



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
February 9, 2023
6:00 PM

1. Presentation - Conservation Advisory Council

Final Report & Presentation required by the DEC Urban & Community Forestry Grant

Informe final y presentación requeridos por la Subvención del Programa Forestal Urbano y Comunitario del Departamento de conservación Ambiental

2. Delano-Hitch Aquatics Center 30% Design Update

A presentation by City Staff and the design consultant (CPL) to update the City Council on the 30% design layout for the Delano-Hitch Aquatics Center (Pool, Splashpad & Poolhouse Building)

Una presentación por parte del Personal de la Ciudad y el consultor de diseño (CPL) para informar al Concejo Municipal sobre el 30% del diseño del Centro Acuático de Delano-Hitch (Piscina, Salpicadero y Edificio de la Piscina)

Engineering/Ingeniería

3. Proposal with Labella for 2023 Annual Sampling on the Former Consolidated Iron Cleanup Site

Resolution authorizing the City Manager to accept a proposal with LaBella Associates, D.P.C. to perform additional groundwater sampling, reporting and periodic review of the engineering and institutional controls at the delisted Consolidated Iron Superfund Site at a cost of \$6,500.00

Resolución autorizando al Gerente de la Ciudad a aceptar una propuesta con LaBella Associates, D.P.C. para realizar pruebas adicionales de aguas subterráneas, informes y revisiones periódicas de los controles de ingeniería y controles institucionales en el Sitio Superfondo de Hierro Consolidado deslistado a un costo de \$6,500.00

4. ARCADIS Proposal Browns Pond Pump Station Generator Construction Administration

Resolution authorizing the City Manager to accept a proposal and execute a professional engineering services agreement with Arcadis of New York, Inc. for construction administration services in the Brown's Pond Pump Station

Permanent Generator Project at a cost not to exceed \$40,000.00

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un acuerdo de servicios profesionales de ingeniería con Arcadis of New York, Inc. para los servicios de administración de la construcción en el Proyecto del Generador Permanente de la Estación de Bombas de la Charca de Brown a un coste que no exceda \$40,000.00

5. UST Removal at 125-129 Grand Street Papitto Construction Change Order No. 3

Resolution authorizing the City Manager to execute Change Order No. 3 with Papitto Construction Company, Inc. for the removal of an underground petroleum storage tank at City-owned property located at 125-129 Grand Street

Resolución que autoriza al Gerente de la Ciudad a ejecutar la Orden de Cambio No. 3 con Papitto Construction Company, Inc. para la remoción de un tanque de almacenamiento subterráneo de petróleo en la propiedad de la Ciudad ubicada en el 125-129 Grand Street

Finance/Finanza

6. City Event Sponsorship Policy

Póliza de patrocinio de eventos de la ciudad

7. 2022 Year End Budget Adjustment (For Audit)

Resolution amending Resolution No: 283-2021, the 2022 Budget for the City of Newburgh, New York for 2022 year end budget transfers and/or amendments to adjust for any items in excess of budget

Resolución que enmienda la Resolución No: 283-2021, el Presupuesto de 2022 para la Ciudad de Newburgh, Nueva York para las transferencias y/o enmiendas presupuestarias de fin de año de 2022 para ajustar cualquier partida que exceda el presupuesto

Planning and Economic Development/Planificación y Desarrollo Económico

8. NIF Sponsored Welcome to Newburgh Sign Replacement

Reemplazo del letrero Bienvenido a Newburgh patrocinado por NIF

Grants/Contracts/Agreements / Becas /Contratos/Convenios

9. Schedule FY2022 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER)

Resolution scheduling the Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) public

hearing and opening of the 15-day public comment period for Fiscal Year 2022

Resolución que programa la audiencia pública y abre el periodo de comentarios públicos por 15 días para el año fiscal 2022 de la Subvención para Bloques de Desarrollo Comunitario (CDBG) Informe Anual de Desempeño y Evaluación (CAPER)

10. To Apply for and Accept if Awarded an Assistance to Firefighters Grant (AFG) in the Amount of \$35,000 with a 10% match

Resolution authorizing the City Manager to apply for and accept if awarded a Fiscal Year 2022 Department of Homeland Security FEMA Assistance to Firefighters Grant in the amount of \$35,000.00 with a \$3,500.00 City match for the purchase of fitness equipment for the City of Newburgh Fire Department

Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si es otorgado un Subsidio FEMA de Asistencia a Bomberos del Departamento de Seguridad Nacional para el Año Fiscal 2022 por el monto de \$35,000.00 con un aporte de \$3,500.00 de la Ciudad para la compra de equipos de acondicionamiento físico para el Departamento de Bomberos de la Ciudad de Newburgh

11. Army Corps of Engineers - Right-of-Entry - Water Supply Property

Department of the Army, US Army Corps of Engineers, New York District, access request to City water supply property for purposes of performing environmental remediation activities under the Per and Polyfluoroalkyl Substances (PFAS) Program

Departamento del Ejército, Cuerpo de Ingenieros del Ejército de EEUU, Distrito de Nueva York, solicitud de acceso a la propiedad de abastecimiento de agua de la Ciudad para realizar actividades de saneamiento medioambiental bajo el Programa de Sustancias Per y Polifluoroalquiladas (PFAS)

Boards and Commissions/Juntas y Comisiones

12. Appointments - Human Rights Commission

Nombramientos - Comisión de Derechos Humanos

13. Appointments - Board of Assessment Review

Nombramientos - Revisión de la Junta de Evaluación

Local Laws/Leys Locales

14. Local Law Enacting Hotel Room Occupancy Tax

Local Law adding Article XIII, entitled "Hotel Room Occupancy Tax" to

Chapter 270 entitled "Taxation" of the City Code of the City of Newburgh

Ley local añadiendo el Artículo XIII, titulado "Impuesto sobre las Habitaciones de Hotel" al Capítulo 270 titulado "Impuestos" del Código Municipal de la Ciudad de Newburgh

15. Scheduling a Public Hearing - Local Law Amending Exemption Term of Chapter 270 "Taxation" Article V "Exemption for First-Time Homebuyers of Newly Constructed Homes"

Resolution scheduling a public hearing for February 27, 2023 to hear public comment concerning a Local Law amending Article V "Exemption for First-Time Homebuyers of Newly Constructed Homes" of Chapter 270 "Taxation" of the Code of Ordinances of the City of Newburgh

Resolución que programa una audiencia pública para el 27 de febrero de 2023 para escuchar comentarios públicos sobre Una ley local que enmienda el Artículo V "Excepción para Compradores de Hogares por Primera Vez de Hogares Nuevos Construidos" del Capítulo 270 "Impuestos" del Código de Ordenanzas de la Ciudad de Newburgh

16. Scheduling a Public Hearing - Local Law Amending Article XII Department of Fire

Resolution scheduling a public hearing for February 27, 2023 to hear public comment concerning a Local Law amending Article XII, entitled "Department of Fire" of the City Charter of the City of Newburgh

Resolución que programa una audiencia pública para el 27 de febrero de 2023 para escuchar comentarios públicos sobre una ley local que enmienda el artículo XII, titulado "Departamento de Bomberos" de los Estatutos de la Ciudad de Newburgh

17. Scheduling a Public Hearing - Local Law Amending Chapter 42 Fire Department

Resolution scheduling a public hearing for February 27, 2023 to hear public comment concerning a Local Law amending Chapter 42, entitled "Fire Department" of the Code of Ordinances of the City of Newburgh

Resolución que programa una audiencia pública para el 27 de febrero de 2023 para escuchar comentarios públicos sobre Una ley local que enmienda el Capítulo 42, titulado "Departamento de Bomberos" del Código de Ordenanzas de la Ciudad de Newburgh

Executive Session/ Sesión Ejecutiva

18. Proposed, pending or current litigation
Litigio propuesto, pendiente o actual

19. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation

El historial médico, financiero, crediticio o laboral de una persona o corporación en particular, o asuntos que conduzcan al nombramiento, empleo, promoción, degradación, disciplina, suspensión, despido o remoción de una persona o corporación en particular

RESOLUTION NO.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL WITH LABELLA ASSOCIATES, D.P.C.
TO PERFORM ADDITIONAL GROUNDWATER SAMPLING, REPORTING AND
PERIODIC REVIEW OF THE ENGINEERING AND INSTITUTIONAL CONTROLS AT
THE DELISTED CONSOLIDATED IRON SUPERFUND SITE AT A COST OF \$6,500.00**

WHEREAS, the United States Environmental Protection Agency and the New York State Department of Environmental Conservation approved the Site Management Plan for the Consolidated Iron Superfund Site, and subsequently delisted the site in December of 2014; and

WHEREAS, provisions in Site Management Plan requires the City of Newburgh to conduct groundwater sampling and periodic review of the engineering and institutional controls at the delisted Consolidated Iron Superfund Site; and

WHEREAS, by Resolution No. 267-2015 of October 26, 2015, Resolution No. 125-2017 of May 22, 2017, Resolution No. 192-2018 of August 13, 2018, Resolution No. 106-2020 of May 1, 2020, and Resolution No. 160-2021 of July 12, 2021, the City Council approved contracts with The Chazen Companies to conduct groundwater sampling, reporting services and periodic reviews of the engineering and institutional controls at the delisted Consolidated Iron Superfund Site; and

WHEREAS, LaBella Associates, D.P.C. has acquired The Chazen Companies and has submitted a proposal to conduct such groundwater sampling, reporting services and periodic review of the engineering and, institutional controls at the delisted Consolidated Iron Superfund Site at a cost of \$6,500.00 with funding to be derived from A.1440.0448.0003; and

WHEREAS, this Council has determined that accepting such proposal and entering into a contract for such work 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 accept a proposal and enter into a contract with LaBella Associates, D.P.C. to conduct groundwater sampling, reporting services and review of the engineering and institutional controls at the delisted Consolidated Iron Superfund Site at a cost of \$6,500.00.

Professional Services Agreement

Agreement made the ____ day of _____, 20__
between

LaBella Associates, D.P.C.
("LaBella")

and

City of Newburgh
("Client")

for services related to the following Project:

Former Consolidated Iron Site
Washington Street, Newburgh, NY
("Project")

LaBella and Client hereby agree as follows:

Description of Services: LaBella shall perform the services set forth and described in LaBella's proposal, dated ____January 13, 2023____, a copy of which is attached as *Exhibit A*, in accordance with the terms and conditions of this contract attached as *Exhibit B*.

Compensation for Services: A retainer in the amount of \$____N/A____ shall be required prior to the initiation of services. This retainer will be held until the end of the Project and applied to Client's final invoice. Any excess amount shall be returned to Client. Client shall compensate LaBella for its professional services as set forth in LaBella's proposal. LaBella shall submit invoices for services rendered monthly. Client shall make payment to LaBella no later than thirty (30) days after the date of each invoice.

Term: LaBella shall commence performing its services when Client gives notice to proceed. This Agreement shall terminate when LaBella's services are completed and final payment has been received from Client, or as otherwise provided in this Agreement.

Insurance: LaBella shall maintain, at its own expense, throughout the term of this Agreement and until the expiration of all applicable statutes of limitation, the following insurance coverages:

- Comprehensive general liability insurance with policy limits of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate for bodily injury and property damage;
- Automobile liability insurance covering owned, non-owned, rented and hired vehicles operated by LaBella with policy limits of not less than \$1,000,000 combined single limit and aggregate for bodily injury and property damage;
- Umbrella liability insurance with policy limits of not less than \$10,000,000 each occurrence and \$10,000,000 in the aggregate;
- Worker's compensation insurance at statutory limits and employer's liability insurance with a policy limit of not less than \$1,000,000 for all employees engaged in the rendering of professional services under this Agreement; and
- Professional liability insurance with policy limits of not less than \$5,000,000 per claim and \$7,500,000 in the aggregate.

Client shall be named as an additional insured on a primary and non-contributory basis under the CGL, Automobile and Umbrella insurance policies. LaBella shall provide to the Client certificates of insurance evidencing compliance with the requirements of this Agreement. The certificates shall contain a provision that at least thirty (30) days prior written notice shall be given to Client in the event of cancellation, non-renewal, or reduction of the insurance.

Indemnification: To the fullest extent permitted by law, LaBella shall indemnify and hold the Client and its officers and employees harmless from and against liabilities, damages, losses and judgments, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts, errors or omissions of LaBella, its employees and its consultants in the performance of professional services under this Agreement.

In recognition of the relative risks and benefits of the Project to both Client and LaBella, the risks have been allocated such that Client agrees, to the fullest extent permitted by law, to limit the liability of LaBella and LaBella's consultants for any and all claims, liabilities, damages, losses, costs, and judgments of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of LaBella and LaBella's consultants shall not exceed \$50,000 or LaBella's total fee for services rendered on this Project, whichever is greater.

LaBella Associates, D.P.C.

By: _____

Name _____

Title _____

Date: _____

Client Name

By: _____

Name _____

Title _____

Date _____

Exhibit A
LaBella's Proposal



January 13, 2023

Mr. Jason C. Morris, P.E. City Engineer
Office of the Engineer
83 Broadway
Newburgh, NY 12550

Re: Consolidated Iron and Metal Site – 2023 Annual Sampling/Reporting
EPA Site Number: NY0002455756
NYSDEC Site Number: 336055

Dear Mr. Morris,

LaBella Associates, DPC (LaBella) appreciates this opportunity to continue providing groundwater sampling and reporting support for the former Consolidated Iron and Metal Site in the City of Newburgh, Orange County, New York. The work will closely match field services provided during the past six years.

Phase 0100 - 2023 Groundwater Sampling

LaBella will conduct one round of groundwater sampling from the presently-required eight existing on-site groundwater monitoring wells. This sampling event will be planned to occur in the first quarter of 2023 to provide data in time for a PRR submittal by June 15 of 2023.

Wells will be purged using low-flow sampling methods. Water quality parameters will be recorded while purging to assure stabilized flow through well screens into dedicated sample tubing. Purge water will be decanted to the ground based on permission received previously from NYSDEC.

Collected samples will be placed on ice and submitted to an ELAP certified laboratory for standard turnaround with Class A data deliverables under standard chain-of-custody procedures. The samples will be submitted for analysis of CP-51 VOCs, CP-51 SVOCs and Lead using appropriate NYS CLP-ASP methods. Well MW-2 will also be analyzed for Arsenic. As elevated sample turbidity is proven to influence total (unfiltered) metals results, Chazen will also collect a filtered aliquot for dissolved metals analysis at any well location exhibiting field turbidity readings in excess of 50 NTUs.

Quality Assurance (QA) samples will also be collected and submitted for analysis. QA sampling will consist of a field duplicate submitted for analysis of each suite of parameters, an MS/MSD sample for VOC and SVOC analysis, a trip blank for VOCs only, and a temperature blank (for the shipment integrity).

Phase 0200- 2023 Periodic Review Report (PRR)

LaBella will perform a visual assessment and evaluation of the site's existing Engineering and Institutional Controls while on site for the Task 0100 sampling. Primary features observable on site



include condition of the soil cover system and integrity of the perimeter fence. LaBella will discuss with the City any noted concerns prior to finalization of the Periodic Review Report (PRR).

The PRR will be prepared in general accordance with the applicable NYSDEC guidance, including Certification by a PE that the EC/IC requirements are being met. The groundwater sampling report and visual inspection and site photolog will be included in the PRR along with recommendations, if any. A draft of the PRR will be submitted to the City for review and comment before the final document is finalized for submission.

SCHEDULE:

As noted above, LaBella would plan to conduct the Task 0100 sampling event in the first quarter of 2023 to meet the required reporting schedule.

COSTS

LaBella can complete the scope requested as specified in this proposal for the lump sum price of **\$6,500**

Task	Labor, Field Materials and Travel	Lab Estimate	Total
Task 100 - Routine Sampling	\$2,650	\$1,950	\$4,600
Task 200 - 2023 PRR	\$1,900	N/A	\$1,900
Totals	\$4,550	\$1,950	\$6,500

ASSUMPTIONS AND LIMITATIONS

No additional Site-Specific Work Plan or Quality Assurance Project Plan is required for submission to NYSDEC or the USEPA. The current approved SMP is sufficient to meet the project Data Quality Objectives. Site access will be readily provided. Based on the SMP, Class B deliverable data packages, independent third-party data validation, and Data Usability Summary Reports (DUSRs) are not required for the project. Since no intrusive work is required nor anticipated for the project no site-specific HASP prepared in accordance with OSHA 1910 is required for this task. LaBella will prepare an internal safe work plan with task hazard analyses for our use for the site inspection and groundwater sampling events. All field work will be conducted at non-Prevailing Wage rates. No sales taxes are applicable to this work. The PRR will be completed in general accordance with NYSDEC guidance and submitted to NYSDEC. Our scope includes one iteration of comments and revisions, only. Lab fees assume and include LaBella's contract management fee.



AGREEMENT

As this would be the first year LaBella has conducted work for the City of Newburgh on this project site, we would request that you please execute the attached standard agreement if you wish to authorize the work described in this proposal. We would also request an assigned purchase order number for accounting/invoicing purposes. Please feel free to call me at any time at 845 486-1551 or on my cell at 914-456-1095 with any questions or concerns – thank you!

Respectfully submitted,

LaBella Associates

Russell Urban-Mead, PG
VP, Hydrogeology Department

cc: Eric Orlowski, PG, LaBella

Exhibit B

Terms and Conditions

Terms and Conditions

LaBella's Responsibilities: LaBella shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

LaBella shall perform its services consistent with the professional skill and care ordinarily provided by members of the same profession practicing in the same or similar locality under the same or similar circumstances. LaBella shall perform its services as expeditiously as is consistent with such professional skill and care, and the orderly progress of the Project.

LaBella shall not at any time supervise, direct, control or have authority over any contractor or subcontractor's work, nor shall LaBella have authority over, or be responsible for, the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor or subcontractor, or the safety precautions and programs incident thereto, for safety or security at the Project location, nor for any failure of a contractor or subcontractor to comply with laws and regulations applicable to the performance of their work and the furnishing of materials on the Project. LaBella shall not be responsible for the acts or omissions of any contractor or subcontractor.

Client's Responsibilities: Client shall designate a representative authorized to act on its behalf with respect to the Project. All notices required under this Agreement shall be given to that representative.

Client shall provide LaBella with all available information regarding, and site access to, the Project necessary for LaBella to perform its professional services, including Client's requirements for the Project. Client also shall provide information regarding the Project site and any existing facilities, including destructive testing and investigation of concealed conditions and hazardous substances or injurious conditions. If Client does not perform destructive testing or investigation, nor provide information beyond that which is apparent by non-intrusive observations, or in the event documentation or information furnished by Client is inaccurate or incomplete, then any resulting damages, losses and expenses, including the cost of LaBella's changes in service or additional services, shall be borne by Client.

Client shall examine documents submitted by LaBella and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of LaBella's services.

Additional Services: LaBella may provide additional services after execution of this Agreement without invalidating the Agreement. LaBella shall not proceed to provide any additional services, unless and until LaBella receives written direction from Client. Client shall compensate LaBella for additional services as set forth in LaBella's proposal, or any supplemental proposal or contract modification, or as agreed upon in writing signed by both parties.

Assignment: Neither party may assign any benefit or obligation under this Agreement without the prior written consent of the other party, except LaBella may use the services of persons and entities not in LaBella's employ when appropriate and customary to do so.

