual obligations, as well as approval by the NYS Division of Budget and execution of the grant contract by the NYS Office of the State Comptroller.

RESOLUTION NO.: 147 - 2022

OF

JUNE 13, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT FROM
THE NEW YORK STATE DEPARTMENT OF CRIMINAL JUSTICE SERVICES
UNDER THE GUN INVOLVED VIOLENCE ELIMINATION ("GIVE") PARTNERSHIP
TO ENHANCE LAW ENFORCEMENT IN THE CITY OF NEWBURGH
TO ACHIEVE SUSTAINED, LONG-TERM CRIME REDUCTION
IN THE AMOUNT OF \$364,284.00
WITH NO CITY MATCH FOR THE PERIOD JULY 1, 2022 TO JUNE 30, 2023

WHEREAS, the City of Newburgh wishes to apply for and accept a Grant Award in the amount of \$364,284.00 under the Division of Criminal Justice Services Gun Involved Violence Elimination ("GIVE") Partnership; and

WHEREAS, the GIVE Grant Program provides funding to the the City of Newburgh for the Group Violence Intervention and Hotspot Policing Strategies and will continue to support emerging hotspot patrols, long term hotspot foot patrols, investigations of shootings/homicides involving identified group members, the Youth and Police Initiative, the Crime Analyst position and a field intelligence officer position and partially fund an investigator position; and

WHEREAS, the Program funding shall be for New York State fiscal year beginning July 1, 2022 and ending June 30, 2023; and

WHEREAS, the Program will enhance enforcement and prosecution efforts against crime in the City of Newburgh and no City matching funds are required, except the City of Newburgh will be responsible for certain fringe benefit costs which are not covered by the grant; and

WHEREAS, this Council has determined that accepting such funding is in the best interests of the City of Newburgh and the safety of its residents and visitors alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to apply for and accept if awarded a grant award from the New York State Department of Criminal Justice Services under the Gun Involved Violence Elimination ("GIVE") Partnership, in the amount of \$364,284.00 with no City match required for New York State Fiscal Year beginning July 1, 2022 and ending June 30, 2023, to be used to carry out the program; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

I, Karina Cotten, Deputy City Clerk of the City of Newburgh,
hereby certify that I have compared the foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held 6/13/22
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 14th day of JUNE 2022

Karina Cotten
Deputy City Clerk

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A UNITED STATES DEPARTMENT OF JUSTICE
PROJECT SAFE NEIGHBORHOODS PROGRAM GRANT
THROUGH THE GIFFORD FOUNDATION IN THE AMOUNT OF \$121,081.00
WITH NO CITY MATCH REQUIRED**

WHEREAS, the City of Newburgh Police Department has advised that grant funding is available from the United States Department of Justice, U.S. Attorney's Office for the Southern District of New York in the FY2021 Project Safe Neighborhoods ("PSN") Program through The Gifford Foundation; and

WHEREAS, PSN Program is designed to create safer neighborhoods through a sustained reduction in crime by providing support to state, local and tribal efforts to reduce gun and gang-related violent crime in the most violent neighborhoods by employing a research-driven, intelligence-led, and problem-solving approach to reduce firearms and gang violence through enforcement, deterrence, and prevention; and

WHEREAS, the City of Newburgh Police Department intends to apply for funding in the amount of \$121,081.00 with no City match required, and use the funding for a comprehensive technology upgrade in the Detective Division to support gang and gun violence investigations; and

WHEREAS, this Council has determined that applying for such grant is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a United States Department of Justice FY2021 Project Safe Neighborhoods Program Grant through The Gifford Foundation in the amount of \$121,081.00, with no City match required; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN INTER-MUNICIPAL AGREEMENT WITH THE
COUNTY OF ORANGE AS PART OF THE FY 2018 STATE LAW ENFORCEMENT
TERRORISM PREVENTION PROGRAM, DEPARTMENT OF HOMELAND SECURITY
AND EMERGENCY SERVICES TO PROVIDE
THE NEWBURGH POLICE DEPARTMENT WITH ONE WHITE ENCLOSED TRAILER
AND TWO CAN-AM OUTLANDER XT**

WHEREAS, the City of Newburgh wishes to enter into an Inter-Municipal Agreement with the County of Orange as part of the FY 2018 State Law Enforcement Terrorism Prevention Program, Department of Homeland Security and Emergency Services (DHSES) Project OC LE18-1048-D04; and

WHEREAS, the County will be purchasing and assigning to the City of Newburgh Police Department a White Enclosed Trailer 8 x 18 and two (2) Can-Am Outlander XT; and

WHEREAS, the term of the Agreement and funding will cover the period of September 1, 2022 and through May 31, 2023; and

WHEREAS, this Council has reviewed the attached Inter-Municipal Agreement and determined it to be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to execute the attached Inter-Municipal Agreement between the County of Orange and the City of Newburgh as part of the FY 2018 State Law Enforcement Terrorism Prevention Program, Department of Homeland Security and Emergency Services; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A NEW YORK
STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION
EVENT PERMIT FOR THE CITIZEN POLICE ACADEMY
EMERGENCY VEHICLE OPERATOR COURSE
AT LAKE WELCH—HARRIMAN STATE PARK**

WHEREAS, The City of Newburgh Police Department has created the Citizen Police Academy to increase the understanding and improve the understanding between citizens and the police through education; and

WHEREAS, the Citizen Police Academy curriculum consists of lectures, tours, demonstrations, and hands-on participation in almost every aspect of police work, including an Emergency Vehicle Operator Course (“EVOC”) to be held at Lake Welch—Harriman State Park; and

WHEREAS, the New York State Office of Parks, Recreation, and Historic Preservation requires a permit for the use of Lake Welch—Harriman State Park for the Citizen Police Academy EVOC; and

WHEREAS, this Council has determined that the Citizen Police Academy and its curriculum is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manger be and he is hereby authorized to execute an event permit required by the New York State Office of Parks, Recreation, and Historic Preservation requires a permit for the use of Lake Welch—Harriman State Park for the Citizen Police Academy Emergency Vehicle Operator Course scheduled for October 6 and 7, 2022.

SPECIAL EVENT PERMIT

New York State Office of Parks, Recreation, and Historic Preservation
Lake Welch - Harriman State Park
Phone: (845) 947-2444
Fax: (845) 947-3103

Issued To: City of Newburgh Police Department
Sgt. Christopher Lahar
55 Broadway
Newburgh, NY 12550

Permit #: WB22-09
Event Date: October 6 & 7, 2022
Rain Date: N/A
Issue Date: August 31, 2022

The New York State Office of Parks, Recreation and Historic Preservation (Palisades Interstate Park Commission (PIPC)), hereinafter referred to as "Parks", hereby grants permission to **City of Newburgh Police Department**, hereinafter referred to as "Permittee", to hold **Citizen's Police Academy EVOC Training at Lake Welch in Harriman State Park on Thursday, October 6th and Friday, October 7th, 2022** starting at **4:30 PM** and ending no later than **7:30 PM**, subject to the following terms and conditions:

1) Permittee shall defend, indemnify and hold harmless the State of New York, Office of Parks, Recreation and Historic Preservation, the Palisades Interstate Park Commission, and their officers, employees and agents from and against damages for injury to or death of persons and for damage to or destruction of property of State Parks or others occurring during Permittee's use of said Premises and caused by the acts, omissions, neglect or misconduct of Permittee or any of its employees, agents, contractors, licensees or guests in the conduct of Permittee's operations under this permit. The Permittee assumes all risk of loss of the Permittee's property or that of its agents, employees, contractors and guests. Permittee's liability is not limited to the insurance coverage provided

2) The fees for this event are as follows:

Event/Activity Fee¹: No Fee

A deposit of \$0.00 must be included with the signed copy of this permit.

The balance is due within 30 days of notification.

Failure to make the required payments within 60 days of the event may result in a 2% penalty for each month the payment is late. Any penalty charged will accrue until the amount is paid in full. Penalties assessed to staff and police costs will be included in the final event permit fee.

¹Checks or money orders for all fees except staff and police costs are to be made payable to "PIPC"

²Checks or money orders submitted as payment for staff or police cost must be made payable to "NYS Commissioner of Taxation and Finance"

- 3) A reconciliation of collected monies (gate, registrations, donations, etc.) must be submitted to the park office within 14 days following the event. When requested, a financial statement must be submitted to the Park/Site Manager within thirty (30) days following the event.
- 4) The Permittee shall, at its own cost and expense, procure a policy of public liability insurance naming as additional insured the State of New York, Office of Parks, Recreation and Historic Preservation, the Palisades Interstate Park Commission, and their officers, employees and agents. Said policy shall contain limits of no less than \$1,000,000 for each occurrence and a general aggregate minimum of \$2,000,000 to protect Permittee and each additional insured from any claims for damages to property and for personal injuries, including death, which may arise in connection with the uses permitted under this Permit. Public liability insurance minimums may be adjusted to the New York State Office of General Services guidelines for public liability insurance.

Permittee shall deliver to PARKS a certificate of insurance showing required coverage prior to the conduct of activities under this permit as prescribed by the facility manager.

The wording on the certificate of insurance shall be as follows: **“Additional Insured: The State of New York, Office of Parks, Recreation and Historic Preservation, the Palisades Interstate Park Commission, and their officers, employees and agents”**

Naming Parks as a Certificate Holder will not satisfy this requirement.

Additional commercial liability insurance including products liability or liquor liability insurance may be required.