Confidentiality: During the Project, confidential and/or proprietary information of the Client might be furnished to LaBella. LaBella shall use such information for the purpose of providing its professional services on the Project, and for no other purpose. LaBella shall hold such information in strict confidence and shall not disclose such information to any person or entity, except sub-consultants engaged on the Project or as required by law. Upon completion of its services, LaBella shall return or destroy all confidential and/or proprietary information to the Client.

Instruments of Service: All documents prepared or furnished by LaBella pursuant to this Agreement are instruments of professional service, and LaBella shall retain its ownership and property interest therein, including all copyrights and the right to reuse the documents. Upon payment in full for services rendered, LaBella grants Client a license to use the instruments of service for the purposes of constructing, occupying and maintaining the Project. Reuse or modification of any documents by Client without LaBella's written permission shall be at Client's sole risk, and Client agrees to defend, indemnify, and hold LaBella harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client.

Client and Client's contractors and other consultants may rely only upon printed copies (also known as hard copies) of documents that are signed and sealed by a licensed professional employed by LaBella. If there is any discrepancy between printed copies and any electronic copies, the most recent version of the printed and certified copies shall govern. Any electronic copies (files) provided by LaBella will be provided solely as a convenience and shall not be considered "Contract Documents," "Construction Documents" or any type of certified document. All documents considered "Contract Documents," "Construction Documents" or any type of certified document shall consist only of printed copies having an original signature and seal of a licensed professional employed by LaBella. Client is advised that electronic copies of documents can deteriorate or be inadvertently modified without LaBella's consent or may otherwise be corrupted or defective. Accordingly, Client and Client's contractors or other consultants may not rely upon the accuracy of any electronic copies of documents.

Escalation: In the event the term of this Agreement is extended beyond the period of service set forth in LaBella's proposal, then compensation for professional services is subject to review and escalation by LaBella upon thirty (30) days written notice to Client.

Suspension: Client may suspend this Agreement in whole or in part at any time for convenience upon seven (7) days written notice. Upon receipt of notice, LaBella shall immediately discontinue all services. LaBella shall be entitled to compensation for all services rendered up to the date of suspension. If the suspension exceeds three (3) months, an equitable adjustment in compensation shall be negotiated to compensate LaBella for all reasonable costs incurred by LaBella on account of the suspension of the Project.

LaBella may suspend its performance under this Agreement if any delinquent amounts due for services and expenses have not been paid. LaBella may refuse to release drawings, plans, specifications, reports, maps, materials and any other instruments of service prepared by LaBella

for Client until all arrearages are paid in full. LaBella shall not be liable to Client for delay or any other damages due to any such suspension of services.

Termination: Either party may terminate this Agreement for cause upon seven (7) days written notice with an opportunity to cure any default during that period. In any event, without regard to the party terminating the Agreement, Client shall remit payment of all amounts that are not in dispute no later than thirty (30) days after the date of each invoice.

Disputes: The parties agree that mediation before a mutually agreeable neutral third party shall be a condition precedent to any legal action arising out of this Agreement, unless waived in writing by the parties. The cost of the mediation shall be borne equally by the parties. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, unless the parties agree otherwise. No demand for mediation shall be made after the date that the applicable statute of limitations would bar a legal or equitable action based on the claim or dispute.

Venue and Jurisdiction: Any legal suit, action or proceeding arising out of or relating to this agreement shall be instituted in a court of competent jurisdiction located in the state and county where the project is located. The parties hereby waive any objection which they may have now or hereafter to the venue of any such suit, action or proceeding, and hereby irrevocably consent to the personal jurisdiction of any such court in any such suit, action or proceeding.

Choice of Law: This Agreement shall be interpreted, construed and enforced in accordance with the laws of the state where the project is located without giving effect or reference to any conflict of laws provisions.

Consequential Damages: In any suit, action or proceeding, the parties shall be entitled to recover compensatory damages incurred as a result of the breach of this Agreement, but, to the fullest extent permitted by law, neither party shall be liable to the other for any special, incidental, indirect, or consequential damages.

Late Fees, Costs and Attorneys' Fees: An additional charge of 1.5% of an invoice will be imposed each month on all past due accounts. Imposition of such charges does not constitute an extension of the payment due date. If LaBella must bring suit to collect payment of any invoices, then Client agrees to pay LaBella's costs and expenses, including reasonable attorneys' fees.

Remedies Cumulative: The rights and remedies available to a party under this Agreement are cumulative and in addition to, not exclusive of, or in substitution for, any other rights or remedies either party may have at law, or in equity, or under this Agreement. Nothing contained in this Agreement shall be deemed to preclude either party from seeking injunctive relief, if necessary, to prevent the other party from willfully or intentionally breaching its obligations under this Agreement or to compel the other party to perform its obligations hereunder.

Non-Waiver: Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right

accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

Force Majeure: Neither party to this Agreement shall be liable to the other for delays in performing the obligations called for by this Agreement, or the direct and indirect costs resulting from such delays, that are caused by labor strikes, riots, war, acts of government authorities other than the Client (if a governmental authority), extraordinary weather conditions, epidemics, pandemics or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

Severability: The provisions of this Agreement are hereby agreed and declared to be severable. Any term or provision of this Agreement which is held to be unenforceable by a court of competent jurisdiction shall be deemed to have been stricken from this Agreement, and the remaining terms and provisions of this Agreement shall be construed and enforced without such terms or provisions.

Counterparts: This Agreement may be executed in one or more counterparts, each one of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Scope of Agreement: This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral, except that terms specific to future projects shall be set forth in LaBella's proposals. This Agreement may be amended only by written instrument signed by both parties.

RESOLUTION NO.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT
WITH ARCADIS OF NEW YORK, INC.
FOR CONSTRUCTION ADMINISTRATION SERVICES
IN THE BROWN'S POND PUMP STATION PERMANENT GENERATOR PROJECT
AT A COST NOT TO EXCEED \$40,000.00**

WHEREAS, the City of Newburgh owns and operates the Brown's Pond Pump Station that transfers raw water to the City's Water Filtration Plant for treatment and proposed to replace the portable generator with a permanent standby generator, installed at the pump station site, to provide service in case of primary power failure, and

WHEREAS, by Resolution No. 139-2019 of June 10, 2019 and Resolution No. 11-2021 of January 25, 2021, the City Council approved a proposal and professional engineering services agreement with Arcadis of New York, Inc. for a basis of design report and for bid document preparation and management services for the Brown's Pond Pump Station Permanent Generator Project (the "Project"); and

WHEREAS, Arcadis of New York, Inc. has submitted a proposal for professional engineering services for construction administration management services to continue with the installation of the Project; and

WHEREAS, the cost for such professional engineering services will not exceed \$40,000.00 which shall be derived from American Rescue Plan Act funding; and

WHEREAS, the City Council has reviewed the annexed proposal and has determined that such work would be 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 accept a proposal and execute a professional engineering services agreement with Arcadis of New York, Inc. for construction administration services at a cost not to exceed \$40,000.00 in the Brown's Pond Pump Station Permanent Generator Project.

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: December 21, 2022
Our Ref: 30083549
Subject: Proposal for Construction Phase Services
Browns Pond Pump Station Permanent Generator

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) is pleased to present the City of Newburgh with this proposal for construction phase engineering services for City's Browns Pond Pump Station Permanent Generator Project. For this limited scope project, we plan to have part-time engineer inspection services during construction. Tasks 1 and 2 for project kickoff and design services have been completed and billed pursuant to our January 12, 2021 proposal. Subsequently, the purchase order expired for the other tasks in that proposal with the understanding that Arcadis would submit a new proposal for the remaining services.

The new tasks listed below cover the actual expenditures for bidding phase assistance and the actual and remaining expenditures for the construction phase services.

Task 3 – Bidding Assistance

Arcadis will assist the City with bidding the project. We will prepare electronic Bid Documents for City's use for electronic bidding. We will prepare a bid advertisement for the City's approval and use. We will conduct a pre-bid meeting and site visit with prospective bidders. Arcadis will respond to prospective bidders' requests for clarifications and prepare addenda as required for the City's distribution. Arcadis will tabulate bids, review the three apparent lowest bids, and make a recommendation of award.

Task 4 – Construction Administration

Arcadis will perform construction contract administration services based on a single-prime construction contract with an expected duration of 15 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, including developing an agenda and creating and distributing 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 will review up to two re-submittals and receive additional compensation for additional re-submittal reviews in accordance with the Contract between the

Mr. Jason Morris, PE
City of Newburgh
December 21, 2022

City and the Contractor. Arcadis will maintain a submittal log describing the 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, 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.

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.

Arcadis will attend up to 6 progress meetings with the City, the Contractor, and other stakeholders due to the extended timeline of the project resulting from the long lead time for the generator. We will develop agendas and create and distribute minutes for each progress meetings. Meetings will include a discussion of the work completed since the prior meeting, the progress anticipated for the upcoming weeks, the status of RFI's, change orders, and shop drawings. Progress meetings will be attended virtually by our Project Manager.

Task 5 – Site Visits

Arcadis will make a site visit periodically by 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. 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 to determine if the completed Work is acceptable.

Task 6 – Construction Closeout

Arcadis will 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.

Schedule and Fee

Arcadis will complete the scope of services presented herein for a total not to exceed fee of \$40,000. 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 existing agreement rates schedule for hours worked plus other direct costs markup of 10 percent. Arcadis proposes amending the current Engineering Agreement for Browns Pond Pump Station Permanent Generator dated March 15, 2021, to add the scope of services presented herein.

Mr. Jason Morris, PE
City of Newburgh
December 21, 2022

Task	Compensation
Task 3 – Bidding Assistance	\$7,000
Task 4 – Construction Administration	\$16,000
Task 5 – Site Visits	\$14,000
Task 6 – Construction Closeout	\$3,000
Total Not to Exceed Fee: \$40,000	

Arcadis looks forward to continuing to support the City to improve its critical infrastructure. If you have any questions, please do not hesitate to contact me at (518) 250-7347 so that I may be of further assistance. We again thank the City for this opportunity.

Sincerely,
Arcadis of New York, Inc.



Dana Bryant, PE
Principal Engineer

Email: Dana.Bryant@arcadis.com
Direct Line: 518.250.7347

CC. Wayne Vradenburgh, City of Newburgh
Robert Ostapczuk, Arcadis

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.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
CHANGE ORDER NO. 3 WITH PAPITTO CONSTRUCTION COMPANY, INC.
FOR THE REMOVAL OF AN UNDERGROUND PETROLEUM STORAGE TANK
AT CITY OWNED PROPERTY LOCATED AT 125-129 GRAND STREET**

WHEREAS, by Resolution No. 4-2022 of January 10, 2022, the City Council of the City of Newburgh awarded a bid for the removal of an underground petroleum storage tank at City owned property located at 125-129 Grand Street to Papitto Construction Company, Inc. in the amount of \$89,650.00; and

WHEREAS, the allowance for line-stripping the parking lot shall be removed from the contract work and the quantities underrun of RTD residual fluids removed from the underground storage tank requires a change order to reduce the contract value by \$2,850.00; the same being 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 hereby is authorized to execute Change Order No. 3 with Papitto Construction Company, Inc. subtracting \$2,850.00 to the contract and reducing the total contract amount to \$108,750.10 for the removal of an underground petroleum storage tank at City owned property located at 125-129 Grand Street.

Papitto Construction Co., Inc.

867 Fair Street
Carmel, New York 10512-3012
Tel (845)878-2550
Fax (845)878-2555

CONSTRUCTION CHANGE ORDER NO. 3

PROJECT NAME	UST REMOVAL AND DISPOSAL		
LOCATION OF WORK	125-129 GRAND ST. ; NEWBURGH, NY		
PROJECT MANAGER		CLIENT	CITY OF NEWBURGH
REQUESTING PARTY		DATE OF REQUEST	11/8/2022

CHANGE REQUEST OVERVIEW

DESCRIPTION OF CHANGES NEEDED	DELETION OF STRIPING WORK. RTD RESIDUAL FLUIDS IN TANK NOT USED.
REASON FOR CHANGE	WORK NOT PERFORMED
SUPPORT & JUSTIFICATION DOCUMENTS	Use all attached documents which support the requested change, and justify any increased cost and time. LINE ITEM 1.11 - ASPHALT RESTORATION STRIPING \$500.00 LINE ITEM 5 - RTD RESIDUAL FLUIDS UNUSED) AMOUNT (470 GAL.) \$2,350.00 <u>TOTAL CREDIT AMOUNT \$2,350.00</u>

CHANGE IN CONTRACT PRICE

ORIGINAL PRICE	89,650.00
NET CHANGES OF PREVIOUS CHANGE ORDERS	21,950.10
NET INCREASE / DECREASE	(2,850.00)
TOTAL CONTRACT PRICE WITH APPROVED CHANGES	108,750.10

CHANGE IN CONTRACT TIMES

ORIGINAL TIMES	60 WORK DAYS
NET CHANGES OF PREVIOUS CHANGE ORDERS IN DAYS	0 DAYS
NET INCREASE / DECREASE	0 DAYS
TOTAL CONTRACT TIME WITH APPROVED CHANGES	60 WORK DAYS

ACCEPTED BY
SIGNATURE

NAME & TITLE

DATE


RENO CALDERELLA, P.M.

11/8/2022

APPROVED BY
SIGNATURE

NAME & TITLE

DATE

*Per Res. -2022

Todd Venning, City Manager & CEO

City of Newburgh Public Special Events Sponsorship Policy

I. Intent, Purpose, and Scope

A. Intent

The City of Newburgh encourages public events which enrich the quality of life and enhance the recognition and celebration of our diverse cultural, historic, spiritual and artistic heritage. The intent of this policy is to support the sustainable development of public events that celebrate the rich history of the City, its cultural diversity and the residents who live here; increase tourism, business support, and positive regional perception; and ensure that a fair and transparent process is used in the allocation of event sponsorship resources.

B. Purpose

The purpose of this policy is to provide a framework for identifying City of Newburgh public special events and for establishing criteria for individuals or organizations to enter into sponsorship arrangements with the City of Newburgh for organized events. This policy shall work in harmony with the permit process established under City Code Chapter 110, Mass Gatherings and Public Events.

C. Scope

The scope of this policy applies to City public special events and all requests by individuals or organizations to enter into sponsorship arrangements with the City of Newburgh for organized events. The City Manager, Corporation Counsel, Comptroller, and City Clerk will be responsible for ensuring the compliance with this policy.

II. Definitions

1. Event Organizer: The individual or organization responsible for making all event arrangements.
2. Event Applicant: The individual charged with acting on behalf of the Event Organizer for purposes of coordinating all aspects of the event.
3. Event Review: The process by which a sponsorship recipient demonstrates in writing to City Manager/Council that it has expended the contribution in accordance with the terms and conditions of the funding agreement on completion of the event.
4. Event Sponsorship: The contribution of money and/or services by the City to an external entity, in exchange for which the external entity shall acknowledge the City and the City's contribution to the event, and grant to the City the right to associate the City's name with the Event Organizer. Event Sponsorship shall be limited to:

- a. Money, provided said funds have been allocated and exist in the City's adopted annual budget.
- b. Insurance, for liability coverages related to the event.
 - i. The Event Applicant may request the City purchase and pay for a special event insurance policy, provided funds have been allocated and exist in the City's adopted annual budget.
 - ii. The Event Applicant may request the City purchase a special event insurance policy, with the policy premium being funded by a third-party (i.e. non-City) source.
- c. Public safety goods, to the extent that such goods are available for use during the proposed event. Public safety goods are goods currently owned by the City for purposes of assuring public health and safety. Examples include jersey barriers, traffic barricades, garbage cans and dumpsters, and mobile lighting.
- d. Public safety services, to the extent that such services are available during the proposed event. Public safety services are police and fire personnel services provided by City for purposes of assuring public health and safety.
 - i. The Event Applicant may request the City provide public safety services at no cost to the Event Organizer, provided adequate personnel are available during the event.
 - ii. The Event Applicant may request the City provide public safety services, provided adequate personnel are available during the event, but pay the costs of deploying that personnel for the event.
5. Funding: The cash grant, or credit, allocated to support public special events under this policy. Funding is contingent upon budget approval.
6. Recurring City Public Special Events: Annual events planned, marketed and executed by the City of Newburgh.

III. Public Special Events

A. Recurring Public Special Events of the City of Newburgh

The following annual events are considered Recurring City of Newburgh Public Special Events due to their longstanding traditions in the City of Newburgh and their management by City of Newburgh staff:

- Memorial Day Parade
- 4th of July
- Black History Parade/Juneteenth
- National Night Out
- International Festival

- Back to School
- Halloween
- Christmas Tree Lighting

The City Manager shall coordinate and execute all aspects of these events provided sufficient appropriation exists in the City's adopted annual budget.

B. City Council Member Use of Discretionary Funding for Special Events

City Council Members may have allocations of discretionary funds approved in the City's adopted annual budget. These funds may be used by City Council Members to meet local needs. To the extent that such discretionary funds are available, City Council Members may use these funds to pay for costs related to a special event organized by a community member or organization consistent with Section D below. These discretionary funds shall not be considered as part of the funding cap as outlined in Section D, below.

C. Public Special Events Hosted by a City of Newburgh entity:

Boards, commissions, and departments of the City of Newburgh enhance the overall quality of life in the city. Board, commission, and department hosted public special events must:

1. Fulfill its mission
2. Comply with City of Newburgh Procurement Policy and Procedure and the City Accounts Payable Procedures and this policy
3. Demonstrate that event was duly approved in accordance with its bylaws and the City Code of Conduct for Local Boards and Committees.

The chairperson of the board or commission, or the department head, shall be considered the Event Applicant.

Prior to filing a special event application, the board or commission should pass a resolution to authorize the chairperson to file a special event application and take steps necessary to plan and execute the special event with the City.

Prior to filing a special event application, the board, commission, or the department shall confirm that sufficient funds exists in the appropriate budget line for the board, commission, or the department seeking to hold the special event.

D. Public Special Events Organized by a Community Member or Organization

Community organized events are form of public special events planned and executed by individuals and organizations that are not elected, employed, or appointed to a board or commission by the City of Newburgh. Event Organizers and Event Applicants work on behalf of community individuals or organizations seeking support from the City of Newburgh are encouraged to plan and execute

their community organized events in a manner that provides positive societal, economic, cultural and community outcomes to the City of Newburgh.

The City Council may allocate funds in its annual budget for purposes of Event Sponsorship pursuant to this policy. Funding is contingent upon budget approval.

An Event Sponsorship application, which is different from an event permit application pursuant to Chapter 110 of the City Code, must be submitted at least 90 days prior to the planned event. The City Manager's Office will review the application on a rolling basis throughout the fiscal year. Event Applicants are encouraged to submit Event Sponsorship applications as early as possible, to maximize opportunity for availability of Event Sponsorship resources.

An Event Applicant may request Event Sponsorship in the form of goods and services or a cash grant, but not both, in an amount not to exceed \$1,500.00 per event or 10 percent of the total annual allocation for community organized events, whichever is less.

Event applications that request a cash grant or direct payments to third-party vendors shall comply with the City of Newburgh Procurement Policy and Procedure and Accounts Payable Procedures.

IV. Eligibility

A. To be eligible for Event Sponsorship, all Event Organizers and Event Applicants must:

- Obtain all regulatory approvals per Chapter 110 of the City Code, the Mass Gathering and Public Event.
- Organize an event that is open to, and in the interest of, the general public, serve at least 10 people, and does not discriminate on the basis of race, gender, religion, sexual orientation, or any other protected characteristic under state or federal law.
- Hold the event during the applicable fiscal year for which funding is available.
- Demonstrate that the sponsorship will be used for a purpose in the public interest and in accordance with this policy.
- Articulate the community, economic and or cultural benefit to the City of Newburgh
- Provide positive recognition of City of Newburgh
- Satisfactorily account to City Manager for the expenditure of any previous City sponsorships or other City funding (as required).
- Organize events that are free or feature a free or a low-cost ticketing/entry component of the event.

B. Ineligible events shall include, but are not limited to:

- Events which duplicate or would compete with Recurring Public Special Events as defined in Section III(A).
- Parades or other events, planned or spontaneous, that are First Amendment-protected exercises of free speech that the City has an obligation to provide public safety services and equipment.
- Block parties, trade shows, conventions, conferences, or workshops
- Indoor ticketed concerts, shows, theatres, or theatrical performances
- Luncheons, conferences, or holiday parties
- Class or family reunions and other family activities, such as weddings or memorials.
- Sports tournaments, or school or athletic leagues
- Events where the Event Organizer or Event Applicant could seek to use the event to influence legislation, public policy, or the legislative role of the City Council
- Events which may adversely affect the content or interpretation of existing City of Newburgh programs or services, or may raise a conflict of interest.
- Events which sponsor a political party.
- Fundraising events or events that service organizations may use the funds to sponsor or make a grant to a third party.

V. Application Process

All Event Applicants must complete a Sponsorship Request Application form, which shall be available at the City Clerk's office and on the City's website. The form shall include the following information:

- Event Organizer contact information, including social security or tax identification number.
- Event Applicant contact information
- Type(s) of Event Sponsorship Requested
- Event description, including a narrative about how the event and sponsorship will be used for a purpose in the public interest; the community, economic and or cultural benefit to the City of Newburgh; and the proposed positive recognition of the City of Newburgh.
- A list of the goods and/or services for which the cash grant or payment to third-party vendors will be applied.

Applicants should submit a completed Event Sponsorship Application Form as a supplement to a Mass Gathering/Event Permit application form, both to the City Clerk's Office. Incomplete applications will not be considered.

The City Manager shall review and approve all applications after consultation with appropriate departments.

Discussed at 10/20/2022 Work Session _ For 2023

Council Approved City sponsored events in 2023:

- Memorial Day Parade
- Fourth of July observance
- National Night Out
- International Festival
- Back to School Event
- Halloween event (Trunk or Treat)
- Christmas event
- Newburgh Illuminated
- Annual Community Clean Up
- Juneteenth
- Hispanic Heritage Celebration
- Jump Into June
- Summer Film Festival

Below are the events proposed to be City sponsored in 2023 by category:

A. Recurring Public Special Events of the City of Newburgh

- Memorial Day Parade
- Fourth of July Observance
- National Night Out
- International Festival
- Back to School
- Christmas
- Newburgh Illuminated
- Annual Community Cleanup in Newburgh (Safe Harbors of the Hudson)

B. Public Special Events – Mayor/Council Member sponsored/organized

- Juneteenth
- Hispanic Heritage Celebration

C. Public Special Events – City department, board, commission

- Riversweep (CAC)
- Jump into June (PCRRB)
- Easter Egg Hunt (Recreation Department)
- Halloween-Trunk or Treat (Recreation Department)
- Summer Film Festival (Planning & Development – CDBG)

D. Public Special Events – Community organized

- Community organizers can apply per policy.

RESOLUTION NO.: ____ - 2023

OF

FEBRUARY 13, 2023

RESOLUTION AMENDING RESOLUTION NO: 283-2021,
THE 2022 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
FOR 2022 YEAR END BUDGET TRANSFERS AND/OR AMENDMENTS
TO ADJUST FOR ANY ITEMS IN EXCESS OF BUDGET

WHEREAS, all 2022 budget lines ending in excess of appropriation can be covered by other 2022 budget lines ending with funds remaining within each Department, except for the Self-Insurance Fund for which a budget amendment is required, but no increase in excess of the total annual appropriation; 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:

2021 Council Transfer

GL Account	Description	Decrease Budget	Increase Budget
	Self-Insurance Fund		
Insurance Recoveries Revenue			
M.0000.2680.0005	Insurance Recoveries		\$219,816.38
Excess Insurance			
M.1722.0400	Excess Insurance		\$ 34,708.38
Judgments & Claims			
M.0000.2680.0005	Judgments & Claims		\$185,108.00
TOTAL SELF-INSURANCE FUND:			<u>\$439,632.76</u>

GL Account	Description	Decrease Budget	Increase Budget	
M.0000.2680.0005	INSURANCE RECOVERIES- REVENUE		\$ 219,816.38	
M.1722.0400	EXCESS INSURANCE..		34,708.38	
M.1930.0400	JUDGEMENT & CLAIMS..		185,108.00	
Total Self Insurance Fund Budget Adjustments		\$ -	\$ 439,632.76	This is an increase to the overall expense budget but it is offset by the 2022 Insurance recoveries in the M Fund

GL Account	Description	Decrease Budget	Increase Budget	
M.0000.2680.0005	INSURANCE RECOVERIES- REVENUE		\$ 219,816.38	
M.1722.0400	EXCESS INSURANCE..		34,708.38	
M.1930.0400	JUDGEMENT & CLAIMS..		185,108.00	
Total Self Insurance Fund Budget Adjustments		\$ -	\$ 439,632.76	This is an increase to the overall expense budget but it is offset by the 2022 Insurance recoveries in the M Fund





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RESOLUTION NO.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION SCHEDULING
THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)
PUBLIC HEARING AND OPENING OF
THE 15-DAY PUBLIC COMMENT PERIOD FOR FISCAL YEAR 2022**

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, a jurisdiction is required to submit an annual report to the U.S. Department of Housing and Urban Development (HUD) that summarizes accomplishments and progress toward Consolidated Plan goals in the Consolidated Annual Performance and Evaluation Report (CAPER) within 90 days after the program year; and

WHEREAS, the CAPER provides the community with information regarding how HUD entitlement funds were used to address housing, community development and essential service needs; and

WHEREAS, prior to submitting the CAPER, the City publishes a draft of the report and provides the general public with an opportunity to submit comments;

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 Consolidated Annual Performance and Evaluation Report (CAPER) with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for FY 2022; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 27th day of February, 2023 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the 15-day period to receive written public comment on the City of Newburgh's proposed City of Newburgh's proposed Consolidated Annual Performance and Evaluation Report (CAPER) with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for FY 2022 shall commence on February 28, 2023 and close on March 15, 2023.

RESOLUTION NO.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT
IF AWARDED A FISCAL YEAR 2022 DEPARTMENT OF HOMELAND SECURITY
FEMA ASSISTANCE TO FIREFIGHTERS GRANT
IN THE AMOUNT OF \$35,000.00 WITH A \$3,500.00 CITY MATCH
FOR THE PURCHASE OF FITNESS EQUIPMENT FOR
THE CITY OF NEWBURGH FIRE DEPARTMENT**

WHEREAS, the City of Newburgh Fire Department has expressed an interest in applying for funds available under the Fiscal Year 2022 Department of Homeland Security Federal Emergency Management Agency Assistance to Firefighters Grant Program; and

WHEREAS, said grant, if awarded, will provide funding for the purchase of training equipment; and

WHEREAS, if awarded, said grant will provide \$35,000.00 and require a one-time City match of \$3,500.00 derived from TE.412.0400 -Fire Auction line; and

WHEREAS, it is deemed to be in the best interests of the City of Newburgh and its citizens to apply for and accept such grant if awarded;

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 to accept if awarded a the Fiscal Year 2022 Department of Homeland Security Federal Emergency Management Agency Assistance to Firefighters Grant in the amount of \$35,000.00 with a 10% City-match to purchase fitness equipment for the City of Newburgh Fire Department; 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 purchases funded thereby..

From: [Heck, Michael R CIV USARMY CENAN \(USA\)](#)
To: [Kelson, Michelle](#)
Subject: USACE Right-of-Entry Request
Date: Wednesday, November 2, 2022 1:15:59 PM
Attachments: [City of Newburgh Letter.pdf](#)
[City of Newburgh Right-of-Entry.pdf](#)
[City of Newburgh Exhibit A.pdf](#)

Dear Ms. Kelson,

Attached is a right-of-entry request from the U.S. Army Corps of Engineers for four parcels of land owned by the City of Newburgh and located in the Town of New Windsor and Town of Newburgh.

Please find attached:

- Letter to Mayor Harvey
- Right-of-Entry Request
- Exhibit A Map

Please let me know if there's anyone else I should send this to; I do not have any direct contact information for the mayor's office.

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division
USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NY 10278-0090

October 31, 2022

Real Estate Division

City of Newburgh
Attn: Mayor Torrance Harvey
83 Broadway
Newburgh, NY 12550

Dear Mayor Harvey:

The U.S. Army Corps of Engineers (USACE) is requesting permission to enter upon the property owned by the City of Newburgh in Orange County, New York. USACE is seeking permission for the purposes of performing environmental remediation activities under the Per and Polyfluoroalkyl Substances (PFAS) Program, in accordance with the enclosed Right-of-Entry No. DACA51-9-23-008 and accompanying map, Exhibit "A."

The Government will contact you at least five days prior to performing any work on the described property either by phone, email, or letter. The purpose of the notification is to inform you of the specific work that will be conducted and when access to the property will be required, and to coordinate any access requirements. The exact date will be determined once the Right-of-Entry is signed and will be coordinated by the Government and/or its agents. Upon final signature by the Government, a copy of the executed Right-of-Entry agreement will be furnished for your files.

Thank you for your continued support and cooperation. Please review and sign the enclosed Right-of-Entry agreement and return it to Mr. Michael Heck, Realty Specialist, via email at michael.r.heck@usace.army.mil, or to the following address: U.S. Army Corps of Engineers, Real Estate Division, Attn: Michael Heck, 26 Federal Plaza, Room 16-507-10, New York, NY, 10278-0090. Should you have any questions pertaining to the environmental testing, please contact Mr. Thomas Heins at (917) 936-6273 or via email at thomas.r.heins@usace.army.mil; if you have any real estate questions, please contact Michael Heck at (917) 790-8538 or by email.

Sincerely,

Warren Q. LaRiviere
Chief, Management and Disposal Branch
Real Estate Division

Enclosures

DEPARTMENT OF THE ARMY
RIGHT-OF-ENTRY
Per and Polyfluoroalkyl Substances (PFAS) Program

Project: Stewart Air National Guard Base Area

Property I.D. #: Assessor Parcel Numbers (APNs) 4-1-12.2, 4-3-1.1 and 32-2-53 in the Town of New Windsor, and APN 97-3-10 in the Town of Newburgh.

The undersigned, hereinafter called the "Owner," in consideration for the mutual benefits of the work described below, hereby grants the **UNITED STATES OF AMERICA**, Department of the Army, hereinafter called the "Government," a right-of-entry upon the following terms and conditions:

1. The Owner hereby grants to the Government, its employees, officers, and contractors, an irrevocable and assignable right to enter in, on, over and across the land described below in APNs 4-1-12.2, 4-3-1.1, 32-2-53, and 97-3-10 for the purpose of conducting remedial investigation as determined by the Government for a period not to exceed thirty-six (36) months or for a period not less than the duration of the remedial investigation phase, whichever is longer, beginning with the date of the signing of this instrument for use by the Government, its representatives, agents, contractors, and assigns, as a work area for the PFAS Program, and perform any other such work as may be necessary and incidental to the Government's remedial investigation phase on said lands.
2. The Owner also grants the right to enter and exit over and across any other lands of the Owner as necessary to use the described lands for the purposes listed above.
3. All proposed activities will be coordinated with the Owner five (5) days prior to the start of a phase of field work.
4. All tools, equipment, and other property taken upon or placed upon the land by the Government shall remain the property of the Government and may be removed by the Government at any time within a reasonable period after the expiration of this permit of right-of-entry.
5. If any action of the Government's employees or agents in the exercise of this right-of-entry results in damage to the real property, the Government will, in its sole discretion, either repair such damage or make an appropriate settlement with the Owner. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. The Government's liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any damages other than those provided for herein.
6. The land affected by this right-of-entry is located in Orange County, New York, and is described as follows: APNs 4-1-12.2, 4-3-1.1 and 32-2-53 in the Town of New Windsor, and APN 97-3-10 in the Town of Newburgh, as shown on **EXHIBIT "A"** attached hereto.

Dated this_____ day of _____, 20 _____.

BY: _____
CITY OF NEWBURGH
Torrance Harvey
Mayor

BY: _____
THE UNITED STATES OF AMERICA
Helen Luke
Chief, Real Estate New York District
Real Estate Contracting Officer

CERTIFICATE OF AUTHORITY

I, _____ certify that I am _____ of
(Name) (Title)

_____, and that _____, who signed
(name of corporation, agency, etc.) (name of person who signed above)

the foregoing instrument on behalf of the grantee, was then the _____ of
(title of person who signed above)

the _____. I further certify that the said _____
(name of corporation, agency, etc.) (name of person who signed above)

was acting within the scope of powers delegated to him/her in executing said instrument.

Date: _____

Signature¹: _____

¹ Certificate of authority is required if owner is a corporation, company, agency, etc. to verify that the person who signed this page has the proper authority to sign on owner or agency's behalf.

APNs 4-1-12.2, 4-3-1.1, 32-2-53 & 97-3-10

Parcels:

- 4-1-12.2: 660 Little Britain Rd, New Windsor
- 4-3-1.1: Rt 207, New Windsor
- 32-2-53: 117 Moores Hill Rd, New Windsor
- 97-3-10: Old Little Britain Rd, Newburgh

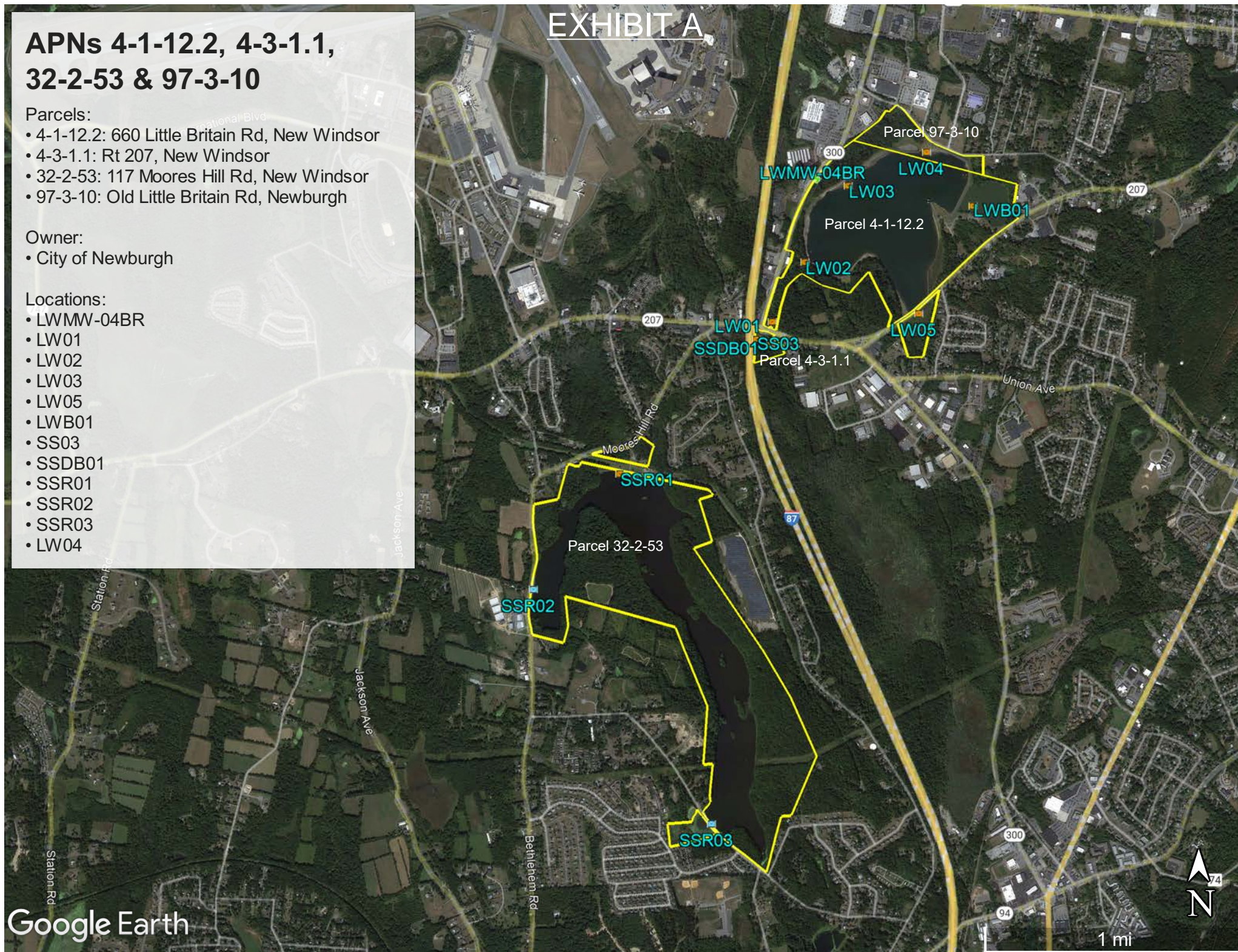
Owner:

- City of Newburgh

Locations:

- LWMW-04BR
- LW01
- LW02
- LW03
- LW05
- LWB01
- SS03
- SSDB01
- SSR01
- SSR02
- SSR03
- LW04

EXHIBIT A



The City of Newburgh

Office of the Corporation Counsel

Michelle Kelson
Corporation Counsel

City Hall – 83 Broadway
Newburgh, New York 12550

Tel. (845) 569-7335
Fax (845) 569-7338

Jeremy Kaufman
Assistant Corporation Counsel

Tiombe Tallie Carter
Assistant Corporation Counsel

November 22, 2022

U.S. Army Corps of Engineers
Real Estate Division
26 Federal Plaza, Room 16-507-10
New York, NY, 10278-0090.

Attn: Michael Heck

Re: DACA51-9-23-008
Department of the Army
Right-of-Entry
Per and Polyfluoroalkyl Substances (PFAS) Program
Project: Stewart Air National Guard Base Area

Dear Mr. Heck:

The City of Newburgh (City) acknowledges receipt of the U.S. Army Corps of Engineers (USACE) request for permission to enter upon the property owned by the City of Newburgh in Orange County, New York for the purposes of performing environmental remediation activities under the Per and Polyfluoroalkyl Substances (PFAS) Program and the Right-of-Entry No. DACA51-9-23-008 and accompanying map, Exhibit “A.”

As you may know, the City and the U.S. Department of Defense are parties to a lawsuit which has been included in the Aqueous Film-Forming Foams Product Liability Multi-District Litigation (MDL) and in which discovery has been stayed. The City does not want to delay any remedial investigation and/or clean-up activities but the work proposed by the USACE may be characterized as discovery for purposes of the MDL. In this regard, the City may need to consult with and obtain the approval of the plaintiffs and defendants executive committees in the MDL and obtain a Court order to sign a right-of-entry agreement. In addition, the City has the following comments concerning the Right-of-Entry No. DACA51-9-23-008 and accompanying map, Exhibit “A.”

Paragraph 1.