- 5) There will be no obligation on the part of Parks for preparation, clean-up, or restoration of the area, or furnishing of equipment, supplies, or personnel, except as is normally done by PIPC or as is specified in the “SPECIAL CONDITIONS AND ARRANGEMENTS” item of this permit.
- 6) Permittee must leave the area in the condition in which it was found.
- 7) The event must not interfere with use by the general public of the site or its surrounding areas, roads and must comply with any relevant local ordinances.
- 8) Amplified sound or music is not permitted in the Park.
- 9) Permittee must arrange for all publicity and advertising. All applications, advertising, promotional materials, and press releases for the event must be reviewed and approved by Parks prior to their release to the public. It is understood that the OPRHP and PIPC logos will be printed on any and all publicly disseminated materials with a statement to the effect that the event is being held in cooperation with the Palisades Interstate Park Commission.
- 10) The location, wording, and size of promotional or directional signs or banners pertaining to the event that are to be posted in the Park or on Park-controlled roads or accesses must be approved by Parks prior to the event. Signs must be posted and removed on the day of the event. No permanent markings may be used on any tree, rock, road, building, structure, fence, etc. in the Park or on Park-controlled roads or accesses.

- 11) Permittee understands that the site's prime concessionaire, currently Guest Services, Inc., holds a preferential right under its contract to provide food, beverages, lodging and souvenirs to park patrons. Permittee must enter into a separate contract with Guest Services, Inc. or its successor for these services or have Guest Services, Inc. sign off on the catering. A copy of said sign off must be sent to the Bear Mountain State Park Office.
- 12) Permittee must not allow the serving of alcoholic beverages to its members or participants.
- 13) Permittee must not allow the use of Styrofoam and/or glass containers.
- 14) Permittee must not collect any money in the form of admission fees or donations while on Park property.
- 15) This permit does not constitute a waiver of any applicable vehicular use fees nor does it reserve any parking spaces. Vehicles must park in designated areas.
- 16) Commercial vehicles or vehicles with trailers traveling to the event must obtain road permits in advance. Permittee must submit a completed list of such vehicles (Parks will supply application forms) at least two weeks in advance of the event. Persons whose vehicles are not on the list must call the Park Office to make arrangements for a permit.
- 17) Bus groups must obtain permits at least three weeks in advance before traveling on the Parkway or Park roads. For permit applications, call Lake Welch at 845-947-2444.
- 18) A tent permit is required for all tents/canopies in excess of 200 square feet, all cooking tents/canopies, all air inflated structures, or for any temporary structure with a capacity of fifty (50) or more people. The applications must be submitted to the Parks Office at least three weeks prior to the date of use listed in the application. Applications are available at the park office upon request. An approved special event permit does not guarantee that this additional permit will also be issued.
- 19) A permit is required for all unmanned aircraft systems (UAS, also known as a drone) through the Deputy General Manager's Office. The application must be submitted the Parks Office at least three weeks prior to the date of use listed in the application. Applications are available at the park office upon request. An approved special event permit does not guarantee that this additional permit will also be issued.
- 20) Permittee must comply with all PIPC, OPRHP, state, county, and local rules and regulations. In addition, any directions issued by Matt Driver, Park Manager III; the Park Police; or authorized representatives of OPRHP/PIPC must be immediately followed.
- 21) Permittee is responsible for obtaining any additional permits or approvals required by NYS OPRHP, PIPC, State, County and local agencies. This permit shall be cancelled and any monies paid shall be forfeited should any appropriate permit be missing.
- 22) COVID-19 Guidelines for all groups:
 - a) It is required that all procedures, standards and requirements from the CDC, ESD and any applicable State or County Department of Health that are in place at the time of permit issuance must be adhered to by participants and monitored during the event by the organizer. These guidelines are available on the NY Forward webpage.

- b) All events will need to submit a proposal for approval on how you are going to follow and adhere to all current COVID-19 guidelines.
- c) All in attendance to your schedule events must adhere to proper protocol with regards to social distancing and the wearing of face masks.
- d) All refreshments or snacks, must be sealed, individually wrapped and/or single use must be utilized.
- e) All frequently touched areas including but not limited to tables, chairs, pens, refreshments, snack tables, etc. must be sanitized and disinfected throughout the event.
- f) Organization must ensure that participants, spectators, volunteers, staff, timers, etc. are not crowded into one area. The group must ensure all social distancing regulations are met.
- g) By accepting the terms of this permit the Permittee agrees to serve as the "Responsible Party" for the purpose of this event/activity. In this role it is understood that the Permittee will adhere to all guidance, reporting, contract tracing and monitoring requirements established by the state or local health department, Empire State Development and NY Forward.

23) SPECIAL CONDITIONS AND ARRANGEMENTS:

- a) Permittee has permission to use chalk markings for the course; no permanent markings can be made. There can be no burnout from tires allowed by participants.
 - b) Permittee has permission to leave a trailer/equipment on the premises for the duration of this permit in the specified location, as per the Park Manager.
- 24) Permittee shall promptly report any and all unusual incidents directly to the Park/Site Manager or Park Police. Unusual incidents include, but are not limited to, damage to Park property, accidents, personal injuries, and emergencies involving medical personnel.
- 25) This permit is issued to Permittee for the date(s), time(s), and location(s) listed. It may not be sold, transferred, or re-issued. For identification purposes, it must be available for inspection by a Parks official.
- 26) Failure to adhere to the terms and conditions of this agreement shall result in its immediate cancellation and the forfeiture of any monies already paid to Parks.
- 27) The on-site Park Manager, a designated employee or Park Police may postpone or cancel this event because of any unsafe condition.
- 28) This permit will not be valid until signed by an authorized representative of City of Newburgh Police Department and the original returned together with the required insurance certificate, fees, and other paperwork, as specified hereinabove, to the Lake Welch Office no less than 30 days prior to the date of the event.

Sincerely,



Matthew Driver
Park Manager III

Conditions as outlined herein are agreed to for City of Newburgh Police Department by:

Signature

Date

Name & Title (Print or Type)

cc: A. McVicker
 D. Bourne
 Park Police



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/31/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. P.O. Box 649 Mount Vernon NY 10552		CONTACT NAME: Nicole Anstett PHONE (A/C, No, Ext): 914-697-6066 E-MAIL ADDRESS: nicole_anstett@agj.com FAX (A/C, No): 914-323-4566	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Gemini Insurance Company	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 935468163 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		PEM0000277-00	1/31/2022	1/1/2023	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000 SIR \$ 500,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Additional Insureds Endorsement CCP 1002 01/13
RE: Location: Lake Welch in Harriman State Park, 1800 Kanawauke Road, Stony Point, NY 10980. Dates: October 6th and October 7th
The State of New York, Office of Parks, Recreation and Historic Preservation, the Palisades Interstate Park Commission, and their officers, employees and agents are included as additional insured as required by written contract.

CERTIFICATE HOLDER New York State Parks, Recreation & Historic Preservation PO Box 1783 84 Liberty Street New York NY 12551	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS OR OTHER INTERESTS FROM WHOM LAND HAS BEEN LEASED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Person(s) Or Organization(s)	Designation Of Land (Part Leased To You)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the land leased to you and shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land;

2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION DECLARING POLICE DEPARTMENT BALLISTIC VESTS
TO BE SURPLUS EQUIPMENT AND AUTHORIZING DISPOSITION PURSUANT TO
THE CITY OF NEWBURGH'S SURPLUS PROPERTY DISPOSITION POLICY**

WHEREAS, the City of Newburgh Police Department possesses approximately 50 ballistic vests which are no longer of use to the City and the Police Department; and

WHEREAS, the Police Department has requested that the ballistic vests be designated as surplus; and

WHEREAS, the City Council has determined that declaring the ballistic vests as surplus is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the ballistic vests in the City of Newburgh Police Department are hereby declared to be surplus and of no further use or value to the City of Newburgh; and

BE IT FURTHER RESOLVED, that the City Manager and/or City Comptroller be and they are hereby authorized to execute any required documents and conduct all necessary transactions to dispose of said surplus property in accordance with the City of Newburgh's Surplus Property Disposition Policy and Procedure adopted by Resolution No. 174-2014 of July 14, 2014 and that the proceeds of the disposition of said surplus property, if any, be allocated to the City of Newburgh Police Department.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
URGING THE NEW YORK STATE LEGISLATURE
TO PASS THE “CLEAN SLATE ACT” (S1553D/A6399C)**

WHEREAS, three million people in New York State have criminal conviction records; and

WHEREAS, people with criminal conviction records face thousands of civil barriers to employment, licensing, housing and educational opportunities long after they have completed their sentences; and

WHEREAS, racial disparities and socio-economic discrimination are rampant throughout the criminal legal system, and statistics and anecdotal evidence show that convictions for even low-level offenses result in cyclical harm and structural instability for individuals, families and communities; and

WHEREAS, excluding individuals with criminal records from full participation in society through a system of perpetual punishment creates intergenerational trauma and exacerbates racial and economic inequality; and

WHEREAS, Black and Latinx Newburgh residents are far more likely to be stopped, arrested, prosecuted, convicted and incarcerated in the criminal legal system than white Newburgh residents; and

WHEREAS, people of color are far more likely to be discriminated against based on a conviction record; and

WHEREAS, people who have been to prison lose an average of \$484,400.00 in earnings over their lifetime; and

WHEREAS, excluding individuals with conviction histories from the workforce costs the economy between \$78 billion and \$87 billion in lost gross domestic product; and

WHEREAS, approximately 95% of incarcerated people return to their communities after serving their sentences; and

WHEREAS, giving people access to jobs, housing, education and licenses to practice a trade increases their participation in the economy and reduces the likelihood they will return to prison, thereby making our communities safer; and

WHEREAS, only approximately 2,500 of an estimated 600,000 eligible people, or less than 0.5%, have had their records sealed since New York’s current application-based sealing law went into effect in 2017; and

WHEREAS, a system of automatic sealing and expungement of criminal records is essential to provide relief to those who need it most; and

WHEREAS, the “Clean Slate Act”, currently identified as S1553D/A6399C, sponsored by New York State Senator Zellnor Myrie and New York State Assembly Member Catalina Cruz would require that most criminal records be sealed automatically after a specified period of time; and

WHEREAS, the “Clean Slate Act” would remove systemic barriers to stable housing, employment, education and allow millions of New Yorkers to participate fully in civil life and in their communities; and

WHEREAS, numerous other states, including Pennsylvania, Michigan, Utah and Connecticut have already passed “Clean Slate” legislation;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh calls on the New York State Legislature to pass and the Governor to sign the Clean Slate Act; and

BE IT FURTHER RESOLVED, that the City Clerk, no later than 30 days after passage of this Resolution, shall transmit copies of this resolution to Governor Kathy Hochul, Speaker of the New York State Assembly Carl Heastie, New York State Senate Majority Leader Andrea Stewart-Cousins, Senator James Skoufis, and Assemblyman Jonathan Jacobson encouraging and requesting that they support The Clean Slate Act (S1553D/A6399C).

STATE OF NEW YORK

1553--D

2021-2022 Regular Sessions

IN SENATE

January 13, 2021

Introduced by Sens. MYRIE, BAILEY, BIAGGI, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GIANARIS, GOUNARDES, HINCHEY, HOYLMAN, JACKSON, KAVANAGH, KENNEDY, LIU, MAY, MAYER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, the executive law and the correction law, in relation to automatic sealing of certain convictions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The criminal procedure law is amended by adding a new
2 section 160.57 to read as follows:

3 § 160.57 Automatic sealing of convictions.

4 1. Convictions for certain traffic infractions and violations or any
5 crime defined in the laws of this state shall be sealed in accordance
6 with paragraph (c) of this subdivision as follows:

7 (a) Convictions for subdivision one of section eleven hundred ninety-
8 two of the vehicle and traffic law shall be sealed after three years.

9 (b) Criminal convictions for misdemeanors and felonies shall be sealed
10 upon satisfaction of the following conditions:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD07615-12-2

1 (i) at least three years have passed from the imposition of sentence
2 on the defendant's most recent misdemeanor conviction in this state and
3 at least seven years have passed since the imposition of sentence on the
4 defendant's most recent felony conviction in this state;

5 (ii) the defendant does not have a subsequent criminal charge pending
6 in this state;

7 (iii) the defendant is not currently under the supervision of any
8 probation or parole department for the eligible conviction; and

9 (iv) the conviction is not defined as a sex offense under section one
10 hundred sixty-eight-a of the correction law.

11 (c) Where a conviction is eligible for sealing pursuant to this
12 section before, on, or after the effective date of this section, the
13 division of criminal justice services shall immediately notify the
14 office of court administration, the court of conviction, and the heads
15 of all appropriate police and sheriff departments that the conviction is
16 sealed.

17 (d) Records of convictions sealed pursuant to this section including
18 photographs, photographic plates or proofs, palmprints, fingerprints or
19 retina scans shall not be accessed by or made available to any person or
20 public or private agency, or used by any entity covered by subdivision
21 three of this section except for:

22 (i) the defendant and such defendant's counsel;

23 (ii) any court, defense counsel or prosecutor for the purposes of a
24 pending criminal proceeding or proceedings brought in a criminal court
25 pursuant to article six-C of the correction law;

26 (iii) qualified agencies, as defined in subdivision nine of section
27 eight hundred thirty-five of the executive law, federal and state law
28 enforcement agencies, and interstate and international authorities as
29 defined in subdivision three of section two of the public authorities
30 law, when acting within the scope of their law enforcement duties;

31 (iv) the court, prosecutor, and defense counsel if the defendant
32 becomes a witness in a criminal proceeding, or the claimant and respond-
33 ent if the defendant becomes a witness in a civil proceeding;

34 (v) when an individual is a defendant in a criminal proceeding or
35 proceedings brought in a criminal court pursuant to article six-C of the
36 corrections law and the sealed records of conviction of a third party
37 are integral to their defense. In such instances, use of sealed records
38 of conviction shall be requested upon ex parte motion in any superior
39 court, or in any district court, city court or the criminal court of the
40 city of New York provided that such court is where the action is pend-
41 ing. The applicant must demonstrate to the satisfaction of the court
42 that the records will be used for the purpose of this subparagraph;

43 (vi) entities that are required by state or federal law to request and
44 receive a fingerprint-based check of criminal history information,
45 provided, however, that a person whose criminal history information is
46 retrieved pursuant to this paragraph shall be furnished with a copy of
47 such information, together with a copy of article twenty-three-A of the
48 correction law, and informed of his or her right to seek correction of
49 any incorrect information contained in such criminal history information
50 pursuant to regulations and procedures established by the division of
51 criminal justice services;

52 (vii) pursuant to applicable regulations promulgated by the commis-
53 sioner of the division of criminal justice services, specified entities
54 that are authorized by state or federal law to request and receive a
55 fingerprint-based check of criminal history information in relation to
56 the provision of care or services to children, as defined in subdivision

1 one of section three hundred seventy-one of the social services law, and
2 vulnerable persons, as defined in subdivision fifteen of section four
3 hundred eighty-eight of the social services law, provided, however, that
4 a person whose criminal history information is retrieved pursuant to
5 this paragraph shall be provided with a copy of such criminal history
6 information, together with a copy of article twenty-three-A of the
7 correction law, and informed of his or her right to seek correction of
8 any incorrect information contained in such criminal history information
9 pursuant to regulations and procedures established by the division of
10 criminal justice services;

11 (viii) any prospective employer of a police officer or peace officer
12 as those terms are defined in subdivisions thirty-three and thirty-four
13 of section 1.20 of this chapter, in relation to an application for
14 employment as a police officer, provided, however, that every person who
15 is an applicant shall be furnished with a copy of all records obtained
16 under this paragraph and afforded an opportunity to make an explanation
17 thereto;

18 (ix) any federal, state or local officer or agency with responsibility
19 for the issuance of licenses to possess a firearm, rifle or shotgun or
20 with responsibility for conducting background checks before transfer or
21 sale of a firearm or explosive, when the officer or agency is acting
22 pursuant to such responsibility. This includes the criminal justice
23 information services division of the federal bureau of investigation,
24 for the purposes of responding to queries to the national instant back-
25 ground check system regarding attempts to purchase or otherwise take
26 possession of firearms, rifles or shotguns, as defined in 18 U.S.C. §
27 921 (A)(3);

28 (x) for the purposes of civilian investigation or evaluation of a
29 civilian complaint or civil action concerning law enforcement or prose-
30 cution actions, upon ex parte motion in any superior court, or in any
31 district court, city court or the criminal court of the city of New York
32 provided that such court sealed the record; the applicant must demon-
33 strate to the satisfaction of the court that the records will be used
34 for the purposes of this subparagraph;

35 (xi) for information provided to an individual or entity pursuant to
36 paragraph (e) of subdivision four of section eight hundred thirty-seven
37 of the executive law or for bona fide research purposes provided all
38 identifying information is removed;

39 (xii) when an individual seeks to avail themselves of a public program
40 or benefit, including but not limited to an immigration benefit, for
41 which the sealed records of conviction of a third party are integral to
42 their application for such program or benefit. In such instances, the
43 individual or their attorney shall request the use of sealed records
44 pursuant to a form as prescribed in subdivision twenty-three of section
45 eight hundred thirty-seven of the executive law;

46 (xiii) for the purpose of collection of restitution ordered pursuant
47 to section 60.27 of the penal law. In such instances, use of sealed
48 records shall be requested upon ex parte motion in any superior court,
49 or in any district court, city court or criminal court of the city of
50 New York provided that such court is where the action is pending. The
51 applicant must demonstrate to the satisfaction of the court that the
52 records will be used for the purpose of this subparagraph; and

53 (xiv) transportation network companies that are required or authorized
54 by state law to request criminal history information pursuant to section
55 sixteen hundred ninety-nine of the vehicle and traffic law.

1 (e) Where the sealing required by this paragraph has not taken place,
2 or where supporting court records cannot be located or have been
3 destroyed, and a defendant or their attorney submits notification of
4 such fact to the division of criminal justice services, as prescribed in
5 subdivision twenty-three of section eight hundred thirty-seven of the
6 executive law, within thirty days of such notice to the division, the
7 conviction shall be sealed as set forth in this subdivision.

8 2. In calculating the time periods under this section, any period of
9 time during which the defendant was incarcerated on a determinate or
10 indeterminate sentence for a period of at least one year shall be
11 excluded and such time period shall be extended by a period equal to the
12 time served under such incarceration. This period shall be calculated
13 from the original sentencing date, notwithstanding any modification or
14 vacatur of the original judgment or sentence.

15 3. Where a conviction is eligible for sealing pursuant to this section
16 before, on, or after the effective date of this section, the commis-
17 sioner of the division of criminal justice services shall immediately notify
18 the office of court administration, the court of conviction and the
19 heads of all appropriate police departments, prosecutors' offices and
20 law enforcement agencies that the conviction is sealed. Upon receipt of
21 such notification, records of or relating to such conviction shall be
22 immediately sealed pursuant to this section. Where conviction records
23 are sealed pursuant to section 160.50 or 160.59 of this article, the
24 requirements of such sections shall apply.

25 (a) Any such entity that possesses information, records, documents or
26 papers related to the eligible conviction shall seal them as follows:

27 (i) Every photograph of such defendant and photographic plates or
28 proof, and all palmprints, fingerprints and retina scans taken or made
29 of such individual pursuant to the provisions of this article in regard
30 to the eligible conviction, and all duplicates, reproductions, and
31 copies thereof, except a digital fingerprint that is on file with the
32 division of criminal justice services for a conviction that has not been
33 sealed pursuant to this section shall be marked as sealed by the divi-
34 sion of criminal justice services and by any police department,
35 prosecutor's office or law enforcement agency having any such photo-
36 graph, photographic plate or proof, palmprint, fingerprints or retina
37 scan in its possession or under its control by conspicuously indicating
38 on the face of the record or at the beginning of the digitized file of
39 the record that the record has been designated as sealed. Where finger-
40 prints subject to the provisions of this section have been received by
41 the division of criminal justice services and have been filed by the
42 division as digital images, such images may remain unsealed, provided
43 that a fingerprint card of the individual is on file with the division
44 which was not sealed pursuant to this section.