- delete “irrevocable right of entry” and replace with revocable on notice to either party

- replace “assignable” with “assignable only to another branch of the U.S. government who agrees to expressly assume the obligations under the right of entry on written notice to the City”
- add “all work contemplated should be at the U.S. government’s sole expense”
- the initial term may be 36 months and renewal, if necessary, may be requested; delete “or if longer”
- delete “perform any other such work as may be necessary and incidental to the Government’s remedial investigation phase on said lands”
- provide for review, comment and approval, a detailed scope of work, site access plan and tasks contemplated by the conduct of the remedial investigation & provide the City with work plan amendments, adjustments, modifications at least 30 days before any work begins on City property
- add “the City has the right to be present during the performance of any work at the sites and to have its own engineering consultant obtain onsite a split of any samples taken”

Paragraph 2.

- delete “right of entry over any other lands” and replace with “request entry from the City to any other lands owned by the City if necessary to access the sites”

Paragraph 3.

- Notify the Commissioner of Public Works and the City Water Superintendent at least 10 days in advance of anticipated access to and conduct of field work on the City property
- Work should be conducted generally M – F during daytime hours
- Include use of Dig-Safely NY 811; hire private utility mark out company to locate raw water transmission mains if soil borings are within the vicinity of their approximate locations; include ground penetrating radar if necessary to locate
- Include protection of City infrastructure
- Remove and dispose off-site at an approved facility of any contaminated soil or groundwater samplings or any other material used or generated during the work; provide all required analytical data of the material to be disposed to the City for review and approval that may be required of the disposal site and copies of all manifests
- Include implementation and use of soil and sediment controls required for this MS4 area
- Provide all necessary engineering reports, plans and applications as may be required to obtain dam safety permits from the New York State Department of Environmental Conservation (NYSDEC); provide all dam safety correspondence to the City for review
- Add “Contractors shall not interfere with or cause delays day-to-day operations at the facility”
- Provide all necessary engineering reports, plans and applications as may be required to obtain temporary access permits from New York State Thruway Authority for activities near I87 and copies of such permits

- Provide all necessary engineering reports, plans and applications as may be required to obtain temporary land use permits from New York City Department of Environmental Protection (NYCDEP) for activities at Silver Stream Dam and copies of such permits

Paragraph 4.

- Replace as follows: Upon completion of the work or upon termination of this Agreement, whichever is sooner, the Government shall remove its equipment and complete site restoration consisting of rough backfilling of test pits and replanting or replacing any trees or other vegetation removed in order to perform the work. In the event the work includes the installation of any type of monitoring well(s), the Government shall install a locked cap on said monitoring well(s), shall ensure that said cap is secure, and take all reasonable steps necessary to prohibit access to the monitoring well(s) by unauthorized parties. The Government also agrees to close the monitoring well(s) in accordance with federal, state and local laws, regulations and ordinances and prudent engineering principles upon the completion of the work or the termination of this Agreement, whichever is sooner.

Paragraph 5.

- Add: The Government agrees to hold the Owner harmless from and against any and all claims for injury to person or property to the extent such claims result from any negligent act or omission of the Government or its employees, officers, contractors, and agents in connection with all work conducted pursuant to this right of entry
- Add: Any agents, consultants and contractors of the Government shall maintain or cause to be maintained at its or their sole cost and expense, the following policies of insurance procured from insurance companies authorized to do business in New York: (a) Workers Compensation Insurance and Employer Liability Insurance providing statutory benefits and limits; (b) Motor Vehicle Insurance with coverage for all owned, non-owned and hired vehicles with combined single limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage; (c) Commercial General Liability Insurance with combined single limits of not less than \$2,000,000.00 per occurrence for bodily injury and property damage naming Owner as additional insureds; and (d) pollution liability insurance.
- Any agents, consultants and contractors of the Government shall provide a site restoration bond
- Add: Upon completion of the work, the Government shall provide Owner with a copy of any laboratory analytical reports and any final written report regarding or relating to the work.

Signatory: Following approval by City Council at a public meeting, Todd Venning, City Manager, will sign on behalf of the City rather than Mayor Harvey

The City hopes to be able to address its concerns and comments with USACE promptly.
Thank you for your consideration.

Very truly yours,

Michelle Kelson

Michelle Kelson
Corporation Counsel

MK/ar

cc: Todd Venning, City Manager
Jason Morris, Commissioner of Public Works
Wayne Vradenburgh, Water Superintendent
Alan J. Knauf, Esq.
Amy K. Kendall, Esq.

From: [Heck, Michael R CIV USARMY CENAN \(USA\)](#)
To: [Kelson, Michelle](#)
Cc: [Morris, Jason](#)
Subject: Contains JavaScript: RE: USACE Right-of-Entry Request
Date: Thursday, December 22, 2022 2:51:32 PM
Attachments: [City of Newburgh ROE SOW 22DEC2022 .pdf](#)
[LOS-002647450-00.pdf](#)

Hi Ms. Kelson,

Thank you very much for your email and this information.

I am very limited in the changes that I am able to make to the document template for the right-of-entry request that I sent to you. However, I am able to provide more information about the activities planned for the City of Newburgh's parcels, as the request for more information about the project was relayed to me through Justin Starr at NYS DEC, who had reached out to the City Engineer, Jason Morris.

Please find attached a scope of work for the requested City parcels, as well as an insurance certificate from the project contractor AECOM. In addition, please let me know if there is any other information that I can provide as we seek to move this request forward as quickly as possible.

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division
USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460

From: Kelson, Michelle <MKelson@cityofnewburgh-ny.gov>
Sent: Tuesday, November 22, 2022 12:49 PM
To: Heck, Michael R CIV USARMY CENAN (USA) <Michael.R.Heck@usace.army.mil>
Subject: [Non-DoD Source] RE: USACE Right-of-Entry Request

Dear Mr. Heck:

Attached please find the City of Newburgh's response to USACE's right of entry request. Thank you.

Michelle Kelson
Corporation Counsel
City of Newburgh

83 Broadway
Newburgh, NY 12550
Phone: (845) 569-7335
Fax: (845) 569-7338
mkelson@cityofnewburgh-ny.gov

From: Heck, Michael R CIV USARMY CENAN (USA) <Michael.R.Heck@usace.army.mil>
Sent: Tuesday, November 22, 2022 9:34 AM
To: Kelson, Michelle <MKelson@cityofnewburgh-ny.gov>
Subject: RE: USACE Right-of-Entry Request

Hi Ms. Kelson,

I'm checking in again to see if there's been any update to our right-of-entry request. Would you let me know the current status?

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division
USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460


From: Heck, Michael R CIV USARMY CENAN (USA)
Sent: Monday, November 14, 2022 12:21 PM
To: Kelson, Michelle <MKelson@cityofnewburgh-ny.gov>
Subject: RE: USACE Right-of-Entry Request

Hi Ms. Kelson,

Thank you very much for your reply. Please let me know if there's any update to our request that you can share with me.

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division

USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460

From: Kelson, Michelle <MKelson@cityofnewburgh-ny.gov>
Sent: Thursday, November 3, 2022 4:41 PM
To: Heck, Michael R CIV USARMY CENAN (USA) <Michael.R.Heck@usace.army.mil>
Subject: [Non-DoD Source] RE: USACE Right-of-Entry Request

Dear Mr. Heck:

Acknowledging receipt of the USACE Right of Entry Request. I will refer to and review with the appropriate City officials. Thank you for your attention to this matter.

Michelle Kelson
Corporation Counsel
City of Newburgh
83 Broadway
Newburgh, NY 12550
Phone: (845) 569-7335
Fax: (845) 569-7338
mkelson@cityofnewburgh-ny.gov

From: Heck, Michael R CIV USARMY CENAN (USA) <Michael.R.Heck@usace.army.mil>
Sent: Wednesday, November 2, 2022 1:15 PM
To: Kelson, Michelle <MKelson@cityofnewburgh-ny.gov>
Subject: USACE Right-of-Entry Request

Dear Ms. Kelson,

Attached is a right-of-entry request from the U.S. Army Corps of Engineers for four parcels of land owned by the City of Newburgh and located in the Town of New Windsor and Town of Newburgh.

Please find attached:

- Letter to Mayor Harvey
- Right-of-Entry Request
- Exhibit A Map

Please let me know if there's anyone else I should send this to; I do not have any direct contact information for the mayor's office.

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division
USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460

Proposed Environmental Drilling and Sampling Scope of Work
City of Newburgh, New York Property
Phase 1 Per- and Polyfluoroalkyl Substances (PFAS) Remedial Investigation
Stewart Air National Guard Base

AECOM Technical Services, Inc. (AECOM), under contract with USACE, is conducting a Phase 1 Per- and Polyfluoroalkyl Substances (PFAS) Remedial Investigation (RI) at the Stewart Air National Guard Base (SANGB) in Newburgh, NY. As part of the approved Uniform Federal Policy-Quality Assurance Project Plan (UFP-QAPP) for the RI, twelve (12) sampling locations are proposed to be completed under field Mobilization 1 on City of Newburgh, NY properties, which include Lake Washington, the Silver Stream diversion basin, and Brown's Pond. These proposed Mobilization 1 sampling locations, including one new groundwater monitoring well and eleven surface water and sediment samples, are shown on attached **Figures 1 and 2**.

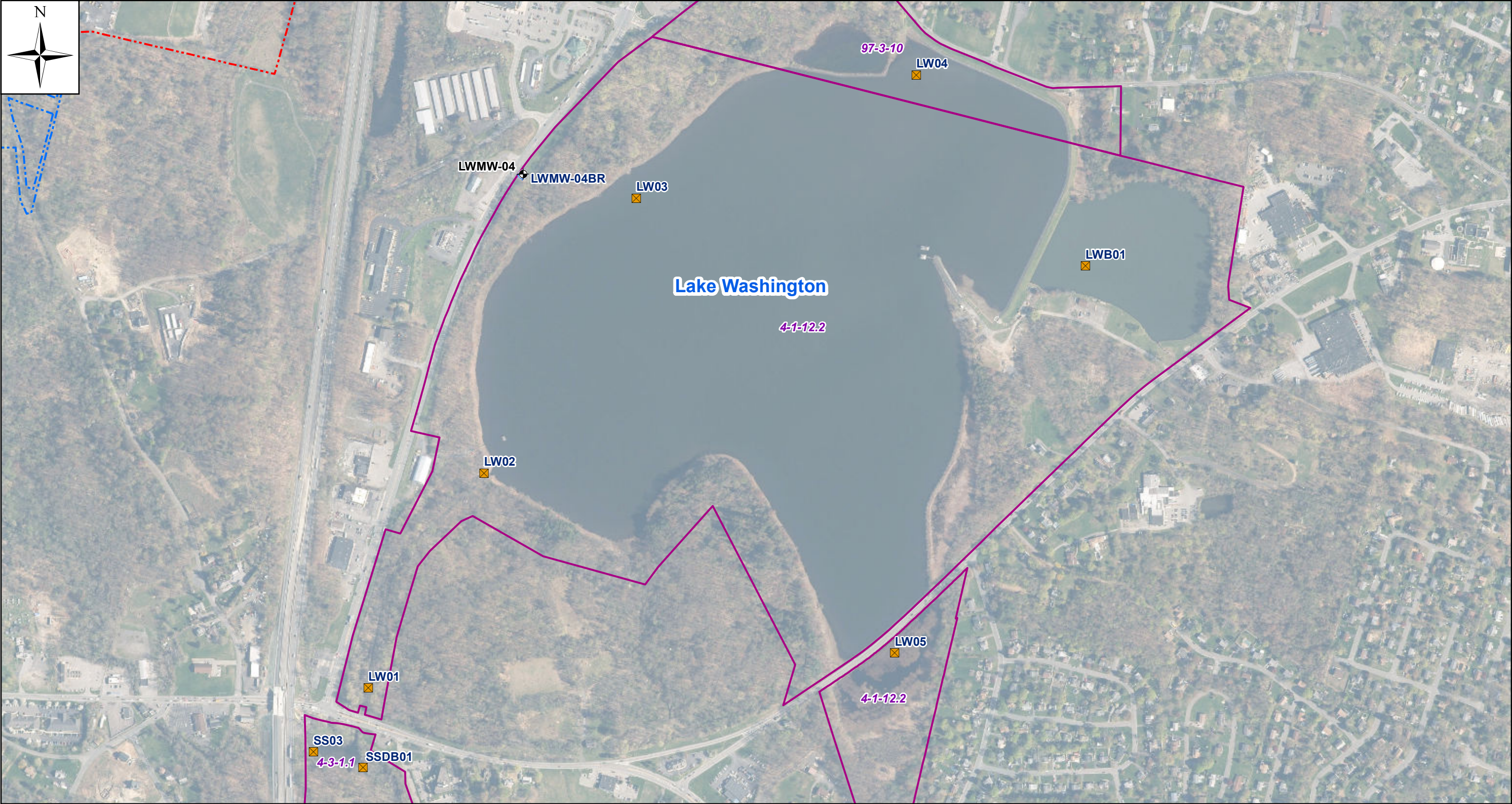
AECOM's drilling subcontractor, AARCO Environmental Services Corp. (AARCO), will use a rotosonic drilling rig to advance a test boring for the installation of the new monitoring well LWMW-04BR (**Figure 1**). This boring and completed monitoring well will be located east of Route 300, near the northwestern perimeter of Lake Washington. Before commencing drilling, AECOM's utility clearance subcontractor will use ground-penetrating radar (GPR) and electro-magnetic induction equipment to survey each drilling location to locate and avoid subsurface utilities. In addition, AARCO will contact DigSafely NY to complete public utility location clearance for the location and will also hand clear the boring to a depth of five feet with a hand auger.








AARCO will complete boring LWMW-04BR (**Figure 1**) as a permanent monitoring well installed in the upper 20 feet of bedrock. The proposed new monitoring well will be located adjacent to the existing monitoring well LWMW-04. The boring will be advanced to the top of rock and the sonic casing will then be seated at least one foot into bedrock. The boring will then be continued up to twenty feet into bedrock using HQ wireline rock coring methods. Upon completion of drilling, a 2-inch diameter PVC monitoring well will be installed in the bedrock core hole. The well will be constructed with 10 feet of PVC screen and solid riser pipe extending to ground surface. Quartz silica sand will be placed around the well screen to a depth of up to 3 feet above the top of screen. A 3-foot thick bentonite pellet seal will then be installed above the top of the sand pack and the remaining borehole annulus will be sealed with cement-bentonite grout as the sonic casing is extracted. Depending on the City's direction, the top of the well will be completed with either a flush-mount or standpipe (with bollard posts) and locking protective casing. AECOM will collect groundwater samples from the well for laboratory analysis at least three times after it is installed and prior to the scheduled completion date of RI field work, July 2024.

AARCO will complete borehole drilling using a Geoprobe® brand sonic drill rig Model #8140LC and a Geoprobe® Model 7822DT rig for rock coring. Specification sheets for the three rigs are attached. Drill cuttings and excess drilling water and purged groundwater generated during the work will be placed into 55-gallon steel drums and transported to SANGB upon completion. The work area around the boreholes will be restored as practicable to existing conditions.

The 11 remaining locations are "non-intrusive" (i.e., no drill rig required) proposed for the collection of surface water and sediment samples. Eight of the proposed locations include surface water and sediment samples within Lake Washington or the Silver Stream diversion (LW01, LW02, LW03, LW04, LW05, LWB01, SS03, and SSDB01; **Figure 1**), three of the locations are within Brown's Pond (SSR01, SSR02, SSR03; **Figure 2**). AECOM will conduct two sampling rounds at these locations.

SAMPLE LOCATION MAPS



CLIENT New York Air National Guard					<div>Proposed RI Samples</div> <div><div><div> Groundwater - Proposed New Well Locaiton (Drill Rig)</div><div> Surface Water/Sediment Pair</div></div><div><div> Existing Monitoring Well</div><div> Orange Co. NY Tax Map Parcel No. 4-1-12.2 Boundary (Approximate)</div><div> NYSDOT Easement Area (Approximate)</div><div> Stewart ANG Base Boundary (Approximate)</div></div></div> <div><div><div><div><div></div><div></div></div><div>02755501,100</div><div>Feet</div></div></div></div>	Proposed Sample Locations - Mobilization 1 On City of Newburgh Property	
PROJECT Stewart ANGB PFAS RI						<div><div><div>12420 Milestone Center Drive Germantown, MD 20876</div><div>Figure 1</div></div></div>	
REVISED	12/22/2022	GIS BY	GC	12/22/2022			
SCALE	1:6,600	CHK BY	PY	12/22/2022			
Base Map: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community		PM	JS	12/22/2022			



CLIENT		New York Air National Guard			
PROJECT		Stewart ANGB PFAS RI			
REVISED	12/22/2022	GIS BY	GC	12/22/2022	
SCALE	1:12,000	CHK BY	PY	12/22/2022	
Base Map: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community		PM	JS	12/22/2022	

Proposed RI Samples

Surface Water/Sediment Pair

Surface Water

Orange Co. NY Tax Map Parcel No. 32-2-53 Boundary (Approximate)

Stewart ANG Base Boundary (Approximate)

05001,0002,000

Feet

Proposed Sample Locations - Mobilization 1
On City of Newburgh Property

AECOM

12420 Milestone Center Drive
Germantown, MD 20876

Figure 2

DRILL RIG SPECIFICATIONS



GEOPROBE® **8140LC ... in a Low Clearance Option**



8140LC RIG OPTIONS

Sonic Head

222919 GV4 High Speed Coring Head Drive

Automatic Drop Hammer

213902 DH104 Automatic Drop Hammer, 140 lb. [No Mounting Kit]
 213903 DH104 Mounting Kit
 216826 Automatic Drop Hammer 340 lb. Expansion Kit
 217067 Automatic Drop Hammer 300 lb. Expansion Kit
 221820 Automatic Drop Hammer 170 lb. Expansion Kit
 210126 Automatic Drop Hammer 65 kg Expansion Kit

Safety Cage

215308 Safety Cage, compatible w/ Rod Handler
 212953 Safety Cage, 8140LC w/ no Rod Handler

Rod Handler

212525 Rod Handling System

Breakout

215023 Rigid Breakout Mount

Control System

207870 LCD Display Heater Kit
 216408 Head Feed Down Control Kit -- 8140LC

Water / Mud Pumps

210991 SPX40 Pump & Mount
 212595 Hose Reel Kit
 209925 Moyno® 3L6 with Table - Operator Side

Air Compressor

218584 Air Line Oiler Kit

Toolboxes

212954 53 in. Toolbox
 220333 48 in. Toolbox
 207214 20 in. Toolbox

Model 8140LC Specifications

TRACK PLATFORM / UNDERCARRIAGE		
Width (in)	80 in	2,032 mm
Length (transport) (in)	186 in	4,724 mm
Length (deployed, lateral fully retracted) (in)	185 in	4,699 mm
Length (deployed, lateral fully retracted, rod handler deployed) (in)	271 in	6,883 mm
Height (normal transport) (in)	110 in	2,896 mm
Height (deployed; winch mast up) (in)	249 in	6,325 mm
Height (min standard working height) (in)	192 in	4,877
Extension (fore and aft) (in)	15 in	381 mm
Lateral (side to side)	±8 degrees	
Drill Mast Dump (in)	25 in	635 mm
Base Unit Weight	19,350 lb	8,777 kg
Head Travel (in)	92 in	2,337 mm
Head Crowd/Pull Force (lbs)	20,000 lb	89 kN
Head Feed Carriage	Comp. slides	
Head Feed Pressure Control (w.o.b)	Optional	
Head Tilt Out		
Head Sideshift	26 in	660 mm
Outrigger Travel	16 in front, 26 in rear	406 mm front, 660 mm back
Engine (diesel)	CAT C4.4 Tier 3 Flex	
Engine Rated Power (hp)	142 hp	106 kW
Fuel Capacity (gal)	40 gal	151 L
Max angle drilling ability off vertical (degrees)	45 deg	
Approach/departure angle in transport (degrees)	24 deg	
Ground Speed (mph)	2.5 mph	4 km/hr
Electronic Controls	V1	
Sonic head	GV4	