45 (ii) Every official record and paper and duplicates and copies there-
46 of, including, but not limited to, judgments and orders of a court but
47 not including published court decisions or opinions or records and
48 briefs on appeal, relating to the conviction, on file with the agency
49 shall be marked as sealed by conspicuously indicating on the face of the
50 record or at the beginning of the digitized file of the record that the
51 record has been designated as sealed.

52 (b) Third-party agencies shall seal information and all records, docu-
53 ments and papers relating to the eligible conviction as follows:

54 (i) Every police department, prosecutor's office or law enforcement
55 agency, including the division of criminal justice services, which tran-
56 smitted or otherwise forwarded to any agency of the United States or of

1 any other state or jurisdiction outside of this state copies of any such
2 photographs, photographic plates or proofs, palmprints, fingerprints or
3 retina scans, shall forthwith formally inform such agency in writing
4 that the matter has been sealed and request in writing that all such
5 copies be marked as sealed by conspicuously indicating on the face of
6 the record or at the beginning of the digitized file of the record that
7 the record has been designated as sealed.

8 (ii) Every official record and paper and duplicates and copies there-
9 of, including, but not limited to, judgments and orders of a court but
10 not including published court decisions or opinions or records and
11 briefs on appeal, relating to the conviction, on file with the agency
12 shall be marked as sealed by conspicuously indicating on the face of the
13 record or at the beginning of the digitized file of the record that the
14 record has been designated as sealed.

15 4. (a) Nothing in this section requires the sealing or destruction of
16 DNA information maintained in the New York state DNA database of such
17 individual pursuant to the provisions of the executive law in regard to
18 the eligible conviction.

19 (b) Nothing in this section requires the sealing or destruction of
20 records maintained by the department of motor vehicles, and nothing in
21 this section shall be construed to contravene the vehicle and traffic
22 law, the federal driver's privacy protection act (18 U.S.C 2721 et.
23 seq.), the REAL ID Act of 2005 (Public Law 109-13; 49 U.S.C. 30301
24 note), section 7209 of the Intelligence Reform and Terrorism Prevention
25 Act of 1986 (49 U.S.C. 31311), or regulations promulgated pursuant to
26 any such chapter or act.

27 (c) The division of criminal justice services is authorized to
28 disclose a conviction that is sealed pursuant to this section to enti-
29 ties that are required by federal law, or by rules and regulations
30 promulgated by a self-regulatory organization created under federal law,
31 to consider sealed convictions. Such entities must certify to the divi-
32 sion that they are required by federal law, or by rules and regulations
33 promulgated by a self-regulatory organization that has been created
34 under federal law, to make an inquiry about or consider records sealed
35 pursuant to this section for purposes of employment, licensing, or
36 clearance. To the extent permitted by federal law, a record sealed
37 pursuant to this section may not be considered a conviction that would
38 prohibit the employment, licensing or clearance of the defendant.

39 (d) Nothing in this section shall prohibit entities required by feder-
40 al law, or by rules and regulations promulgated by a self-regulatory
41 organization that has been created under federal law, from making an
42 inquiry about or considering an applicant's criminal history for
43 purposes of employment, licensing, or clearance from inquiring into
44 convictions sealed pursuant to this section.

45 (e) In any civil action, an official record of a conviction that has
46 been sealed pursuant to this section may not be introduced as evidence
47 of negligence against a person or entity that provided employment,
48 contract labor or services, volunteer work, licensing, tenancy, a home
49 purchase, a mortgage, an education, a loan, or insurance if such record
50 was sealed and was not provided to the person or entity by or on behalf
51 of a governmental entity in accordance with this section in response to
52 such person's or entity's authorized and timely request for conviction
53 history information.

54 (f) A person or entity described in this subdivision, acting reason-
55 ably and in good faith, may not have a duty to investigate the fact of a
56 prior conviction that has been sealed pursuant to this section.

(g) The division of criminal justice services is authorized to disclose a conviction that is sealed pursuant to this section to the state department of education office of professional discipline for purposes of investigating professional misconduct as defined by subparagraph (i) of paragraph (a) of subdivision five of section sixty-five hundred nine of the education law. The office of professional discipline must certify to the division that it is investigating an individual licensed to practice a profession pursuant to article one hundred thirty of the education law for professional misconduct as defined by subparagraph (i) of paragraph (a) of subdivision five of section sixty-five hundred nine of the education law. Nothing in this section shall prohibit the office of professional discipline from inquiring about or considering convictions sealed pursuant to this section in such proceedings.

5. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of the laws of this state. Any such waiver is void and unenforceable.

6. Sealing as set forth in subdivision three of this section is without prejudice to a defendant or their attorney seeking further relief pursuant to section 440.10 of this chapter. Nothing in this section shall diminish or abrogate any rights or remedies otherwise available to the defendant.

7. All records for a conviction subject to sealing under this section where the conviction was entered on or before the effective date of this section shall receive the appropriate relief promptly and, in any event, no later than two years after such effective date.

8. A conviction which is sealed pursuant to this section is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a penalty or is an element of the offense charged.

9. Any defendant claiming to be aggrieved by a violation of this section shall have a cause of action in any court of appropriate jurisdiction for damages, including punitive damages, and such other remedies as may be appropriate. The provisions of this article shall also be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law.

§ 2. Section 845-d of the executive law is amended by adding new subdivision 4 to read as follows:

4. Nothing in this section shall authorize the division to provide criminal history information that is sealed pursuant to section 160.57 of the criminal procedure law to any entity other than those explicitly authorized by that section to receive or access such information.

§ 3. Section 837 of the executive law is amended by adding three new subdivisions 23, 24 and 25 to read as follows:

23. Promulgate a standardized form for use by individuals to notify the division of criminal justice services of convictions subject to sealing under section 160.57 of the criminal procedure law, but for which the division has not taken the requisite action for related records.

24. Promulgate a certification process whereby individuals seeking use of sealed records pursuant to subparagraph (xii) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law may request and access records.

25. Adopt, amend and rescind such regulations as may be necessary to effectuate the provisions of subparagraph (vii) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law to

determine entities authorized to receive sealed records for purposes of occupations that involve regular and substantial unsupervised or unrestricted physical contact with children as defined in subdivision one of section three hundred seventy-one of the social services law, and vulnerable persons, as defined in subdivision fifteen of section four hundred eighty-eight of the social services law.

§ 4. Subdivision 16 of section 296 of the executive law, as amended by section 2 of subpart O of part II of chapter 55 of the laws of 2019, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55, 170.56, 210.46, 210.47, or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.59 or 160.58 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law, except where such conviction record is accessed pursuant to subparagraph (vi) or (vii) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law, in connection with the licensing, housing, employment, including volunteer positions, or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjourning the criminal action in contemplation of dismissal, pursuant to section 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.57 of the criminal procedure law, except where such conviction record is accessed pursuant to subparagraph (vi) or (vii) of paragraph (d) of subdivision one of section 160.57 of the criminal procedure law. An individual required or requested to provide information in violation of this subdivision may respond as if the arrest, criminal accusation, or disposition of such arrest or criminal accusation did not occur. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision

1 shall not apply to an application for employment or membership in any
2 law enforcement agency with respect to any arrest or criminal accusation
3 which was followed by a youthful offender adjudication, as defined in
4 subdivision one of section 720.35 of the criminal procedure law, or by a
5 conviction for a violation sealed pursuant to section 160.55 of the
6 criminal procedure law, or by a conviction which is sealed pursuant to
7 section 160.58 or 160.59 of the criminal procedure law, or by a
8 conviction which is sealed pursuant to section 160.57 of the criminal
9 procedure law. For purposes of this subdivision, an action which has
10 been adjourned in contemplation of dismissal, pursuant to section 170.55
11 or 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, shall
12 not be considered a pending action, unless the order to adjourn in
13 contemplation of dismissal is revoked and the case is restored to the
14 calendar for further prosecution.

15 § 5. Section 9 of the correction law, as added by section 2 of part 00
16 of chapter 56 of the laws of 2010, the section heading as amended by
17 chapter 322 of the laws of 2021, is amended to read as follows:

18 § 9. Access to information of incarcerated individuals via the inter-
19 net. Notwithstanding any provision of law to the contrary, any informa-
20 tion relating to the conviction of a person[~~, except for a person~~
21 ~~convicted of an offense that would make such person ineligible for merit~~
22 ~~time under section eight hundred three of this chapter or an offense for~~
23 ~~which registration as a sex offender is required as set forth in subdi-~~
24 ~~vision two or three of section one hundred sixty-eight-a of this chap-~~
25 ~~ter,~~] that is posted on a website maintained by or for the department,
26 under article six of the public officers law, may be posted on such
27 website for a period not to exceed [~~five~~] three years after the expira-
28 tion of such person's sentence of imprisonment and at the conclusion of
29 any period of parole or post-release supervision[~~, provided, however,~~
30 ~~that in the case of a person who has been committed to the department on~~
31 ~~more than one occasion, the department may post conviction information~~
32 ~~relating to any prior commitment on such website for a period not to~~
33 ~~exceed five years after the expiration of such person's sentence of~~
34 ~~imprisonment and any period of parole or post-release supervision aris-~~
35 ~~ing from the most recent commitment to the department~~].

36 § 6. Severability. If any provision of this act or the application
37 thereof to any person, corporation or circumstances is held invalid,
38 such invalidity shall not affect other provisions or applications of the
39 act which can be given effect without the invalid provision or applica-
40 tion, and to this end the provisions of this act are declared to be
41 severable.

42 § 7. This act shall take effect on the one hundred twentieth day after
43 it shall have become a law.

Resolution calling on the New York State Legislature to pass the Clean Slate Act.