HP LIMITED PUMP		
Max pressure (psi)	4,000 psi	275.8 bar
Max flow (gpm)	100 gpm	379 L/min

HYDROSTATIC PUMP		
Max pressure	NA	
Max flow	NA	

Max oscillator speed (Hz)		
Dynamic force @ max oscillator speed (lbf)	33,000 lbf	146.8 kN
Rotation (high torque/low speed) (lbf/rpm)	4,000 ft-lbf @ 80 rpm	5,423 N·m @ 80 rpm
Rotation (low torque/high speed) (lbf/rpm)	2,500 ft-lbf @ 120 rpm	3,390 N·m @ 120 rpm

STANDARD WINCH		
Line pull (lbf)	2,000 lbf	8.9 kN
Line speed (fpm)	110 fpm	33.5 m/min

TRIPLEX WATER PUMP		
Max pressure (psi)	1,000 psi	69 bar
Max flow (gpm)	25 gpm	95 L/min

DOUBLE WRENCH BREAKOUT		
Clamp force (lbf)	0 to 21,000	0 to 93.4 kN
Breakout torque (ft-lbf)	13,500 ft-lbf	18,303 N·m
Casing size compatible (in)	2 to 12 in	51 to 305 mm
Vertical travel (in)	9 in	229 mm

Geoprobe® Tooling Run with 8140LS

- Casing Sizes: 10 in., 8 in., 6 in., 4.5 in.
- SDT60 and SDT45 Weighted Wire Line Sampling
 - SDT60 and SDT45 Sonic Sampling
 - 8 x 10, 6 x 8, 4 x 6 Sonic Sampling
 - DT22 Soil Sampling
 - SP60 Groundwater Sampling
 - DH104 Auto Hammer for SPT

8140_{LC}

Rotary Sonic -- Low Clearance

- Geoprobe® Designed Rod Handling System
- Patented Geoprobe® GV4 Sonic Head
- Adjustable Swing-arm Control Panel
- 12-in. Double Wrench Breakout
- Front Outriggers for Added Stabilization
- Centerline Side-Shift Function
- 5-in. Tooling Compatible
- Rock Coring Compatible
- Auto Drop Hammer Compatible (SPT)
- Rear Blade Stabilizer and Tooling Transport



Geoprobe Systems®
 1-785-825-1842
 geoprobe.com

GEOPROBE®**7822DT****... Direct Push Equipment****Geoprobe®****7822DT MACHINE OPTIONS****Augerhead**

213944	GA4000 2-Speed Augerhead
213945	GA4100 4-Speed Augerhead

Automatic Drop Hammer

213898	DH103 Automatic Drop Hammer, 140 lb.
213899	DH103M Automatic Drop Hammer, 65 kg
213900	DH103 Mounting Kit
216826	Automatic Drop Hammer 340 lb. Expansion Kit
217067	Automatic Drop Hammer 300 lb. Expansion Kit
221820	Automatic Drop Hammer 170 lb. Expansion Kit

Water Swivels

216398	High Speed Water Swivel w/ Float
210873	Float Sub NWJ Pin Asm
210874	Float Sub NWL Pin Asm
213482	Float Sub HWL Pin Asm
212606	Water Swivel 1.625 Hex NWJ Pin Mod
212558	GH60 Series Water Swivel Asm

Mast / Winch

222959	Dual Winch Kit
222623	Winch - 5/16 in. Cable
222624	Winch - 1/4 in. Cable
222625	Winch - 3/16 in. Cable
217508	Fixed Mast Top
216244	Rotating Mast Top
213364	3 ft. Mast Extension

Rotational Safety Cage

213002	Safety Cage for Machines with no Drop Hammer
212896	Safety Cage for Machines with Drop Hammer

Breakout

212785	7 in. Single Clamp Breakout
217024	Coring Upgrade Kit for 7 in. Breakout
213421	Probe Rod Handling Clamp for 3.5 in. - 1.25 in. Probe Rods

Control System

216137	Head Feed Pressure Control Kit
213384	CPT Valve Kit

Water / Mud Pumps

210603	Moyno® 2L4 Pump & Mount Assembly - Helper Side
218263	Moyno® 2L4 Pump & Mount Assembly - Operator Side
209926	Moyno® 3L6 with Table - Helper Side
220556	Moyno® 3L6 with Table - Operator Side
221614	Triplex Pump Kit - Helper Side
219556	SPX40 Pump & Mount Assembly
222823	Control Panel Gauge Mount Kit

Hydraulic Extruder

210107	Hydraulic Extruder Mount w/ Dropdown Work Surface
210729	Hydraulic Extruder Mounts (for Side Rail)
211622	Hydraulic Extruder Mounts (for Rod Rack)
205501	Hydraulic Extruder - 60 in. Stroke
204258	Hydraulic Extruder - 48 in. Stroke
220646	3 in. Shelby Tube Hydraulic Cradle Kit
221929	3 in. Shelby Tube Cradle
215781	Extruder w/ 2L4 Mounting Kit

Rod Racks

212306	Locking Side Mount Rod Rack
209257	Side Mount Rod Rack
221534	Swing Out Rod Rack
211734	Side Rack Mount Blank

Model 7822DT Specifications

UNIT PLATFORM		
Stroke	78 in	1,981 mm
Weight (approximate)	8,000 lb	3,632 kg
Width	64 in	1,626 mm
Length (folded)	133 in	3,378 mm
Height, w/standard mast (folded)	100 in	2,540 mm
Height, w/rotating mast (folded)	86 in	2,184 mm
Height, w/dual mast (folded)	100 in	2,540 mm
Height, no mast (folded)	79 in	2,007 mm
Height, w/mast (unfolded)	187 in	4,750 mm
Height, no mast (unfolded)	118.5 in	3,010 mm
Foot Travel	20.5 in	521 mm
Extension	15.5 in	394 mm
Lateral Movement (side-to-side)	± 7 degrees from centerline	
Oscillation	± 13 degrees from vertical	
Rear Stabilizer Lift	2,000 lb	907 kg
Rear Blade Width	60 in	1,524 mm
Ground Speed	0 - 5 mph	0 - 8 kph
Surface Load	4.6 lb/in ²	0.32 kg/cm ²
Track Width	12 in	305 mm

PERCUSSION HAMMER		
Hammer System	GH63	
Percussion Rate	32 Hz	
Forward Torque	517 ft-lb	701 N-M
Reverse Torque	637 ft-lb	864 N-M
Rotation Speed	0 - 234 rpm	
Power Cell Weight	90 lb	41 kg

HYDRAULIC SYSTEMS		
Down Force	36,000 lb	160 kN
Retraction Force	48,000 lb	214 kN
Hydraulic Pressure (system)	4,000 psi	275 bar
Hydraulic Flow Rate (system)	40 gpm	151 Lpm

ENGINE		
Engine (diesel)	Kubota, 4-cylinder turbo, Tier 4i	
Engine Power (rated)	58 hp	42 Kw
Fuel Capacity (diesel)	17 gal	64 L

AUGERHEAD		
GA4100 Augerhead, 4-Speed		
High Torque	4,000 ft-lb	5,423 N-M
Low Torque	400 ft-lb	542 N-M
High Speed Rotation	0-750 rpm	
Low Speed Rotation	0-75 rpm	
Hex Adapter	1-5/8 in	41 mm
GA4000 Augerhead, 2-Speed		
High Torque	4,000 ft-lb	5,423 N-M
Low Torque	2,000 ft-lb	2,711 N-M
High Speed Rotation	0-150 rpm	
Low Speed Rotation	0-90 rpm	
Hex Adapter	1-5/8 in	41 mm

HYDRAULIC WINCH		
Primary Winch		
Winch Rating	2,500 lbf	10.5 kN
Winch Speed	0-125 fpm	0-38 m/min
Cable Length	75 ft	23 m
Secondary Winch		
Winch Rating	1,100 lbf	4.4 kN
Winch Speed	0-220 fpm	0-55 m/min
Cable Length	250 ft	46 m

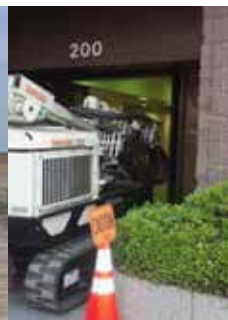
7-in. SINGLE CLAMP BREAKOUT		
Clamp Opening	7 in	178 mm
Clamp Range	1.25 - 6 in	31.75 - 152 mm
Clamp Force	0 - 17,500 lbf	0 - 78 kN
Breakout Torque	6,000 ft-lbf	8,135 N-m
Weight	350 lb	159 kg

Geoprobe® Tooling Run with 7822DT

- 60-in. Direct Push Tooling
- Probe Rod Sizes: 3.75 in., 3.5 in., 3.25 in., 2.25 in., 1.5 in., 1.25 in.
 - Direct Image® Tooling
 - Macro Core® MC5 Soil Sampling (2.25 in. x 5 ft.)
 - DT22 Soil Sampling
 - DT325 / DT35 / DT375 Dual Tube Soil Sampling
 - SP22 Groundwater Sampling
 - SP16 Groundwater Sampling
- 2.0 in., 1.5 in., 1.0 in., 0.75-in. Prepacked Monitoring Well Installations
 - DH103 Auto Hammer for SPT
 - 4.25 in. and 6.0 in. H S A System



7822DT gathers geotechnical information for a new mining site.



Installing 17 wells inside building.



Squeezing between buildings.

7822_{DT}

- Rock Coring Compatible
- Reliable Geoprobe®
GH60 Series Percussion Hammer
- Modular Percussion Power Cell
Technology
- Two- and Four-Speed Augerhead
(optional)
- Dual Winch Option
- Frame Rail Design for Adding
Machine Accessories
- Tethered and Wireless Control
- Integrated Drill Mast Oscillation
- Rear Blade for Stabilization and
Tooling Transport



Geoprobe Systems®
1-785-825-1842
geoprobe.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/11/2022

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 Marsh Risk & Insurance Services CA License #0437153 633 W. Fifth Street, Suite 1200 Los Angeles, CA 90071 Attn: LosAngeles.CertRequest@Marsh.Com CN101348564-STND-GAUE-22-23		CONTACT NAME: Marsh Risk & Insurance Services PHONE (A/C, No. Ext): FAX (A/C, No): E-MAIL ADDRESS: Newportbeach.CertRequest@marsh.com	
11 2022		INSURER(S) AFFORDING COVERAGE	
INSURED AECOM AECOM Technical Services, Inc. 3101 Wilson Boulevard, Suite 900 Arlington, VA 22201		INSURER A: ACE American Insurance Company INSURER B: N/A INSURER C: Illinois Union Insurance Co INSURER D: SEE ACORD 101 INSURER E: INSURER F:	
		NAIC # 22667 N/A 27960	

COVERAGES

CERTIFICATE NUMBER:

LOS-002647450-01

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:			HDO G72489974	04/01/2022	04/01/2023	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 5,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 7,000,000 PRODUCTS - COMP/OP AGG \$ 7,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" 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			ISA H25564959	04/01/2022	04/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	SEE ACORD 101	04/01/2022	04/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
C	ARCHITECTS & ENG. PROFESSIONAL LIAB.			EON G21654693 005 "CLAIMS MADE"	04/01/2022	04/01/2023	Per Claim/Agg Defense Included \$ 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: AECOM Project No: 6066988. Client Reference No: W912DR18D0005, DO W912DR21F0410. AECOM Technical Services, Inc. will be drilling monitoring wells as part of a Remedial Investigation (RI) for the Air National Guard under Contract W912DR-18-D-0005, delivery order #W912DR-21-F-0410.

CERTIFICATE HOLDER

USACE New York District
Attn: Michael Heck, Realty Specialist
26 Federal Plaza 16-507-10
New York, NY 10278-0090

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

Marsh Risk & Insurance Services

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ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Marsh Risk & Insurance Services		NAMED INSURED AECOM AECOM Technical Services, Inc. 3101 Wilson Boulevard, Suite 900 Arlington, VA 22201
POLICY NUMBER		
CARRIER	NAIC CODE	
EFFECTIVE DATE:		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Workers Compensation/Employer Liability cont.

Policy Number	Insurer	States Covered
WLR C68926361	Indemnity Insurance Company of North America - NAIC # 43575	AOS, Including California
WLR C68926324	ACE American Insurance Company - NAIC # 22667	MA
SCF C68926440	ACE Fire Underwriters Insurance Company - NAIC # 20702	WI Retro

Contractors Pollution Liability, Carrier: AIG Specialty Insurance Company, NAIC #26883, Policy #: CPL 1814870, Policy Term: 04/01/2022 – 04/01/2023, "Claims Made," Defense Included, Limit: \$ 4,000,000.

The City of Newburgh

Office of the Corporation Counsel

Michelle Kelson
Corporation Counsel

City Hall – 83 Broadway
Newburgh, New York 12550

Tel. (845) 569-7335
Fax (845) 569-7338

Jeremy Kaufman
Assistant Corporation Counsel

Tiombe Tallie Carter
Assistant Corporation Counsel

January 5, 2023

U.S. Army Corps of Engineers
Real Estate Division
26 Federal Plaza, Room 16-507-10
New York, NY, 10278-0090.

Attn: Michael Heck

Re: DACA51-9-23-008
Department of the Army
Right-of-Entry
Per and Polyfluoroalkyl Substances (PFAS) Program
Project: Stewart Air National Guard Base Area

Dear Mr. Heck:

The City of Newburgh (City) acknowledges receipt from the U.S. Army Corps of Engineers (USACE) of the proposed environmental drilling and sampling scope of work proposed for City of Newburgh property as part of the Phase 1 Per- and Polyfluoroalkyl Substances (PFAS) Remedial Investigation-Stewart Air National Guard Base by AECOM Technical Services, Inc. (AECOM) and the certificate of liability insurance.

The City has reviewed the proposed scope of work and re-requests a copy of the detailed site access plan that will be implemented to support the scope of work. In addition, the City requests that AECOM add the City of Newburgh as an additional insured on the contractor's certificate of liability insurance. The City also requests that AECOM provide evidence of workers' compensation insurance and/or employer liability insurance in Form C-105.2. The City notes that AECOM's architects and engineer's professional liability insurer, Illinois Union Insurance Co., is not admitted in New York State. The City requests that all contractor insurers be authorized in the State of New York to transact insurance.

The City reiterates that it does not want to delay any remedial investigation and/or clean-up activities and the City is providing its comments and concerns in order to provide access to USACE on the same conditions as it routinely requires of other entities requesting access for similar purposes and activities. The City also reiterates its concerns about the City and the U.S.

Department of Defense as parties to litigation included in the Aqueous Film-Forming Foams Product Liability Multi-District Litigation (MDL) and the management of discovery. In this regard, the City may need to consult with and obtain the approval of the plaintiffs and defendants executive committees in the MDL and/or obtain the Court's permission before approving a right-of-entry agreement.

Except as described above regarding the proposed scope of work, the City's comments concerning the Right-of-Entry No. DACA51-9-23-008 and accompanying map, Exhibit "A" outlined in the City's letter dated November 22, 2022, copy enclosed, have not been addressed by the USACE. The City respectfully requests that our comments be submitted and reviewed with those who have authority to consider and address the City's comments and concerns.

Again, any access and/or right-of-entry agreement will require approval by City Council at a public meeting. The regular City Council meetings are scheduled for the first and fourth Mondays of each month with a work session scheduled on the preceding Thursday.

The City hopes to be able to address its concerns and comments with USACE promptly. Thank you for your consideration.

Very truly yours,

Michelle Kelson

Michelle Kelson
Corporation Counsel

MK/ar
Enclosure

cc: Todd Venning, City Manager
Jason Morris, Commissioner of Public Works
Wayne Vradenburgh, Water Superintendent
Alan J. Knauf, Esq.
Amy K. Kendall, Esq.

From: [Heck, Michael R CIV USARMY CENAN \(USA\)](#)
To: [Kelson, Michelle](#); [Morris, Jason](#)
Cc: [Heins, Thomas R CIV USARMY CENAN \(USA\)](#); [Johnson, Charles W CIV USARMY CENAN \(USA\)](#); [McClain, Shaun Calvin CIV USARMY CENAN \(USA\)](#)
Subject: USACE - Site Access Plan
Date: Thursday, January 26, 2023 4:32:14 PM
Attachments: [City of Newburgh ROE_SOW_REV1_25JAN2023.pdf](#)
[Revised LWMW-04BR location AECOM.pdf](#)

Good afternoon,

Following up on our call a week ago, attached is the site access plan for the proposed PFAS drilling and sampling activities on City of Newburgh property. In addition, AECOM has determined due to the factors discussed on the call that the one well location included in this scope of work should be moved within City of Newburgh property. From AECOM:

AECOM determined this week that it will not be possible to install monitoring well LWMW-04BR at the location they originally planned, due to the presence of relatively new overhead power lines along the eastern shoulder of Route 300, which they were previously unaware of. As an alternative, AECOM would like to install the well on the City of Newburgh property approximately 350 ft. northeast of the original planned location. The original and proposed revised well locations are shown in the attached copy of a Google Earth© map image.

The updated scope of work/site access plan is attached, as well as the Google Earth image that AECOM references.

With best wishes,

Michael Heck
Realty Specialist
Management & Disposal Branch
Real Estate Division
USACE New York District
26 Federal Plaza, 16-507-10
New York, NY 10278-0090
michael.r.heck@usace.army.mil
917.790.8538 
917.510.4460

Proposed Environmental Drilling and Sampling Scope of Work
City of Newburgh, New York Property
Phase 1 Per- and Polyfluoroalkyl Substances (PFAS) Remedial Investigation
Stewart Air National Guard Base
December 22, 2022
REVISION 1: January 25, 2023

AECOM Technical Services, Inc. (AECOM), under contract with USACE, is conducting a Phase 1 Per- and Polyfluoroalkyl Substances (PFAS) Remedial Investigation (RI) at the Stewart Air National Guard Base (SANGB) in Newburgh, NY. As part of the approved Uniform Federal Policy-Quality Assurance Project Plan (UFP-QAPP) for the RI, twelve (12) sampling locations are proposed to be completed under field Mobilization 1 on City of Newburgh, NY properties, which include Lake Washington, the Silver Stream diversion basin, and Brown's Pond. These proposed Mobilization 1 sampling locations, including one new groundwater monitoring well and eleven surface water and sediment samples, are shown on attached **Figures 1 and 2**.

AECOM's drilling subcontractor, AARCO Environmental Services Corp. (AARCO), will use a rotosonic drilling rig to advance a test boring for the installation of the new monitoring well LWMW-04BR (**Figure 1**). This boring and completed monitoring well will be located east of Route 300, near the northwestern perimeter of Lake Washington. Before commencing drilling, AECOM's utility clearance subcontractor will use ground-penetrating radar (GPR) and electro-magnetic induction equipment to survey each drilling location to locate and avoid subsurface utilities. In addition, AARCO will contact DigSafely NY to complete public utility location clearance for the location and will also hand clear the boring to a depth of five feet with a hand auger.