WHEREAS, 2.3 million people in New York State have criminal conviction records; and

WHEREAS, People with criminal conviction records face thousands of civil barriers to employment, licensing, housing and educational opportunities long after they have completed their sentences; and

WHEREAS, Racial disparities and socio-economic discrimination are rampant throughout the criminal legal system, and statistics and anecdotal evidence show that convictions for even low-level offenses result in cyclical harm and structural instability for individuals, families and communities; and

WHEREAS, Excluding individuals with criminal records from full participation in society through a system of perpetual punishment creates intergenerational trauma and exacerbates racial and economic inequality; and

WHEREAS, Black and Latinx Newburgh residents are far more likely to be stopped, arrested, prosecuted, convicted and incarcerated in the criminal legal system than white Newburgh residents ; and

WHEREAS, People of color are far more likely to be discriminated against based on a conviction record; and

WHEREAS, People who have been to prison lose an average of \$484,400 in earnings over their lifetime; and

WHEREAS, Excluding individuals with conviction histories from the workforce costs the economy between \$78 billion and \$87 billion in lost gross domestic product; and

WHEREAS, Approximately 95% of incarcerated people return to their communities after serving their sentences; and

WHEREAS, Giving people access to jobs, housing, education and licenses to practice a trade increases their participation in the economy and reduces the likelihood they will return to prison, thereby making our communities safer; and

0.5% — have had their records sealed since New York’s current application-based sealing law went into effect in 2017; and

WHEREAS, A system of automatic sealing and expungement of criminal records is essential to provide relief to those who need it most; and

WHEREAS, The “Clean Slate Act” (S1553B/A6399A), sponsored by Senator Zellnor Myrie and Assembly Member Catalina Cruz, would require that most criminal records be sealed automatically after a specified period of time; and

WHEREAS, The Clean Slate Act would remove systemic barriers to stable housing, employment and education and allow millions of New Yorkers participate fully in civic life and in their communities; and

WHEREAS, Numerous other states, including Pennsylvania, Michigan, Utah and Connecticut, have already passed “Clean Slate” legislation; now, therefore, be it

NOW, THEREFORE BE IT RESOLVED, That the Newburgh City Council calls on the New York State Legislature to pass and the Governor to sign the Clean Slate Act.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 26, 2022
TO HEAR PUBLIC COMMENT CONCERNING “A LOCAL LAW REPEALING
AND REPLACING ARTICLE IX OF THE CHARTER OF THE CITY OF NEWBURGH
ENTITLED ‘DEPARTMENT OF PUBLIC WORKS’”**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning “A Local Law Repealing and Replacing Article IX of the Charter of the City of Newburgh Entitled ‘Department of Public Works’”; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 26th day of September, 2022.

BE IT FURTHER RESOLVED, in the event that due to public health and safety concerns related to COVID-19, the state of emergency as set forth in Governor Hochul’s Executive Order 11.1, as amended, is extended, and consistent with Chapter 1 of the Laws of 2022, the September 26, 2022 City Council meeting will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed action as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, September 26, 2022 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, September 26, 2022. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

LOCAL LAW NO.: _____ - 2022

OF

_____, 2022

**A LOCAL LAW REPEALING AND REPLACING ARTICLE IX OF THE CHARTER OF
THE CITY OF NEWBURGH ENTITLED “DEPARTMENT OF PUBLIC WORKS”**

BE IT ENACTED, by the Council of the City of Newburgh, New York as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Repealing and Replacing Article IX of the Charter of the City of Newburgh Entitled ‘Department of Public Works’”.

SECTION 2 - AMENDMENT

Article IX of the City Charter is hereby repealed and replaced as follows:

Article IX. Department of Public Works

§ C9.00 Department established; composition.

There shall be a Department of Public Works, which shall consist of the divisions of Engineering, Water, Sewer, Sanitation, and Streets and Bridges. The Department shall have responsibility for all improvement and maintenance projects related to City streets, rights-of-way, parks, rivers, waterworks, sewers, and City-owned real property.

§ C9.01 Commissioner of Public Works.

The Department shall be headed by the Commissioner of Public Works. The Commissioner of Public Works, as the head of the divisions of Engineering, Water, Sewer, Sanitation, and Streets and Bridges, shall have administrative control over the Department and such other functions and duties as may be assigned by the City Manager.

In the absence or disability of the Commissioner of Public Works, the City Manager may designate the head of any division within the Department to act as Commissioner of Public Works. The acting Commissioner of Public Works shall assume all of the powers and duties of the Commissioner of Public Works in addition to the powers and duties required of the division head.

§ C9.02 Responsibilities and duties of Commissioner of Public Works. Powers and authority of Commissioner of Public Works.

The Commissioner of Public Works shall develop, manage, and implement comprehensive public improvement and maintenance plans for the operation of all City utilities and infrastructure. The Commissioner of Public Works shall keep a running inventory of all utilities and infrastructure within the City.

The Commissioner of Public Works shall have authority to require a private property owner to lay and connect utility service line(s) from a private property line to a nearby utility main at a point that extends beyond the private property line and into a public street or right-of-way. The Commissioner of Public Works shall have authority to prohibit or prevent the use of any water or sewer facility not connected to a City system. If a private property owner fails to comply with any such requirement, the Commissioner of Public Works shall have authority to cause performance of the work and, with notice of hearing, assess and levy the associated expenses onto the property taxes of such property, which shall include a fifteen percent (15%) administrative expense charge, all in accordance with §C9.04. The Commissioner of Public Works may designate the head or acting head of any division within the Department to carry out these duties.

§ C9.03 Divisions; organization and duties.

The Engineering division shall perform all of the civil engineering and surveying of the City, prepare specifications for all public works and public buildings, and shall supervise such public works and the construction of such public buildings. The City Engineer shall supervise the operations of the Engineering division under the general supervision of the Commissioner of Public Works. Nothing herein shall restrict or limit the power of the Council to employ consulting engineers in special or difficult cases.

The Water division shall perform all of the duties as set forth in Article IX-A of the City Charter. The Water Superintendent shall supervise the operations of the Water division under the general supervision of the Commissioner of Public Works.

The Sewer division shall perform all of the duties as set forth in Chapter 248 of the Code of Ordinances of the City of Newburgh.

The Sanitation division shall be responsible for the collection and disposal of garbage, trash, refuse and recyclables throughout the City, the sweeping of streets and the enforcement of all ordinances and regulations relating to the collection, carting and disposal of garbage, trash, refuse and recyclables.

The Streets and Bridges division shall be responsible for the maintenance and repair of all streets and other public property within the City.

The Superintendent of Public Works shall supervise the operations of the Sanitation division and the Streets and Bridges division under the general supervision of the Commissioner of Public Works.

Each division shall have all other duties as are currently assigned or may be in the future assigned to it by the City Manager or by the Commissioner of Public Works. The City Manager or the Commissioner of Public Works may name one person to serve as division head of multiple divisions. In the event of a conflict, the City Manager's directives shall prevail.

§ C9.04 Power of City to perform required work and to collect cost thereof.

Where the owner of any premises shall fail or neglect to perform any work required by this charter, by any ordinance of the City, the City Manager or the Commissioner of Public Works may cause such work to be performed. A bill for the expenses incurred by such work shall be mailed via certified mail to such owner at the address where the work is performed and the address of record with the Office of the Comptroller. If the property owner shall fail to pay the same within 20 days after the date of the notice, the City Manager or the Commissioner of Public Works shall file a certificate of the actual cost of the work plus a fifteen percent (15%) administrative expense charge with the Office of the Comptroller. The Office of the Comptroller shall, in the preparation of the next assessment roll of general City taxes, assess said amount with any applicable statutory interest rate to date upon such property, but if no statutory interest rate applies then said interest rate shall be set at eight percent (8%), and the same shall be levied, corrected, enforced and collected in the same manner by the same proceedings, at the same time, under the same penalty and shall constitute the same lien upon the property assessed as the general City tax and shall be considered a part thereof. Said authority shall be in addition to all other powers of the City to seek a civil judgment, prosecute for a violation of law or ordinance or any other authority granted by charter, statute, law, ordinance or regulation of the City.

§ C9.05 Dedication of streets, parks, squares or other land.

Whenever any street, park, square or other land shall have been dedicated to the public use, the Council shall accept such dedication by ordinance. Before any street, park or square shall be so accepted, the Council shall cause a survey, map or description thereof either to be made by the City Engineer or approved by him in writing and by him reported to the Council, stating the exact location, the course, distance, width and boundary of the street, park, square or land so accepted. Such description shall be entered at length in the minutes of the Council, and such map shall be filed in the office of the City Clerk, and copies thereof duly certified by the City Clerk shall be presumptive evidence in any suit or proceedings of the location of such street, park, square or land.

§ C9.06 Designation of public streets.

All streets, avenues, roads, alleys, lanes, concourses and public squares in public use within the City heretofore or hereafter laid out as streets or public highways under any law of this state or under any proceedings authorized by the statutes of this state; all streets, avenues, roads, alleys, lanes, concourses and public squares not laid out or opened under any statute of this state or by proceedings authorized by such statute but which have been worked or improved by the City and used as public streets or highways for 10 years or more; and all streets heretofore dedicated to the

public use in pursuance of law or hereafter dedicated and accepted by the Council as provided in this Act, shall be deemed public streets of the City.

§ C9.07 Streets and public places not sufficiently described.

The Council may, by ordinance, cause all streets, public parks, squares or other public places in said City that have been used for 10 years or more and are not sufficiently described or have not been duly recorded in the public records to be ascertained, described and entered of record in its minutes, and a record thereof and of such as shall hereafter be laid out, or of such as have been dedicated and accepted by the Council, or a copy of such record certified by the City Clerk shall be evidence of the existence and location of such street, park, square and other public places as therein described.

§ C9.08 Change of street grade.

The Council shall not change the grade of any street which has been legally established, except upon compensation for damages done, but nothing herein contained shall be construed to require compensation for damages to be ascertained or paid prior to the making of change in grade.

§ C9.09 Duty of abutting owner to repair and maintain sidewalk and for removal of snow and ice.

It shall be the duty of the owner of property abutting a street, highway, road, public lane, alley or space to maintain and repair the sidewalk adjoining said property and keep such sidewalk and gutter free of snow and ice, obstructions, and tripping hazards. Such owner shall be liable for any injury or damage by reason of commission, failure or negligence to make, maintain or repair such sidewalk, including the defense and indemnification of the City of Newburgh against such claim.

SECTION 3 - SEVERABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted is such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 4 - CODIFICATION

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the Charter of the City of Newburgh; that the sections and subsections of this Local Law may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Local Law" shall be changed to "Charter", "Article", or

other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Local Law or the provisions of the City Charter affected thereby.

SECTION 5 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 6 - EFFECTIVE DATE

This Local Law and shall be effective immediately after the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

Article IX Department of Public Works

§ C9.00 Department established; composition. [Added 9-14-1987 by L.L. No. 4-1987]

There shall be a Department of Public Works, headed by the Superintendent of Public Works and including a Division of Streets and Bridges and a Division of Sanitation. The Department shall also have control over all City parks and rivers.

Commented [KJ1]: Re-drafted as §9.00

§ C9.01 Superintendent of Public Works. [Added 9-14-1987 by L.L. No. 4-1987]

The Superintendent of Public Works, as the head of the Department of Public Works, shall have supervision and control of the Division of Streets and Bridges and the Division of Sanitation. He shall have administrative control over the Department and such other functions and duties as may be assigned by the City Manager.

Commented [KJ2]: Re-drafted as §9.01

§ C9.03 Dumpster user fees. [Added 1-25-1988 by L.L. No. 2-1988]

- A. The owners of all properties where dumpsters are serviced by the City, within the City of Newburgh, shall be charged for the removal of wastes generated by such properties at a rate as set forth in Chapter **163**, Fees, of this Code. A dumpster is defined as having a volume not exceeding two cubic yards. Dumpsters exceeding two cubic yards will not be serviced by the City. **[Amended 10-10-1989 by L.L. No. 3-1989; 6-14-2010 by L.L. No. 7-2010]**
- B. The above charges shall be made on all properties where collection of dumpster wastes by the City has been requested. The owner of each such property must file an application or a dumpster permit for such property.
- C. The charges imposed by this local law shall be billed to each owner on a monthly basis. No refunds or proration shall be made for rendering of only a partial month's services. No change in charge or service shall become effective other than as of the first day of a month.
- D. The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services, together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund. **[Amended 6-14-2010 by L.L. No. 7-2010]**

Commented [KJ3]: Moved to Chapter 183, Article III,

§ C9.04 Overdue and unpaid dumpster user fees to become liens; collection and enforcement. [Added 1-25-1988 by L.L. No. 2-1988]

- A. Overdue and unpaid dumpster user fees shall become liens against the real property to which

Commented [KJ4]: Moved to Chapter 183, Article III, §183-26

they relate at the same time and in the same manner as uncollected water rents become liens and shall be collectible against such real property in the same manner as is or may be prescribed by law for the collection of taxes for the City of Newburgh for City purposes. Like notices shall be given by the City Collector.

- B. Interest, penalties and fees shall be the same as for the collection of water rents, and, in all respects, like proceedings shall be had by the City Collector as is or may be provided by law for the collection of water rents.
- C. The amount so charged shall be collected and enforced in the same manner and in the same time as may be provided by law for the collection and enforcement of City taxes and such service charges, interest and penalties thereon shall be a lien on the real property on which the charges accrued.

§ C9.05 City Engineer and Surveyor.

The City Engineer and Surveyor shall do all the civil engineering and surveying of the City, prepare the specifications for all public works and public buildings when required by the Council and shall supervise such public works and the construction of such public buildings as may be directed by the Council. Nothing herein provided, however, shall be construed as restricting or limiting the power of the Council to employ consulting engineers in special or difficult cases.

Commented [KJ5]: Re-drafted as part of §9.03

§ C9.10 Designation of public streets.

All streets, avenues, roads, alleys, lanes, concourses and public squares in public use within the City heretofore or hereafter laid out as streets or public highways under any law of this state or under any proceedings authorized by the statutes of this state; all streets, avenues, roads, alleys, lanes, concourses and public squares not laid out or opened under any statute of this state or by proceedings authorized by such statute but which have been worked or improved by the City and used as public streets or highways for 10 years or more; and all streets heretofore dedicated to the public use in pursuance of law or hereafter dedicated and accepted by the Council as provided in this Act, shall be deemed public streets of the City.

Commented [KJ6]: Re-drafted as §9.06

§ C9.11 Dedication of streets, parks, squares or other land.

Whenever any street, park, square or other land shall have been dedicated to the public use, the Council shall accept such dedication by ordinance. Before any street, park or square shall be so accepted, the Council shall cause a survey, map or description thereof either to be made by the City Engineer or approved by him in writing and by him reported to the Council, stating the exact location, the course, distance, width and boundary of the street, park, square or land so accepted. Such description shall be entered at length in the minutes of the Council, and such map shall be filed in the office of the City Clerk, and copies thereof duly certified by the City Clerk shall be presumptive evidence in any suit or proceedings of the location of such street, park, square or land.

Commented [KJ7]: Re-drafted as §9.05

§ C9.12 Streets and public places not sufficiently described.

Commented [KJ8]: Re-drafted as §9.07

The Council may, by ordinance, cause all streets, public parks, squares or other public places in said City that have been used for 10 years or more and are not sufficiently described or have not been duly recorded in the public records to be ascertained, described and entered of record in its minutes, and a record thereof and of such as shall hereafter be laid out, or of such as have been dedicated and accepted by the Council, or a copy of such record certified by the City Clerk shall be evidence of the existence and location of such street, park, square and other public places as therein described.

§ C9.20 Change of street grade.

Commented [KJ9]: Re-drafted as §9.08

The Council shall not change the grade of any street which has been legally established, except upon compensation for damages done, but nothing herein contained shall be construed to require compensation for damages to be ascertained or paid prior to the making of change in grade.

§ C9.29 Power of City to perform required work and to collect cost thereof.
[Added 12-9-1996 by L.L. No. 3-1996]

Commented [KJ10]: Re-drafted as §9.04

Where the owner of any premises shall fail or neglect to perform any work required by this charter, by any ordinance of the City or by any order of a City Officer having jurisdiction, the City Manager or other City Officer having jurisdiction may cause such work to be performed. A bill for the expenses incurred by such work shall be mailed to such owner at his last place of residence or, if his place of residence is unknown, it shall be mailed him addressed to him at the property affected. If he shall fail to pay the same within 10 days thereafter, the City Manager or other City Officer having jurisdiction shall file his certificate of the actual cost of the work, together with a statement of the property in front of which the cleaning was done, with the officer or board charged with the assessment of the property. Such officer or board shall, in the preparation of the next assessment roll of general City taxes, assess said amount with 8% interest to date upon such property, and the same shall be levied, corrected, enforced and collected in the same manner by the same proceedings, at the same time, under the same penalty and shall constitute the same lien upon the property assessed as the general City tax and shall be considered a part thereof. Said authority shall be in addition to all other powers of the City to seek a civil judgment, prosecute for a violation of law or ordinance or any other authority granted by charter, statute, law, ordinance or regulation of the City.

§ C9.30 Duty of abutting owner to repair and maintain sidewalk and for removal of snow and ice.

[Amended 12-9-1996 by L.L. No. 3-1996]

Commented [KJ11]: Re-drafted as §9.09

It shall be the duty of the owner or occupant of property abutting a street, highway, travelled road, public lane, alley or space to maintain and repair the sidewalk adjoining his land and keep such sidewalk and the gutter free and clear of snow and ice and other obstructions. Such owner or occupant shall and each of them shall be liable for any injury or damage by reason of commission, failure or negligence to make, maintain or repair such sidewalk.

§ C9.31 Organization and duties of Division of Sanitation.
[Added 7-8-1991 by L.L. No. 3-1991]

Commented [KJ12]: Re-drafted as part of §9.03

The Division of Sanitation shall be responsible for the collection and disposal of garbage, trash, refuse and recyclables throughout the City, the sweeping of streets and the enforcement of all ordinances and regulations relating to the collection, carting and disposal of garbage, trash, refuse and recyclables. The Division of Streets and Bridges shall be responsible for the maintenance and repair of all streets and other public property within the City. Each division shall have all other duties as are currently assigned or may be in the future assigned to it by the City Manager.

§ C9.32 Definitions.

[Added 7-8-1991 by L.L. No. 3-1991]

Commented [KJ13]: Moved to Chapter 183, Article III, §183-24

As used herein, the following terms shall have the meanings indicated:

COMMERCIAL PROPERTY

Any commercial building or portion thereof containing 5,000 square feet or more, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to, clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

DWELLING UNIT

One or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one family.

INDUSTRIAL PROPERTY

Any premises or portion thereof devoted to the manufacture, compounding, processing or treatment of goods or to the storage and shipping of goods which do not involve the sale of goods or services at retail to the general public.

OWNER

The person or entity to whom a piece of real property is assessed on the current assessment roll of the City.

RESIDENTIAL PROPERTY

A building or structure containing one or more dwelling units which are intended to serve as permanent places of abode and not transient or emergency accommodations. The term "residential property" shall not include hotels, motels, boarding or rooming houses, hospitals, clubs, schools or dormitories.