AARCO will complete boring LWMW-04BR (**Figure 1**) as a permanent monitoring well installed in the upper 20 feet of bedrock. The boring for well LWMW-04BR will be advanced to the top of rock and the sonic casing will then be seated at least one foot into bedrock. The boring will then be continued up to twenty feet into bedrock using HQ wireline rock coring methods. Upon completion of drilling, a 2-inch diameter PVC monitoring well will be installed in the bedrock core hole. The well will be constructed with 10 feet of PVC screen and solid riser pipe extending to ground surface. Quartz silica sand will be placed around the well screen to a depth of up to 3 feet above the top of screen. A 3-foot thick bentonite pellet seal will then be installed above the top of the sand pack and the remaining borehole annulus will be sealed with cement-bentonite grout as the sonic casing is extracted. Depending on the City's direction, the top of the well will be completed with either a flush-mount or standpipe (with bollard posts) and locking protective casing. AECOM will collect groundwater samples from the well for laboratory analysis at least three times after it is installed and prior to the scheduled completion date of RI field work, July 2024.

AARCO will complete borehole drilling using a Geoprobe® brand sonic drill rig Model #8140LC and a Geoprobe® Model 7822DT rig for rock coring. Specification sheets for the rigs are attached. Drill cuttings and excess drilling water and purged groundwater generated during the work will be placed into 55-gallon steel drums and transported to SANGB upon completion. The work area around the boreholes will be restored as practicable to existing conditions.

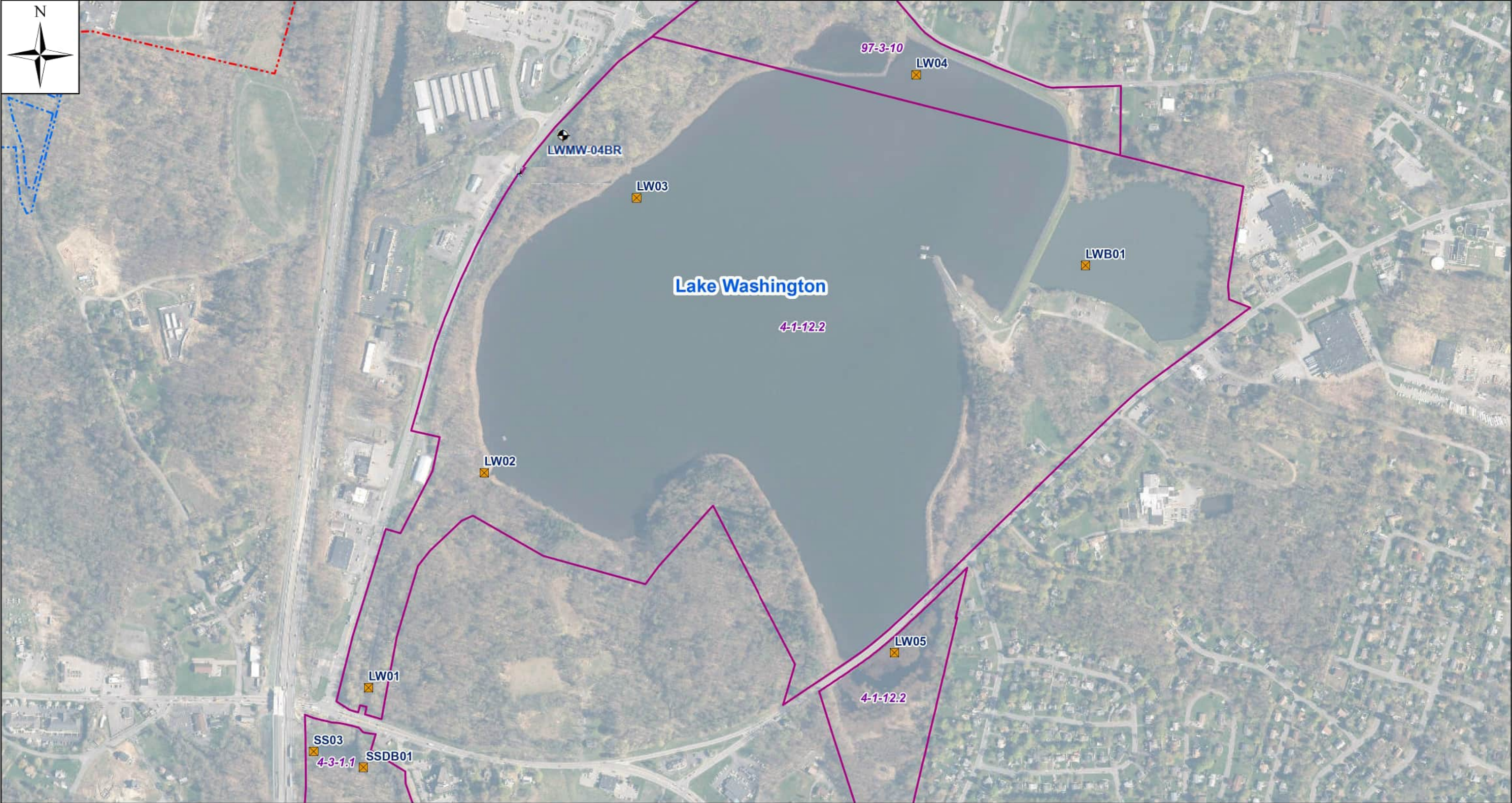
The 11 remaining locations are "non-intrusive" (i.e., no drill rig required) proposed for the collection of surface water and sediment samples. Eight of the proposed locations include surface water and sediment samples within Lake Washington or the Silver Stream diversion basin (LW01, LW02, LW03, LW04, LW05, LWB01, SS03, and SSDB01; **Figure 1**), and three of the locations are within Brown's Pond (SSR01, SSR02 and SSR03; **Figure 2**). AECOM will conduct two sampling rounds at these locations.







Detailed Access Plan:

- The installation and sampling of monitoring well LWMW-04BR, and the collection of surface water/sediment samples at the eleven (11) other locations will occur under multiple and separate mobilizations that will occur throughout the course of the RI.
- AECOM will notify the Commissioner of Public Works, Jason Morris, P.E., at (845) 569-7448 (jmorris@cityofnewburgh-ny.gov) and the City Water Superintendent, Wayne Vradenburgh, at (845) 565-3356 at least 10 days in advance (of each mobilization) of anticipated access to and conduct of field work on City property.

- All work will be conducted generally Monday through Friday during daytime hours (i.e., 7:00 a.m. to 5:00 p.m.).
- Prior to drilling LWMW-04BR, AECOM's drilling subcontractor (AARCO) will file a Dig-Safely NY 811 notice and AECOM's utility locating subcontractor (GPRS) will use geophysical instruments including GPR to clear the borehole location of underground utilities. At the start of work, AARCO will hand-clear the borehole to a depth of 5-feet bgs using a hand auger.
- The exact proposed location of monitoring well LWMW-04BR, and notes regarding plans to access this location, are shown in the attached **Figure 2A**. Notes regarding the means by which AECOM will access the proposed surface water and sediment sampling locations are shown in attached **Figures 1B and 2A**. Note that **Figure 2A** does not describe how AECOM will access Brown's Pond for the collection of surface water sample locations SSR02 or SSR03; these samples will be collected from the shoreline and accessed from the Mt. Airy Road public right-of-way.
- Access to, and installation of, monitoring well LWMW-04BR and surface water/sediment sample locations will not cause disturbance to City of Newburgh infrastructure(s).
- Investigation Derived Waste (IDW) generated during the work, including excess soil from drill cuttings, excess water used and generated during drilling and equipment decontamination, and groundwater purged from the wells, will be placed into DOT-approved steel 55-gallon drums for disposal at a permitted landfill. Representative samples of each IDW waste stream will be collected for laboratory waste characterization analysis as required by the disposal facility. Copies of waste characterization analytical results and disposal manifests for the IDW will be provided to the City.
- Controls that will be implemented during drilling and installation of monitoring well LSMW-04BR, to mitigate impact to stormwater in this MS4 area, will include the containerization in drums of excess drill cuttings and drilling fluids.
- No intrusive activities are planned within I87 Thruway Authority property or ROW so no approval of temporary access permits are required.
- No intrusive activities are being conducted within a dam, so there are no NYSDEC or NYCDEP dam safety permits required for this project.
- AECOM and its subcontractors will not park its vehicles or operate in any way that would interfere with, or cause delays of, day-to-day operations at either the Washington Lake Park or Brown's Pond properties.
- Monitoring well LWMW-04BR will be installed with a locked protective surface casing to prevent unauthorized access to the well. Only AECOM and the SANGB environmental manager will hold the key for this locked well casing.

SAMPLE LOCATION MAPS



CLIENT New York Air National Guard					<div>Proposed RI Samples</div> <div><div> Groundwater - Proposed New Well Localton (Drill Rig)</div><div> Surface Water/Sediment Pair</div></div> <div><div> Orange Co. NY Tax Map Parcel No. 4-1-12.2 Boundary (Approximate)</div><div> NYSDOT Easement Area (Approximate)</div><div> Stewart ANG Base Boundary (Approximate)</div></div> <div><div>02755501,100</div><div>Feet</div></div>	Proposed Sample Locations - Mobilization 1 On City of Newburgh Property	
PROJECT Stewart ANGB PFAS RI						<div><div> 12420 Milestone Center Drive Germantown, MD 20876</div><div>Figure 1</div></div>	
REVISED	<div>12/22/2022</div> <div>1/24/2023</div>	<div>GIS BY</div> <div>WH</div>	<div>CC</div> <div>WH</div>	12/22/2022			
SCALE	1:6,600	CHK BY	PY	12/22/2022			
Base Map: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community		PM	JS	12/22/2022			

AECOM and drilling contractor (AARCO) to access LMMW-04BR location directly from Rt. 300 (Union Ave) shoulder. Drilling rig and 2 support trucks to be parked at this location during duration of well installation. AECOM staff to access the well at later dates to sample the well.

LW03

FIGURE 1A
Site Access Plan
Monitoring Well LWMW-04B Installation

Google Earth

Imagery Date: 9/18/2019 lat 41.492608° lon -74.072827° elev 0 ft eye alt 2083 ft

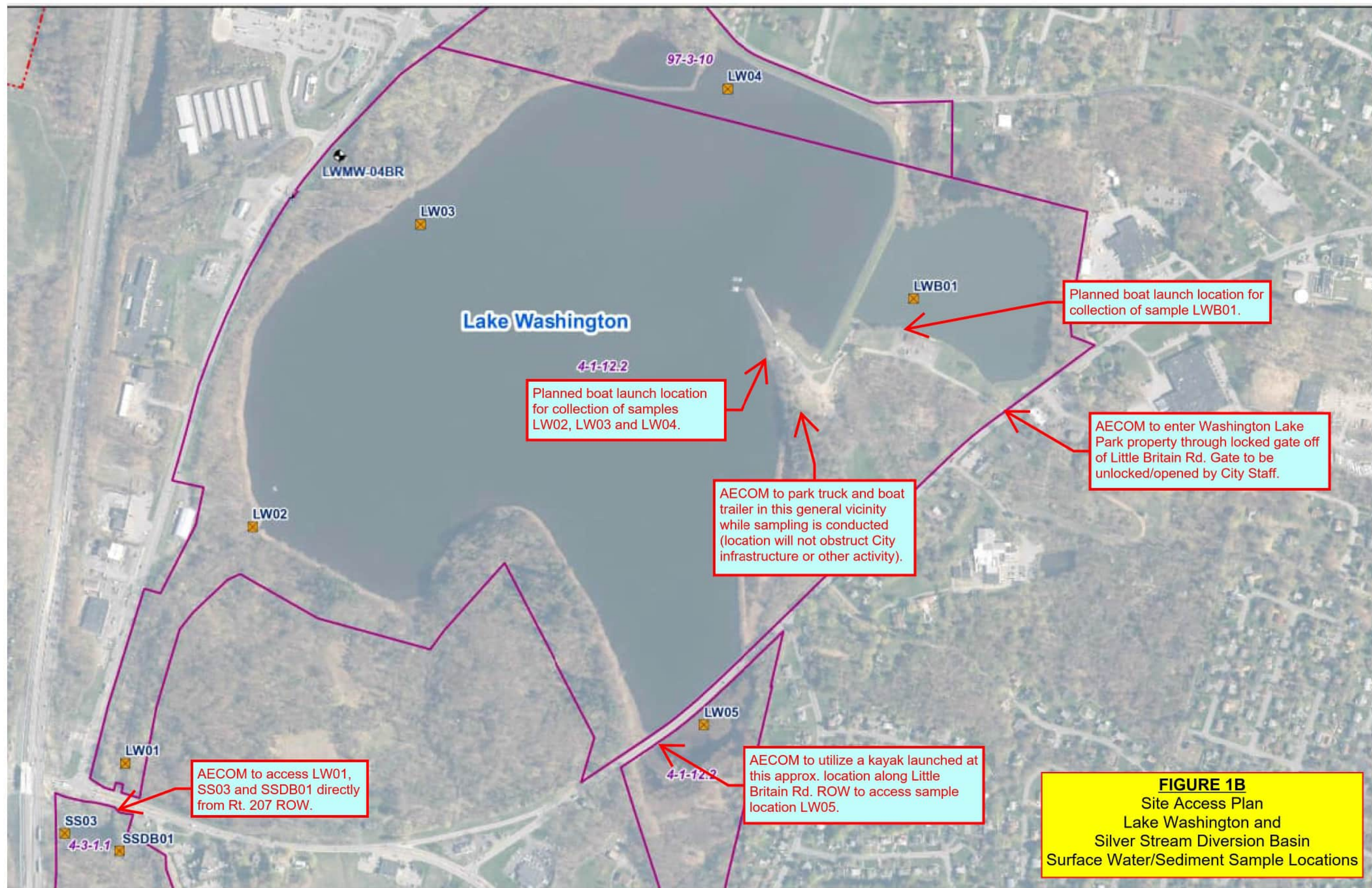
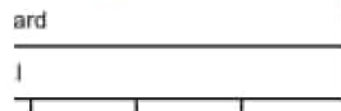


FIGURE 1B
 Site Access Plan
 Lake Washington and
 Silver Stream Diversion Basin
 Surface Water/Sediment Sample Locations








Proposed RI Samples

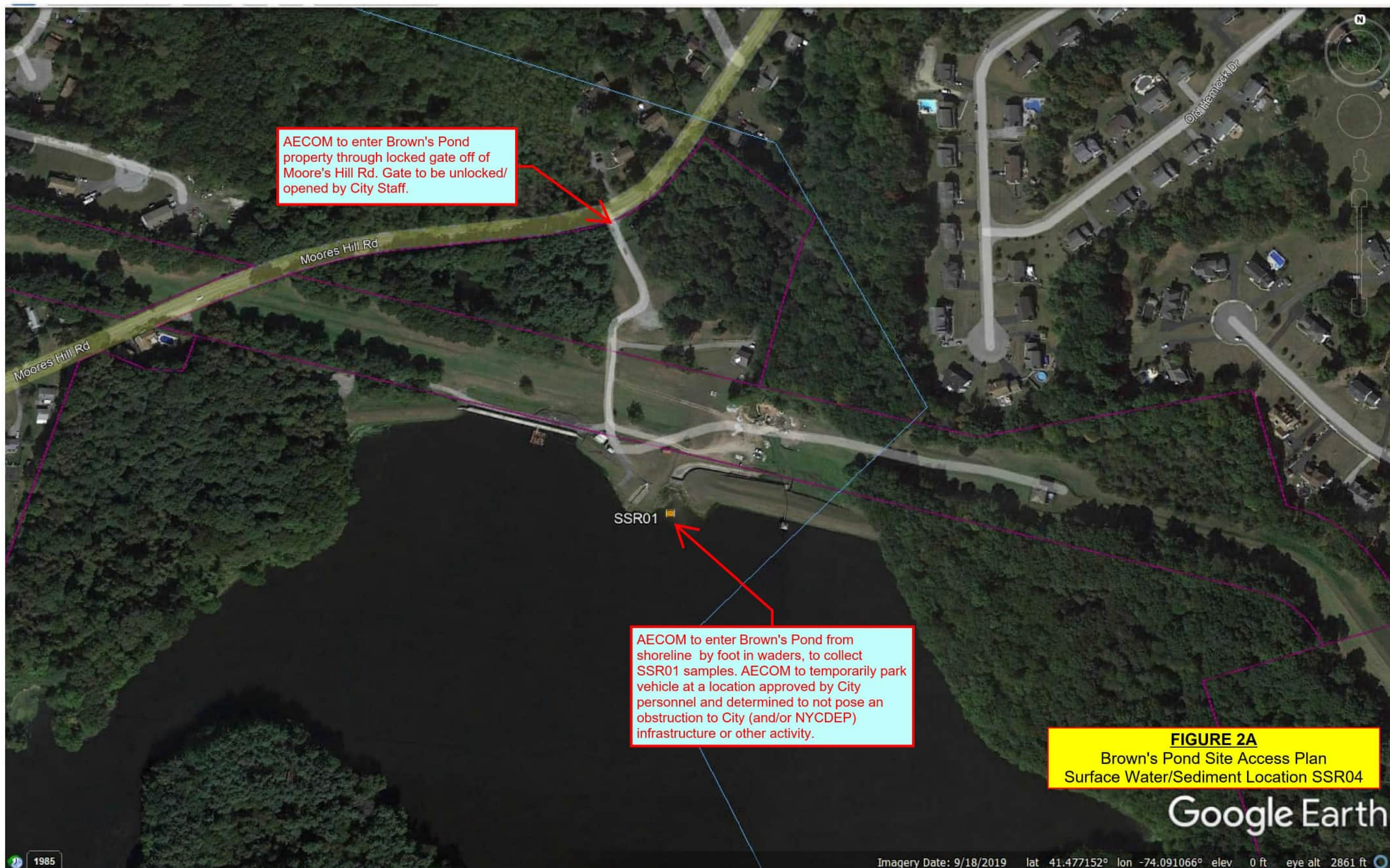
Groundwater - Proposed New Well Location (Drill Rig)

Orange Co. NY Tax Map Parcel No. 4-1-12.2 Boundary (Approximate)

**Proposed Sample Locations - Mobilization 1
 On City of Newburgh Property**



CLIENT New York Air National Guard					<div>Proposed RI Samples</div> <div><div><div> Surface Water/Sediment Pair</div><div> Surface Water</div></div><div><div> Orange Co. NY Tax Map Parcel No. 32-2-53 Boundary (Approximate)</div><div> Stewart ANG Base Boundary (Approximate)</div></div></div> <div>05001,0002,000</div> <div> Feet</div>	Proposed Sample Locations - Mobilization 1 On City of Newburgh Property	
PROJECT Stewart ANGB PFAS RI							
REVISED <div><div>12/22/2022</div><div>1/24/2023</div></div>		GIS BY SC	WH	12/22/2022			
SCALE 1:12,000		CHK BY PY	12/22/2022				
Base Map: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community		PM	JS	12/22/2022			



DRILL RIG SPECIFICATIONS



GEOPROBE® **8140LC ... in a Low Clearance Option**



8140LC RIG OPTIONS

Sonic Head

222919 GV4 High Speed Coring Head Drive

Automatic Drop Hammer

213902 DH104 Automatic Drop Hammer, 140 lb. [No Mounting Kit]
 213903 DH104 Mounting Kit
 216826 Automatic Drop Hammer 340 lb. Expansion Kit
 217067 Automatic Drop Hammer 300 lb. Expansion Kit
 221820 Automatic Drop Hammer 170 lb. Expansion Kit
 210126 Automatic Drop Hammer 65 kg Expansion Kit

Safety Cage

215308 Safety Cage, compatible w/ Rod Handler
 212953 Safety Cage, 8140LC w/ no Rod Handler

Rod Handler

212525 Rod Handling System

Breakout

215023 Rigid Breakout Mount

Control System

207870 LCD Display Heater Kit
 216408 Head Feed Down Control Kit -- 8140LC

Water / Mud Pumps

210991 SPX40 Pump & Mount
 212595 Hose Reel Kit
 209925 Moyno® 3L6 with Table - Operator Side

Air Compressor

218584 Air Line Oiler Kit

Toolboxes

212954 53 in. Toolbox
 220333 48 in. Toolbox
 207214 20 in. Toolbox

Model 8140LC Specifications

TRACK PLATFORM / UNDERCARRIAGE		
Width (in)	80 in	2,032 mm
Length (transport) (in)	186 in	4,724 mm
Length (deployed, lateral fully retracted) (in)	185 in	4,699 mm
Length (deployed, lateral fully retracted, rod handler deployed) (in)	271 in	6,883 mm
Height (normal transport) (in)	110 in	2,896 mm
Height (deployed; winch mast up) (in)	249 in	6,325 mm
Height (min standard working height) (in)	192 in	4,877
Extension (fore and aft) (in)	15 in	381 mm
Lateral (side to side)	±8 degrees	
Drill Mast Dump (in)	25 in	635 mm
Base Unit Weight	19,350 lb	8,777 kg
Head Travel (in)	92 in	2,337 mm
Head Crowd/Pull Force (lbs)	20,000 lb	89 kN
Head Feed Carriage	Comp. slides	
Head Feed Pressure Control (w.o.b)	Optional	
Head Tilt Out		
Head Sideshift	26 in	660 mm
Outrigger Travel	16 in front, 26 in rear	406 mm front, 660 mm back
Engine (diesel)	CAT C4.4 Tier 3 Flex	
Engine Rated Power (hp)	142 hp	106 kW
Fuel Capacity (gal)	40 gal	151 L
Max angle drilling ability off vertical (degrees)	45 deg	
Approach/departure angle in transport (degrees)	24 deg	
Ground Speed (mph)	2.5 mph	4 km/hr
Electronic Controls	V1	
Sonic head	GV4	

HP LIMITED PUMP		
Max pressure (psi)	4,000 psi	275.8 bar
Max flow (gpm)	100 gpm	379 L/min

HYDROSTATIC PUMP		
Max pressure	NA	
Max flow	NA	

Max oscillator speed (Hz)		
Dynamic force @ max oscillator speed (lbf)	33,000 lbf	146.8 kN
Rotation (high torque/low speed) (lbf/rpm)	4,000 ft-lbf @ 80 rpm	5,423 N·m @ 80 rpm
Rotation (low torque/high speed) (lbf/rpm)	2,500 ft-lbf @ 120 rpm	3,390 N·m @ 120 rpm

STANDARD WINCH		
Line pull (lbf)	2,000 lbf	8.9 kN
Line speed (fpm)	110 fpm	33.5 m/min

TRIPLEX WATER PUMP		
Max pressure (psi)	1,000 psi	69 bar
Max flow (gpm)	25 gpm	95 L/min

DOUBLE WRENCH BREAKOUT		
Clamp force (lbf)	0 to 21,000	0 to 93.4 kN
Breakout torque (ft-lbf)	13,500 ft-lbf	18,303 N·m
Casing size compatible (in)	2 to 12 in	51 to 305 mm
Vertical travel (in)	9 in	229 mm

Geoprobe® Tooling Run with 8140LS

- Casing Sizes: 10 in., 8 in., 6 in., 4.5 in.
- SDT60 and SDT45 Weighted Wire Line Sampling
 - SDT60 and SDT45 Sonic Sampling
 - 8 x 10, 6 x 8, 4 x 6 Sonic Sampling
 - DT22 Soil Sampling
 - SP60 Groundwater Sampling
 - DH104 Auto Hammer for SPT

8140_{LC}

Rotary Sonic -- Low Clearance

- Geoprobe® Designed Rod Handling System
- Patented Geoprobe® GV4 Sonic Head
- Adjustable Swing-arm Control Panel
- 12-in. Double Wrench Breakout
- Front Outriggers for Added Stabilization
- Centerline Side-Shift Function
- 5-in. Tooling Compatible
- Rock Coring Compatible
- Auto Drop Hammer Compatible (SPT)
- Rear Blade Stabilizer and Tooling Transport



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 geoprobe.com

GEOPROBE®**7822DT****... Direct Push Equipment**

Geotechnical testing to determine structural damage at a low water crossing.

7822DT MACHINE OPTIONS**Augerhead**

213944	GA4000 2-Speed Augerhead
213945	GA4100 4-Speed Augerhead

Automatic Drop Hammer

213898	DH103 Automatic Drop Hammer, 140 lb.
213899	DH103M Automatic Drop Hammer, 65 kg
213900	DH103 Mounting Kit
216826	Automatic Drop Hammer 340 lb. Expansion Kit
217067	Automatic Drop Hammer 300 lb. Expansion Kit
221820	Automatic Drop Hammer 170 lb. Expansion Kit

Water Swivels

216398	High Speed Water Swivel w/ Float
210873	Float Sub NWJ Pin Asm
210874	Float Sub NWL Pin Asm
213482	Float Sub HWL Pin Asm
212606	Water Swivel 1.625 Hex NWJ Pin Mod
212558	GH60 Series Water Swivel Asm

Mast / Winch

222959	Dual Winch Kit
222623	Winch - 5/16 in. Cable
222624	Winch - 1/4 in. Cable
222625	Winch - 3/16 in. Cable
217508	Fixed Mast Top
216244	Rotating Mast Top
213364	3 ft. Mast Extension

Rotational Safety Cage

213002	Safety Cage for Machines with no Drop Hammer
212896	Safety Cage for Machines with Drop Hammer

Breakout

212785	7 in. Single Clamp Breakout
217024	Coring Upgrade Kit for 7 in. Breakout
213421	Probe Rod Handling Clamp for 3.5 in. - 1.25 in. Probe Rods

Control System

216137	Head Feed Pressure Control Kit
213384	CPT Valve Kit

Water / Mud Pumps

210603	Moyno® 2L4 Pump & Mount Assembly - Helper Side
218263	Moyno® 2L4 Pump & Mount Assembly - Operator Side
209926	Moyno® 3L6 with Table - Helper Side
220556	Moyno® 3L6 with Table - Operator Side
221614	Triplex Pump Kit - Helper Side
219556	SPX40 Pump & Mount Assembly
222823	Control Panel Gauge Mount Kit

Hydraulic Extruder

210107	Hydraulic Extruder Mount w/ Dropdown Work Surface
210729	Hydraulic Extruder Mounts (for Side Rail)
211622	Hydraulic Extruder Mounts (for Rod Rack)
205501	Hydraulic Extruder - 60 in. Stroke
204258	Hydraulic Extruder - 48 in. Stroke
220646	3 in. Shelby Tube Hydraulic Cradle Kit
221929	3 in. Shelby Tube Cradle
215781	Extruder w/ 2L4 Mounting Kit

Rod Racks

212306	Locking Side Mount Rod Rack
209257	Side Mount Rod Rack
221534	Swing Out Rod Rack
211734	Side Rack Mount Blank

Model 7822DT Specifications

UNIT PLATFORM		
Stroke	78 in	1,981 mm
Weight (approximate)	8,000 lb	3,632 kg
Width	64 in	1,626 mm
Length (folded)	133 in	3,378 mm
Height, w/standard mast (folded)	100 in	2,540 mm
Height, w/rotating mast (folded)	86 in	2,184 mm
Height, w/dual mast (folded)	100 in	2,540 mm
Height, no mast (folded)	79 in	2,007 mm
Height, w/mast (unfolded)	187 in	4,750 mm
Height, no mast (unfolded)	118.5 in	3,010 mm
Foot Travel	20.5 in	521 mm
Extension	15.5 in	394 mm
Lateral Movement (side-to-side)	± 7 degrees from centerline	
Oscillation	± 13 degrees from vertical	
Rear Stabilizer Lift	2,000 lb	907 kg
Rear Blade Width	60 in	1,524 mm
Ground Speed	0 - 5 mph	0 - 8 kph
Surface Load	4.6 lb/in ²	0.32 kg/cm ²
Track Width	12 in	305 mm

PERCUSSION HAMMER		
Hammer System	GH63	
Percussion Rate	32 Hz	
Forward Torque	517 ft-lb	701 N-M
Reverse Torque	637 ft-lb	864 N-M
Rotation Speed	0 - 234 rpm	
Power Cell Weight	90 lb	41 kg

HYDRAULIC SYSTEMS		
Down Force	36,000 lb	160 kN
Retraction Force	48,000 lb	214 kN
Hydraulic Pressure (system)	4,000 psi	275 bar
Hydraulic Flow Rate (system)	40 gpm	151 Lpm

ENGINE		
Engine (diesel)	Kubota, 4-cylinder turbo, Tier 4i	
Engine Power (rated)	58 hp	42 Kw
Fuel Capacity (diesel)	17 gal	64 L

AUGERHEAD		
GA4100 Augerhead, 4-Speed		
High Torque	4,000 ft-lb	5,423 N-M
Low Torque	400 ft-lb	542 N-M
High Speed Rotation	0-750 rpm	
Low Speed Rotation	0-75 rpm	
Hex Adapter	1-5/8 in	41 mm
GA4000 Augerhead, 2-Speed		
High Torque	4,000 ft-lb	5,423 N-M
Low Torque	2,000 ft-lb	2,711 N-M
High Speed Rotation	0-150 rpm	
Low Speed Rotation	0-90 rpm	
Hex Adapter	1-5/8 in	41 mm

HYDRAULIC WINCH		
Primary Winch		
Winch Rating	2,500 lbf	10.5 kN
Winch Speed	0-125 fpm	0-38 m/min
Cable Length	75 ft	23 m
Secondary Winch		
Winch Rating	1,100 lbf	4.4 kN
Winch Speed	0-220 fpm	0-55 m/min
Cable Length	250 ft	46 m

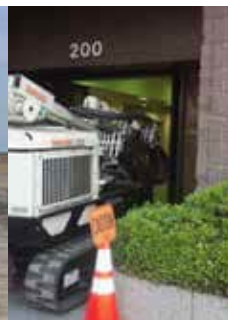
7-in. SINGLE CLAMP BREAKOUT		
Clamp Opening	7 in	178 mm
Clamp Range	1.25 - 6 in	31.75 - 152 mm
Clamp Force	0 - 17,500 lbf	0 - 78 kN
Breakout Torque	6,000 ft-lbf	8,135 N-m
Weight	350 lb	159 kg

Geoprobe® Tooling Run with 7822DT

- 60-in. Direct Push Tooling
- Probe Rod Sizes: 3.75 in., 3.5 in., 3.25 in., 2.25 in., 1.5 in., 1.25 in.
 - Direct Image® Tooling
 - Macro Core® MC5 Soil Sampling (2.25 in. x 5 ft.)
 - DT22 Soil Sampling
 - DT325 / DT35 / DT375 Dual Tube Soil Sampling
 - SP22 Groundwater Sampling
 - SP16 Groundwater Sampling
- 2.0 in., 1.5 in., 1.0 in., 0.75-in. Prepacked Monitoring Well Installations
 - DH103 Auto Hammer for SPT
 - 4.25 in. and 6.0 in. H S A System



7822DT gathers geotechnical information for a new mining site.



Installing 17 wells inside building.



Squeezing between buildings.

7822_{DT}

- Rock Coring Compatible
- Reliable Geoprobe®
GH60 Series Percussion Hammer
- Modular Percussion Power Cell
Technology
- Two- and Four-Speed Augerhead
(optional)
- Dual Winch Option
- Frame Rail Design for Adding
Machine Accessories
- Tethered and Wireless Control
- Integrated Drill Mast Oscillation
- Rear Blade for Stabilization and
Tooling Transport



Geoprobe Systems®
1-785-825-1842
geoprobe.com



Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between two points on the ground

Map Length:	338.14	Feet
Ground Length:	338.14	
Heading:	46.46 degrees	

☐ Mouse Navigation

Save Clear

1/27/23 HUMAN RIGHTS (HRC) INTEREST LIST

Section 51-1 (A) provides for a Commission of 7 members for 3-year term.

2 vacancies with terms to expire 2/13/26

Applicants seeking initial appointment for two vacancies:

John C. Davis
Lesly Garcia
Michele Gruber
Ellen Peterson

01/25/23 BOARD OF ASSESSMENT REVIEW (BAR) INTEREST LIST

Section 7.30 provides for a BAR of no fewer than 3 nor more than 5 members for 5-year term

3 vacancies: 1 term to expire on 9/30/27
2 to complete the unexpired portions of terms expiring on 9/30/24 and 9/30/25

Applicants seeking initial appointment for vacant seats:

Allison Blackman (a/k/a Allison Cappella)
Diane Dixon
James Moed
Andrew Schrijver

LOCAL LAW NO.: _____ - 2023

OF

FEBRUARY 13, 2023

A LOCAL LAW ADDING ARTICLE XIII,
ENTITLED “HOTEL ROOM OCCUPANCY TAX”
TO CHAPTER 270 ENTITLED “TAXATION” OF THE CITY CODE
OF THE CITY OF NEWBURGH

BE IT ENACTED, by the Council of the City of Newburgh, New York that

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law adding Article XIII, entitled ‘Hotel Room Occupancy Tax’ to Chapter 270 entitled ‘Taxation’ of the Code of Ordinances of the City of Newburgh”.

SECTION 2 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to add new Article XIII entitled “Hotel Room Occupancy Tax” to Chapter 270 entitled “Taxation” of the Code of Ordinances of the City of Newburgh to read as follows:

Chapter 270 Taxation

Article XIII. Taxation of Hotel Room Occupancy

§ 270-78. Title

This Article shall be known as the “City of Newburgh Hotel Room Occupancy Tax Law.”

§ 270-79. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

COMPTROLLER – The Comptroller of the City of Newburgh.

DIRECTOR OF FINANCE – The Director of Finance of the City of Newburgh.

EFFECTIVE DATE – The date on which the local law enacting this article is filed with the Secretary of State.

HOSTING COMPANY – An internet, application, technology, and/or similarly based service through which a third party desiring to offer lodging (a “host”) and a third party desiring to book lodging (a “guest”) for one or more nights have the opportunity to communicate, negotiate, and consummate a booking transaction for transient lodging accommodations pursuant to a direct agreement between a host and guest to which the hosting company is not a party but still facilitates and is entitled to receive payments for rent on behalf of or for the host. Merely publishing an advertisement for transient accommodations does not make the publisher a hosting company.

HOTEL or MOTEL – Any facility, or portion thereof, consisting of rentable units and providing lodging of guests on an overnight basis. For the purposes of this article, the term “hotel” shall mean and include any facility providing lodging on an overnight basis including those facilities designated and commonly known as “bed-and-breakfast” and “tourist” facilities, and shall include but not be limited to hotels, motels, tourist homes, motel courts, bed-and-breakfast establishments, short-term rentals, vacation rentals, clubs or similar facilities, whether or not meals are served to guests or residents thereof, and/or a location that is otherwise made available for transient lodging accommodation for rent directly by the owner or through an agent, operator or hosting companies.

OCCUPANCY – The use or possession, or the right to the use or possession, of any room in a hotel.

OCCUPANT – A natural person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement or otherwise.

OPERATOR – Any person operating a hotel or motel in the City of Newburgh, including, but not limited to, an owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel and entitled to be paid the rent. Such term shall also include a hosting company and a room remarketer and such hosting company or room remarketer shall be deemed to operate a hotel, motel or tourist home, or portion thereof, with respect to which such person has the rights of a hosting company or room remarketer.

PERMANENT RESIDENT – Any natural person occupying any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

PERSON – An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing.

RENT – The per diem rental rate or charge received for occupancy of each room, valued in money, whether received in money or otherwise, for the occupancy of a room in a hotel for any period of time.

RETURN – Any return filed or required to be filed as herein provided.

ROOM – Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

ROOM REMARKETER – A person who reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to an occupant for rent in an amount determined by the room remarketer, directly or indirectly, whether pursuant to a written or other agreement. Such person's ability or authority to reserve, arrange for, convey, or furnish occupancy directly or indirectly, and to determine rent therefore, shall be the “rights of a room remarketer”. A room remarketer is not a permanent resident with respect to a room for which such person has the rights of a room remarketer.

§ 270-80. Imposition of tax.

On or after April 1, 2023, there is hereby imposed and there shall be paid a tax of 5% upon the rent for every occupancy of a room or rooms in a hotel or motel in the City of Newburgh, except that the tax shall not be imposed upon a permanent resident, or as otherwise provided herein.

§ 270-81. Transitional provisions.

The tax imposed by this chapter shall be paid upon any occupancy on and after April 1, 2023, although such occupancy is pursuant to a prior contract, lease or other arrangement. However, for any occupancy taking place on or after April 1, 2023, where rent for such occupancy has been pre-paid through a third-party room remarketer or pre-paid in full to the hotel and where such rent is paid prior to the effective date, and for which the hotel has no other direct financial transaction with the occupant, that occupancy shall not be subject to the tax. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed by this chapter to the extent that it covers any period on and after the April 1, 2023.

§ 270-82. Exemptions.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this article.

- A. The State of New York, or any public corporation, including any public corporation created pursuant to agreement or compact with another state or the Dominion of Canada, improvement district, or other political subdivision of the state;
- B. The United States of America, insofar as it is immune from taxation;
- C. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation; provided, however, that nothing in this subsection shall include an organization operated

for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this section;

D. A permanent resident of a hotel or motel.

§ 270-83. Territorial limits.

The tax imposed by this article shall apply only within the territorial limits of the City of Newburgh.

§ 270-84. Registration.

- A. Within 10 days after the effective date of this article, or in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the Director of Finance a certificate of registration in a form prescribed by the Director of Finance.
- B. The Director of Finance shall, within five days after such registration, issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificate of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificate shall be non-assignable and nontransferable and shall be surrendered immediately to the Director of Finance upon the cessation of business at the hotel named or upon its sale or transfer.

§ 270-85. Administration and collection.

- A. The tax imposed by this article shall be administered and collected by the Comptroller, such other City employee as the Director of Finance may designate, by such means and in such manner as other taxes which are now collected and administered or as otherwise provided by this article.
- B. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or state of charges made for said occupancy issued or delivered by the operator as trustee for and on account of the City, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to the nonpayment of the tax by the occupant, as if the tax were owing, including all rights of eviction, dispossession, repossession, and enforcement of any innkeeper's lien that he/she may have in the event of nonpayment of the rent by the occupant; provided, however, that the Comptroller or employees or agents duly designated by the Director of Finance shall be joined as a party in any action or proceeding brought by the operator to collect and enforce collection of the tax.