SMALL COMMERCIAL PROPERTY

Any commercial building or portion thereof containing 5,000 square feet or less, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to, clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

§ C9.33 User fees to be charged for garbage collection.
[Added 7-8-1991 by L.L. No. 3-1991]

Commented [KJ14]: Moved to Chapter 183, Article III, §183-25

- A. Small commercial properties. The owner of each small commercial property within the City of Newburgh where commercial wastes are removed by the City shall be charged for the removal of commercial wastes generated by such properties at a rate of one stop fee plus two dwelling unit fees per month.
- B. Residential properties. The owner of each property within the City of Newburgh in the residential classification where wastes are removed by the City shall be charged per month for the removal of such waste at the rate of one stop fee plus one dwelling unit fee for each dwelling unit in the residential building. The number of dwelling units to be charged fees with regard to any property shall be determined by the number of dwelling units indicated on the certificate of occupancy for said property. A property containing rooming and boarding units shall be charged one dwelling unit fee for each rooming or boarding unit as indicated upon such property's certificate of occupancy. **[Amended 10-12-1999 by L.L. No. 3-1999]**
- C. Commercial properties. The owner of each commercial property within the City of Newburgh where wastes are removed by the City shall be charged for the removal of such wastes at the rate of one stop fee plus four dwelling unit fees for each month.
- D. Fees defined and set. **[Amended 12-13-1999 by L.L. No. 4-1999; 6-14-2010 by L.L. No. 7-2010]**
 - (1) Stop fee. A stop fee is the fee for the garbage truck making a stop in front of a property. The stop fee shall be computed as set forth in Chapter **163**, Fees, of this Code.
 - (2) Dwelling unit fee. A dwelling unit fee is the fee charged for collection of garbage from one dwelling unit for a period of one month. The dwelling unit fee shall be computed as set forth in Chapter **163**, Fees, of this Code.
 - (3) The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund.
- E. Bills for sanitation user fees. Bills for sanitation user fees shall be prepared and sent to each owner on a quarter-annual basis, starting on August 1, 1991, in the same manner as water and

sewer charges are now billed and distributed, except that sanitation user fees shall be billed and paid during the first month of the calendar quarter in which sanitation removal services are performed, in the months of January, April, July and October. Bills for user fees shall be payable within the same time limits as may be prescribed in the Charter for the payment of water bills. [Amended 6-14-2010 by L.L. No. 7-2010]

§ C9.34 Overdue and unpaid sanitation user fees to become liens; collection; interest and penalties; enforcement.

[Added 7-8-1991 by L.L. No. 3-1991; amended 10-28-1991 by L.L. No. 5-1991]

- A. The amounts charged as sanitation user fees shall become liens against the real property to which they relate at the time rendered and in the same manner as water rents become liens and shall be collectible against such real property as provided by law.
- B. Overdue and unpaid sanitation user fees shall be subject to the same interest, penalties and fees as provided for the collection of water rents and, in all respects, like proceedings shall be had by the City Collector as are or may be provided by law for the collection of water rents if they remain unpaid. The City Collector shall report to the Council all user fees imposed after January 1, 1993, with the interest and penalties thereon, which remain unpaid as of 30 days prior to the last date prescribed by law for the annexation of tax warrant to the assessment roll, together with a brief description of the property for which said sanitation services were provided and the name and address of the person or corporation liable to pay such amount. The Council shall then, no later than its regular meeting on the fourth Monday in November of each year, levy all amounts remaining unpaid on the date taxes are levied against the real property for which or in connection with which such sanitation service was provided. [Amended 10-26-1992 by L.L. No. 4-1992]
- C. The amount so charged as a sanitation user fee and all interest, fees and penalties thereon shall be a lien on the real property on which the charges accrued and shall be collected and enforced as provided by law.
- D. In case the City Collector shall return any sanitation user fees uncollected, the City Manager may cut off sanitation service to the property charged until such sanitation user fees and all interest, penalties and fees are fully paid.

§ C9.35 Application for reduction or elimination of service charge.

[Added 7-8-1991 by L.L. No. 3-1991]

- A. Any person applying to the Superintendent for a reduction or elimination in the service charge imposed on his property by § C9.33 of the City Charter shall do so on an application form to be provided by the Superintendent, which form shall be signed and notarized by the property owner. Upon receipt of such a request, the Superintendent shall investigate the facts of the application and offer the applicant an informal hearing as to why the application should be granted and shall make a written determination granting or denying the application. The Superintendent's determination shall be final.

Commented [KJ15]: Moved to Chapter 183, Article III, §183-26

Commented [KJ16]: Moved to Chapter 183, Article III, §183-27

B. The only grounds for reduction or elimination of such service charge are as follows:
[Amended 1-25-1993 by L.L. No. 1-1993; 10-12-1999 by L.L. No. 3-1999]

- (1) That a mistake was made on the part of the City in classifying the property.
 - (2) A senior citizen tax exemption shall have been granted pursuant to Chapter 270, Article II, of the Code of Ordinances in regard to the property, in which case a percentage reduction in the service charge shall be granted equal to the percentage exemption of assessed valuation granted by said article for the same property.
- C. Residential property with an adjoining vacant lot, owned by the same entity, shall be charged only one stop fee per month, including both parcels. The property owner must request this exemption or the billing shall reflect a separate stop fee.
- D. Reductions in the amount of the user charge applying to any particular property shall be for the current billing period only. Applications for reduction must be made for each and every quarter that the unit remains unoccupied. Applications shall only be accepted for a period of 20 days after the billing date indicated on the sanitation bill. Incomplete applications will not be considered. [Amended 6-13-1994 by L.L. No. 4-1994]

§ C9.36 Duties of property owner to report changes in occupancy.
[Added 7-8-1991 by L.L. No. 3-1991]

Any person being the owner of residential property within the City shall have an affirmative duty to report to the Division of Sanitation, on a form to be provided by the Superintendent, by change in occupancy of that property which would have the effect of increasing the sanitation service charge. Such increases in the amount of the user charge shall become effective immediately, and any portion of a month shall constitute a full month.

§ C9.37 Penalties for offenses.
[Added 7-8-1991 by L.L. No. 3-1991]

Any person making a false statement on any application made pursuant to this article, on any report made, or any violation of this article shall be guilty of a violation and, upon conviction, shall be subject to a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both such fine and imprisonment.

Commented [KJ17]: Moved to Chapter 183, Article III, §183-30

Commented [KJ18]: Moved to Chapter 183, Article III, §183-31

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 26, 2022
TO HEAR PUBLIC COMMENT CONCERNING “A LOCAL LAW AMENDING
CHAPTER 183 OF THE CITY OF NEWBURGH CODE OF ORDINANCES
ENTITLED “WASTE MANAGEMENT, HANDLING AND DISPOSAL”**

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning “A Local Law Amending Chapter 183 of the City of Newburgh Code of Ordinances Entitled “Waste Management, Handling and Disposal”; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 26th day of September, 2022.

BE IT FURTHER RESOLVED, in the event that due to public health and safety concerns related to COVID-19, the state of emergency as set forth in Governor Hochul’s Executive Order 11.1, as amended, is extended, and consistent with Chapter 1 of the Laws of 2022, the September 26, 2022 City Council meeting will be accessible via videoconferencing, and a transcript will be provided at a later date. The public will have the option to see and hear the meeting live and provide comments on the proposed action as follows:

To view the livestream of the City Council Meeting visit: <https://www.cityofnewburgh-ny.gov/live-video-streaming>.

To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:
https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”).

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Monday, September 26, 2022 through the Zoom App: https://us06web.zoom.us/webinar/register/WN_qbHQxC8bRfqdRGZwUVR9bA. Please note that there is an underscore between the “N” and “q”). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: “PUBLIC HEARING ITEM” by 4:00 p.m. on Monday, September 26, 2022. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

LOCAL LAW NO.: _____ - 2022

OF

_____, 2022

**A LOCAL LAW AMENDING CHAPTER 183 OF THE
CITY OF NEWBURGH CODE OF ORDINANCES ENTITLED
“WASTE MANAGEMENT, HANDLING AND DISPOSAL”**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 183 of the City of Newburgh Code of Ordinances entitled “Waste Management, Handling and Disposal” be and is hereby enacted as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Amending Chapter 183 of the City of Newburgh Code of Ordinances Entitled “Waste Management, Handling and Disposal”.

SECTION 2 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to enact new Chapter 183, Article III entitled “Sanitation User Fees; Dumpster User Fees” to read as follows:

Article III. Sanitation User Fees; Dumpster User Fees

§ 183-24 Definitions.

As used herein, the following terms shall have the meanings indicated:

COMMERCIAL PROPERTY

Any commercial building or portion thereof containing 5,000 square feet or more, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to, clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

DWELLING UNIT

One or more rooms with provisions for living, sanitary and sleeping facilities arranged for the use of one family.

INDUSTRIAL PROPERTY

Any premises or portion thereof devoted to the manufacture, compounding, processing or treatment of goods or to the storage and shipping of goods which do not involve the sale of goods or services at retail to the general public.

OWNER

The person or entity to whom a piece of real property is assessed on the current assessment roll of the City.

RESIDENTIAL PROPERTY

A building or structure containing one or more dwelling units which are intended to serve as permanent places of abode and not transient or emergency accommodations. The term "residential property" shall not include hotels, motels, boarding or rooming houses, hospitals, clubs, schools or dormitories.

SMALL COMMERCIAL PROPERTY

Any commercial building or portion thereof containing 5,000 square feet or less, devoted in whole or in part to nonresidential purposes. This term shall include, but not be limited to, clubs, retail stores, offices, restaurants, banks, recreational facilities and enterprises involving the sale of goods or services at retail to the general public conducted for profit or not-for-profit, but not including industrial properties.

§ 183-25 User fees to be charged for garbage collection.

A. Small commercial properties. The owner of each small commercial property within the City of Newburgh where commercial wastes are removed by the City shall be charged for the removal of commercial wastes generated by such properties at a rate of one stop fee plus two dwelling unit fees per month.

B. Residential properties. The owner of each property within the City of Newburgh in the residential classification where wastes are removed by the City shall be charged per month for the removal of such waste at the rate of one stop fee plus one dwelling unit fee for each dwelling unit in the residential building. The number of dwelling units to be charged fees with regard to any property shall be determined by the number of dwelling units indicated on the certificate of occupancy for said property. A property containing rooming and boarding units shall be charged one dwelling unit fee for each rooming or boarding unit as indicated upon such property's certificate of occupancy.

C. Commercial properties. The owner of each commercial property within the City of Newburgh where wastes are removed by the City shall be charged for the removal of such wastes at

the rate of one stop fee plus four dwelling unit fees for each month.

D. Fees defined and set.

(1) Stop fee. A stop fee is the fee for the garbage truck making a stop in front of a property. The stop fee shall be computed as set forth in Chapter 163, Fees, of this Code.

(2) Dwelling unit fee. A dwelling unit fee is the fee charged for collection of garbage from one dwelling unit for a period of one month. The dwelling unit fee shall be computed as set forth in Chapter 163, Fees, of this Code.

(3) The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund.

E. Bills for sanitation user fees. Bills for sanitation user fees shall be prepared and sent to each owner on a quarter-annual basis, starting on August 1, 1991, in the same manner as water and sewer charges are now billed and distributed, except that sanitation user fees shall be billed and paid during the first month of the calendar quarter in which sanitation removal services are performed, in the months of January, April, July and October. Bills for user fees shall be payable within the same time limits as may be prescribed in the Charter for the payment of water bills.

§ 183-26 Overdue and unpaid sanitation user fees to become liens; collection; interest and penalties; enforcement.

A. The amounts charged as sanitation user fees shall become liens against the real property to which they relate at the time rendered and in the same manner as water rents become liens and shall be collectible against such real property as provided by law.

B. Overdue and unpaid sanitation user fees shall be subject to the same interest, penalties and fees as provided for the collection of water rents and, in all respects, like proceedings shall be had by the City Collector as are or may be provided by law for the collection of water rents if they remain unpaid. The City Collector shall report to the Council all user fees imposed after January 1, 1993, with the interest and penalties thereon, which remain unpaid as of 30 days prior to the last date prescribed by law for the annexation of tax warrant to the assessment roll, together with a brief description of the property for which said sanitation services were provided and the name and address of the person or corporation liable to pay such amount. The Council shall then, no later than its regular meeting on the fourth Monday in November of each year, levy all amounts remaining unpaid on the date taxes are levied against the real property for which or in connection with which such sanitation service was provided.

C. The amount so charged as a sanitation user fee and all interest, fees and penalties thereon

shall be a lien on the real property on which the charges accrued and shall be collected and enforced as provided by law.

D. In case the City Collector shall return any sanitation user fees uncollected, the City Manager may cut off sanitation service to the property charged until such sanitation user fees and all interest, penalties and fees are fully paid.

§ 183-27 Application for reduction or elimination of service charge.

A. Any person applying to the Superintendent for a reduction or elimination in the service charge imposed on his property by §183-25 of the Code of Ordinances shall do so on an application form to be provided by the Superintendent, which form shall be signed and notarized by the property owner. Upon receipt of such a request, the Superintendent shall investigate the facts of the application and offer the applicant an informal hearing as to why the application should be granted and shall make a written determination granting or denying the application. The Superintendent's determination shall be final.

B. The only grounds for reduction or elimination of such service charge are as follows:

(1) That a mistake was made on the part of the City in classifying the property.

(2) A senior citizen tax exemption shall have been granted pursuant to Chapter 270, Article II, of the Code of Ordinances in regard to the property, in which case a percentage reduction in the service charge shall be granted equal to the percentage exemption of assessed valuation granted by said article for the same property.

C. Residential property with an adjoining vacant lot, owned by the same entity, shall be charged only one stop fee per month, including both parcels. The property owner must request this exemption or the billing shall reflect a separate stop fee.

D. Reductions in the amount of the user charge applying to any particular property shall be for the current billing period only. Applications for reduction must be made for each and every quarter that the unit remains unoccupied. Applications shall only be accepted for a period of 20 days after the billing date indicated on the sanitation bill. Incomplete applications will not be considered.

§ 183-28 Dumpster user fees.

A. The owners of all properties where dumpsters are serviced by the City, within the City of Newburgh, shall be charged for the removal of wastes generated by such properties at a rate as set forth in Chapter 163, Fees, of this Code. A dumpster is defined as having a volume not exceeding two cubic yards. Dumpsters exceeding two cubic yards will not be serviced by the City.

B. The above charges shall be made on all properties where collection of dumpster wastes by the City has been requested. The owner of each such property must file an application or a dumpster

permit for such property.

C. The charges imposed by this local law shall be billed to each owner on a monthly basis. No refunds or proration shall be made for rendering of only a partial month's services. No change in charge or service shall become effective other than as of the first day of a month.

D. The Council shall adjust the above rates from time to time so that the amount charged shall be sufficient to fund the operating costs of garbage collection services, together with an appropriate proportional share of such capital improvements, principal and interest payments on bonds that may be issued to finance such garbage collection operations, and such other related expenses as the Council may deem necessary to fund collection operations, all under the Sanitation Fund.

§ 183-29 Overdue and unpaid dumpster user fees to become liens; collection and enforcement.

A. Overdue and unpaid dumpster user fees shall become liens against the real property to which they relate at the same time and in the same manner as uncollected water rents become liens and shall be collectible against such real property in the same manner as is or may be prescribed by law for the collection of taxes for the City of Newburgh for City purposes. Like notices shall be given by the City Collector.

B. Interest, penalties and fees shall be the same as for the collection of water rents, and, in all respects, like proceedings shall be had by the City Collector as is or may be provided by law for the collection of water rents.

C. The amount so charged shall be collected and enforced in the same manner and in the same time as may be provided by law for the collection and enforcement of City taxes and such service charges, interest and penalties thereon shall be a lien on the real property on which the charges accrued.

§ 183-30 Duties of property owner to report changes in occupancy.

Any person being the owner of residential property within the City shall have an affirmative duty to report to the Division of Sanitation, on a form to be provided by the Superintendent, by change in occupancy of that property which would have the effect of increasing the sanitation service charge. Such increases in the amount of the user charge shall become effective immediately, and any portion of a month shall constitute a full month.

§ 183-31 Penalties for offenses.

Any person making a false statement on any application made pursuant to this article, on any report made, or any violation of this article shall be guilty of a violation and, upon conviction, shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 15 days, or both such fine and imprisonment.

SECTION 3 - SEVERABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted is such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 4 - CODIFICATION

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the Charter of the City of Newburgh; that the sections and subsections of this Local Law may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Local Law" shall be changed to "Charter", "Article", or other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Local Law or the provisions of the City Charter affected thereby.

SECTION 5 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 6 - EFFECTIVE DATE

This Local Law and shall be effective immediately after the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

RESOLUTION NO.: _____ - 2022

OF

SEPTEMBER 12, 2022

**A RESOLUTION NAMING THE INTERSECTION OF LUTHERAN STREET AND
VAN NESS STREET IN HONOR OF NATHANIEL AND REBECCA YOUNGBLOOD**

WHEREAS, Nathaniel and Rebecca Youngblood met as teenagers in Milton, New York while working together to support the elderly; and

WHEREAS, after marrying and having a child, Nathaniel, Jr., in 1976 Nathaniel and Rebecca Youngblood purchased a house on Lutheran Street in the City of Newburgh becoming the first Black family to buy and own property on Lutheran Street; and

WHEREAS, Mr. and Mrs. Youngblood went on to work at West Point and facilitated the way for many others to find gainful employment at West Point, some of whom are still employed there today; and

WHEREAS, Mr. and Mrs. Youngblood worked hard, raised their family and were devoted to their Lutheran Street community in which they were loved and respected by their neighbors who looked after them in their later life; and

WHEREAS, it is appropriate that the life and work of Mr. and Mrs. Youngblood be permanently memorialized by the City of Newburgh to serve as a reminder of their commitment to their Lutheran Street neighborhood and the respect and love they received in return;

NOW, THEREFORE, BE IT RESOLVED, in recognition of the contributions of Nathaniel and Rebecca Youngblood to the City of Newburgh and the Lutheran Street neighborhood, that the intersection of Lutheran Street and Van Ness Street be dedicated in their honor and that an unveiling of signage indicating this dedication be held, with appropriate ceremony, at a date to be coordinated by the Youngblood family; and that a copy of this resolution be forwarded to the Youngblood family, with greatest respect, from the entire Newburgh City Council; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to effectuate the necessary and appropriate signage in keeping herewith.

The youngbloods met their teenage years in Milton, NY on a job in the country working with the elderly. They married in 1970 and had their son Nathaniel Jr in 1972. Which then in 1976 they became the first black family to buy – own property on Lutheran St. Both left Hudson Valley Apple Farm in Milton to work a West Point together. Where they provided jobs for people that still employed there. They share 6 grandchildren and 1 great grandchild. They were amazing people and pillars of Lutheran very well respected and looked out for them and their property. They enjoyed life together on Lutheran until their end of life. They are truly missed and deeply loved.

Thank you so much. We appreciate the City of Newburgh

Love Son, grandsisters, brothers, friends and family of the youngbloods.

The youngbloods met in their teenage years in Milton, NY on a job in the country working with the elderly. They married in 1970 and had their son Nathaniel Jr in 1972. In 1976 they became the first black family to buy and own property on Lutheran St. They decided to leave Hudson Valley Apple Farm in Milton to work at West Point together. They encourage others to work there with them and some people are still employed there today. They were hard workers and raised their family to love their community. They share 6 grandchildren and 1 great grandchild. They were amazing people and pillars of Lutheran. They very well respected and the neighborhood looked out for them and their property. They enjoyed life together on Lutheran until their end of life. They are truly missed and deeply loved.

Thank you so much. We appreciate the City of Newburgh

Love Son, grandchildren, sisters, brothers, friends and family of the youngbloods.