- C. Hosting companies and/or room remarketers shall collect and remit the applicable tax to the City, as the collector, for booking transactions completed through the respective hosting company or room remarketer for hotels located within the City; and the host or operator of the hotel who is not the collector hosting company or room remarketer shall not be responsible for collecting and remitting the tax to the City on any transaction for which it has received confirmation that the hosting company or room remarketer has collected the aforementioned tax and remitted it back to the City; otherwise, operators or hosts of hotels and motels shall be liable for the collection and remittance of the tax. For the sole purposes of tax registration, collection, and remittance under this article, a hosting company or room remarketer shall assume and be limited to the duties of hotel/motel operator for only those booking transactions completed through the respective hosting company or room remarketer.
1. If the hosting company or room remarketer fails to separately state the tax on the rent on a sales slip, invoice, receipt or other statement of the transaction between the hosting company or room remarketer and the occupant or fails to maintain records of all prices of all components of a transaction covered by this Article, the entire consideration shall be treated as rent subject to tax under the Article. Nothing herein shall be construed to subject to tax or exempt from tax any service or property or amusement charge or other items otherwise subject to tax or exempt from tax under any other New York State law. A hosting company's or room remarketer's records of the consideration payable for all components of a transaction covered by this Article are records required to be maintained for purposes of §270-86 of this Article.
 2. In regard to the collection of tax on occupancies by hosting companies and room remarketers, the requirements of this Article shall be deemed satisfied if the hosting company or room remarketer provides the customer and/or occupant a sales slip, invoice, receipt or other statement of the price prior to the customer and/or occupant's completion of occupancy, on which the amount of tax due under this Article is stated. The hosting company or room remarketer must keep a copy of the sales, slip, invoice, receipt or statement as require by §270-86 of this Article, or must keep electronic records that accurately reflect the information on the sales slip, invoice, receipt or statement provided to the customer and/or occupant.
- D. The Comptroller may, whenever he/she deems it necessary for the proper enforcement of this article, provide by regulation that the occupant shall file returns and pay directly to the Comptroller the tax imposed at such times as returns are required to be filed and payment made over by the operator.
- E. Except at to and where the occupant has paid rent in full prior to the effective date, the tax imposed by this article shall be paid upon any occupancy on and after April 1, 2023, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the effective date of this article. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Comptroller may, by regulation, provide for credit and/or

refund of the amount of such tax upon the application therefor as provided in § 270-91 of this article.

- F. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that rent for occupancy is not taxable hereunder shall be upon the operator or occupant. Where an occupant claims exemption from the tax under the provisions of Section 270-82 of this article, the rent shall be deemed taxable hereunder unless:
1. The operator shall receive from the occupant claiming such exemption a copy of a New York State sales tax exemption certificate; or
 2. The operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that the occupancy is paid or to be paid by such exempt corporation or association and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association.

§ 270-86. Records.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Comptroller may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the Comptroller or the Comptroller's duly authorized agent or employee, and shall be preserved for a period of three years, except that the Comptroller may consent to their destruction within that period or may require that they be kept together.

§ 270-87. Returns.

- A. Every operator shall file with the Comptroller a return of occupancy and of rents and of the taxes payable thereon for the three-month periods ending the last day of March, June, September and December on and after the effective date of this article. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The Comptroller may permit or require returns to be made for other periods upon such dates as it may specify. If the Comptroller deems it necessary in order to ensure the payment of the tax imposed by this article, it may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as it may specify.
- B. The forms of return shall be prescribed by the Comptroller and shall contain such information as it may deem necessary for the proper administration of this article. The Comptroller may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.
- C. If a return required by this article is not filed, or if a return is incorrectly filed or is insufficient on its face, the Comptroller shall take such steps as he/she deems necessary to enforce the filing of such return or of a corrected return.

§ 270-88. Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the Comptroller the taxes imposed by this article upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this article; even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the Comptroller on the date prescribed herein for the filing of the return which is filed correctly shows the amount of rents and taxes due thereon. Where the Comptroller in his/her discretion deems it necessary to protect revenues to be obtained under this article, he/she may require any operator required to collect the tax imposed by this article to file with him/her a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the Comptroller may find to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Comptroller determines that an operator is to file such bonds, he/she shall give notice to such operator to that effect, specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless, within such five days, the operator shall request, in writing, a hearing before the Comptroller at which the necessity, propriety and amount of the bond shall be determined by the Comptroller. Such determination shall be final and shall be complied with within 15 days after the giving of notices thereof. In lieu of such bond, securities approved by the Comptroller, or cash in such amount as he/she may prescribe, may be deposited with him/her, which shall be kept in the custody of the Comptroller, who may at any time, without notice of the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him/her at public or private sale without notice to the depositor thereof.

§ 270-89. Determination of tax.

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 30 days after the giving of the notice of such final determination; provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

- A. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
- B. At the option of the petitioner, such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination, plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

§ 270-90. Disposition of revenues.

All revenue resulting from the imposition of the tax under this article shall be paid into the treasury of the City and shall be credited to and deposited in the general fund of the City. Such revenues may be used for any lawful purpose.

§ 270-91. Refunds.

- A. In the manner provided in this section, the Comptroller shall refund or credit, without interest, any tax penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Comptroller for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the Comptroller, he/she shall state the reason therefor in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Comptroller, provided that the application is made within one year of the payment to the operator, but no actual refund of moneys shall be made to such operator until it shall first establish to the satisfaction of the Comptroller, under such regulations as the Comptroller may prescribe, that it has repaid to the occupant, or other person who has actually paid the tax, the amount for which the application for refund is made. The Comptroller may, in lieu of any refund required to be made, allow credit therefor on payments due or to become due from the applicant.
- B. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Comptroller, and such Comptroller shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within 30 days after the giving of the notice of such denial that a final determination of tax due was not previously made and that an undertaking is filed with the Comptroller in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.
- C. A person shall not be entitled to a revision, refund or credit of a tax, interest or penalty which had been determined to be due pursuant to the provisions of §270-94 of this article where it has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail itself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the Comptroller made pursuant to § 270-94 of this article unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the Comptroller after a hearing or on his/her own motion or in a proceeding under Article 78 of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

§ 270-92. Reserves.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to him/her on his/her application for a refund, the Director of Finance shall have the option of crediting future tax payment to meet the cost of any settlement or judgments or, at his/her option, may, in the first instance, set up appropriate reserves to meet any decision adverse to the City.

§ 270-93. Remedies exclusive.

The remedies provided by §§ 270-89 and 270-91 of this article shall be the exclusive remedies available to any person for the review of tax liability imposed by this article, and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Comptroller prior to the institution of such suit and posts a bond for costs as provided in §270-88 of this article.

§ 270-94. Penalties for offenses; interest.

- A. Any person failing to file a return or to pay or pay over any tax to the Comptroller within in the time required by this article shall be subject to a penalty of 5% of the amount of the tax due, plus interest at the rate of 1% of such tax, for each month of delay, except the first month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this article. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this article.
- B. Any operator or occupant and any officer of an operator or occupant failing to file a return required by this article, or filing or causing to be filed or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this article which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to § 270-88 of this article, or failing to file a registration certificate and such data in connection therewith as the Comptroller may by regulation or otherwise require, or failing to display or surrender the certificate of authority as required by this article or assigning or transferring such certificate of authority; and any operator or any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator or willfully failing or refusing to collect such tax from the occupant; any operator or any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this article, and any such person or operator failing to keep records

required by this article, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishable by a fine of up to \$1,000.00, imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this article and penalties and interest thereon and subject to the fines and imprisonment herein authorized.

- C. The certificate of the Comptroller to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed or that information has not been supplied pursuant to the provisions of this article shall be presumptive evidence thereof.

§ 270-95. Returns to be secret.

It shall be unlawful, except in accordance with proper judicial order or as otherwise provided to the fullest extent permitted by law, for the Comptroller or Comptroller's designee to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Comptroller in an action or proceeding under the provisions of this article or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or the taxpayer's duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics so classified to prevent the identification of particular returns and items thereof or the inspection by the Corporation Counsel or other legal representatives of the City or by the District Attorney of any county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter, until the Comptroller permits them to be destroyed.

§ 270-96. Notices; limitations of time.

- A. Any notice authorized or required under the provisions of this article may be given to the person to whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him/her pursuant to the provisions of this article or in any application made by him/her or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence five days after the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules, or any other law relative to limitations of time for the enforcement of a civil remedy, shall not apply to any proceeding or action taken by the City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false, fraudulent

return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed at any time.

- C. Where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented, in writing, that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents, in writing, made before the expiration of the extended period.

§ 270-97. Proceedings to recover tax.

Whenever any operator, any officer of a corporate operator, any occupant, or other person fails to collect and pay over any tax and/or penalty or interest as imposed by this article, the Corporation Counsel shall, at the request of the City Council, bring or cause to be brought an action to enforce the payment of the same on behalf of the City in any court of the State of New York or of any other state or of the United States. If, however, the Comptroller believes that any such operator, officer, occupant, or other person is about to cease business, leave the state, or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, such tax or penalty may be declared to be immediately due and payable, and the Comptroller may issue a warrant immediately.

§ 270-98. General powers of the Director of Finance.

In addition to the powers granted in this article, the Director of Finance is hereby authorized and empowered to:

- A. Extend, for cause shown, the time of filing any return for a period not exceeding 30 days; and, for cause shown, to remit penalties, but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
- B. Request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and afford information to such Tax Commission or Treasury Department relative to any person, notwithstanding any other provision of this article;
- C. Delegate functions hereunder to the Comptroller;
- D. Prescribe methods for confirming the rents for occupancy and confirm the accuracy of information on the taxable and non-taxable rents;
- E. Require any operator within the City, if it is determined that adequate records are not being maintained, to keep detailed records of the nature and type of hotel maintained; nature and type of service rendered; number of rooms available and occupied; daily leases, occupancy contracts or arrangements; rents received, charged, and accrued; the names and addresses of the occupants; whether or not any occupancy is claimed to be subject to the tax imposed by this article; and to furnish such information at the request of the Director of Finance;
- F. Impose as a penalty upon any operator within the City any necessary cost of auditing services generated by discrepancies discovered, upon audit, in the records of the operator; and

- G. Make, adopt, and amend such other rules and regulations appropriate to the carrying out of this article and the purposes thereof as may be approved by the City Council of the City of Newburgh.

§ 270-99. Administration of oaths; compelling testimony.

- A. The Director of Finance, or employees or agent(s) duly designated and authorized, shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The Director of Finance shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of the duties hereunder in the enforcement of this article and to examine them in relation thereto. The Director of Finance shall also have the power to issue commissions for the examination of witnesses who are out of the state, unable to attend, or who are excused from attendance.
- B. A Supreme Court Justice, either in court or in chambers, shall have the power to summarily enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and documents called for by the subpoena of the Director of Finance under this article.
- C. Any subpoenaed person who refuses to testify or produce books or records, or who testifies falsely in any material matter pending before the Director of Finance under this article, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000.00 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The officers who serve the summons or subpoena of the Director of Finance and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except herein provided otherwise. Such officers shall be the City of Newburgh Police, or any officers or employees of the City designated to serve such process.

§ 270-100. Accounting and reporting of tax.

From time to time, but no less than quarterly each year, the Comptroller shall provide a report to the City Council, for its audit and review, of all actions taken pursuant to this article. The report shall contain a list of all certificates of registration filed or issued to any operator in the City of Newburgh and for each operator shall state the returns filed by all operators; the returns that have not been timely filed by any operator; the amount of tax determined to be payable by any operator; the tax paid and collected from any operator; any tax that may be due and owing or past due from any operator, and any enforcement action taken to collect any tax due under this article.

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 on April 1, 2023 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.: _____ - 2023

OF

FEBRUARY 13, 2023

**A RESOLUTION SCHEDULING A PUBLIC HEARING FOR FEBRUARY 27, 2023
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
ARTICLE V “EXEMPTION FOR FIRST-TIME HOMEBUYERS OF NEWLY
CONSTRUCTED HOMES” OF CHAPTER 270 “TAXATION”
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

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 Article V, entitled ‘Exemption for First-Time Homebuyers of Newly Constructed Homes’ of Chapter 270 entitled ‘Taxation’ of the Code of Ordinances of the City of Newburgh”; 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 27th day of February, 2023 in the Council Chambers, Third Floor, City Hall, 83 Broadway, Newburgh, New York.

LOCAL LAW NO.: _____ - 2023

OF

_____, 2023

**A LOCAL LAW AMENDING ARTICLE V “EXEMPTION FOR FIRST-TIME
HOMEBUYERS OF NEWLY CONSTRUCTED HOMES” OF CHAPTER 270 “TAXATION”
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law amending Article V ‘Exemption for First-Time Homebuyers of Newly Constructed Homes’ of Chapter 270 ‘Taxation’, of the Code of Ordinances of the City of Newburgh”.

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to amend the Code of the City of Newburgh to afford first-time homebuyers of newly constructed homes a partial exemption from real property taxes levied by the City as permitted under New York State Real Property Tax Law Section 457 as same has been amended by the New York State Legislature and to lengthen the exemption term as allowed by law.

SECTION 3 - AMENDMENT

Article V entitled “Exemption for First-Time Homebuyers of Newly Constructed Homes” of Chapter 270 entitled “Taxation” of the Code of Ordinances of the City of Newburgh is hereby amended to read as follows:

§ 270-26. Purpose.

The purpose of this article is to provide partial exemption from taxation and special ad valorem levies for owner-occupied, primary residential property that is newly constructed or reconstructed under certain conditions set forth below.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

§ 270-27. Definitions.

As used in this article, the following terms, phrases, words and their derivations shall have the following meanings:

FIRST-TIME HOMEBUYER ~ An individual or individuals who have not owned, and are not married to a person who has owned, a primary residential property during the three-year period prior to their purchase of the primary residential property for which this exemption is sought, and do not own a vacation or investment home.

INCOME ~ The adjusted gross income for federal income tax purposes as reported on the applicant's latest available federal or state income tax return, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account or an individual retirement annuity; provided that if no such return was filed within the one-year period preceding taxable status date, "income" means the adjusted gross income that would have been so reported if such a return had been filed.

LATEST AVAILABLE RETURN ~ The federal or state income tax return for the tax year immediately preceding the date of making application for the exemption; provided however, that if the tax return for such year has not been filed, then the income tax return for the tax year two years preceding the date of making application will be considered the latest available return.

NEWLY CONSTRUCTED ~ An improvement to real property which was constructed as a one- or two-family house, townhouse or condominium, which has never been occupied and was constructed after November 28, 2001, but on or before December 31, 2028 ~~2022~~. "Newly constructed" shall also mean that portion of a one- or two-family house, townhouse or condominium that is altered, improved or reconstructed.

PRIMARY RESIDENTIAL PROPERTY ~ Any one- or two-family house, townhouse, or condominium located in this state which is owner-occupied by such homeowner.

§ 270-28. Ownership eligibility requirements.

The following ownership eligibility requirements must be met in order to qualify for the first-time homebuyer exemption:

A. The property must be owned by a first-time homebuyer or homebuyers and used as their primary residence. If title to the property is transferred to someone other than the heirs or distributees of the homebuyer(s) during the term of the exemption, the exemption will be discontinued.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

B. The combined income of all the owners, and of any of the owners' spouses residing on the property, for the income tax year immediately preceding the date of application for exemption may not exceed the income limits defined by the state of New York mortgage agency low interest rate mortgage program in the non-target, one and two person household category for the county where such property is located and in effect on the contract date for the purchase and sale of such property.

§ 270-29. Property use requirements.

The following property use requirements must be met in order to qualify for the first-time homebuyer exemption:

A. The property must be a newly constructed or reconstructed one- or two-family house, townhouse or condominium that is owner-occupied.

B. Other than for reconstruction projects, the home must never have been occupied previously.

C. No portion of an otherwise eligible single-family home may be leased for any purpose, or used primarily for nonresidential purposes, during the time the exemption applies. In either case, the exemption shall be discontinued.

§ 270-30. Sales price and exemption limits.

The maximum sales price of an eligible newly constructed residence must not exceed the purchase price limits defined by the state of New York mortgage agency low interest rate mortgage program in the non-target, one family new category for the county where such property is located and in effect on the contract date for the purchase and sale of such property to qualify for exemption. Newly constructed residences purchased by first-time homebuyers at a sales price greater than the maximum eligible sales price shall qualify for exemption for that portion of the sales price equal to the maximum eligible sales price; provided, however, that any newly constructed residence purchased at a sales price greater than fifteen percent above the maximum eligible sales price shall not be allowed any exemption.

§ 270-31. Reconstruction exemption.

The exemption for reconstructed, altered or improved residential property is limited solely to the increase in assessed value attributable to such reconstruction, alteration or improvement, provided that the total market value of the property after the project completion does not exceed fifteen percent above the maximum eligible sales price. To be eligible for this exemption on existing homes, the first-time homebuyer must have provided for such reconstruction, alteration or improvement as part of the sale contract of the home or entered into a written contract for such work within 90 days of the purchase of the property. The value of such reconstruction, alteration

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Underlining denotes additions

or improvement must be greater than \$3,000.00 and cannot include the value of ordinary maintenance and repairs.

§ 270-32. Required construction start date and other time requirements.

Property must be constructed or reconstructed by a first-time homebuyer on or before December 31, ~~2028~~ 2022, unless such purchase is made pursuant to a binding written contract entered into on or before such date, and after November 28, 2001. First-time homebuyers who first received this exemption prior to December 31, ~~2028~~ 2022, will continue to receive the exemption according to the established schedule below. First-time homebuyers of existing homes seeking the exemption on the basis of reconstruction, alteration or improvement of the property must either have provided for such work in their purchase contract or enter into a written contract for such work within 90 days after the purchase of the home.

§ 270-33. Calculation of exemption.

A. City of Newburgh taxes and special ad valorem levies. The following is the exemption schedule:

Years of Exemption	Percentage of Assessed Valuation Exempt From Taxation
1	50%
2	40%
3	30%
4	20%
5	10%
6 or more	0%

B. City of Newburgh special assessments. No exemption allowed.

§ 270-34. Applications for exemption.

Such exemption shall be granted only upon application by the owner on a form prescribed by the State Board of the Office of Real Property Services to the City of Newburgh Assessor, submitted on or before the appropriate taxable status date and approval of such application by the Assessor.

SECTION 4 - 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

~~Strikethrough~~ denotes deletions

Underlining denotes additions

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 5 - 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 6 - 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 7 - EFFECTIVE DATE

This Local Law and shall be effective 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.: _____ - 2023

OF

FEBRUARY 13, 2023

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR FEBRUARY 27, 2023
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
ARTICLE XII, ENTITLED “DEPARTMENT OF FIRE”
OF THE CITY CHARTER OF THE CITY OF NEWBURGH**

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 Article XII, entitled ‘Department of Fire’ of the City Charter of the City of Newburgh”; 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 27th day of February, 2023 in the Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York.

LOCAL LAW NO.: _____ - 2023

OF

_____, 2023

A LOCAL LAW AMENDING ARTICLE XII ENTITLED “DEPARTMENT OF FIRE”
OF THE CITY CHARTER OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Amending Article XII entitled ‘Department of Fire’ of the City Charter of the City of Newburgh”.

SECTION 2 - AMENDMENT

Article XII of the City Charter is hereby amended as follows:

Article XII. Department of Fire

§ C12.00. Department established; ~~head;~~ bureaus.

There shall be a Department of Fire, which shall consist of a Fire Commissioner, Fire Chief, and such other ranks and members within the Department as the City Manager may hereafter create with the approval of the Council and consistent with the New York State Civil Service Law, ~~headed by the Fire Chief~~ and including the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance.

§ C12.01. Fire Commissioner ~~Chief.~~

The Fire Commissioner shall be appointed by the City Manager and ~~Chief~~ as the head of the Department of Fire shall have supervision and control of the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance, the officers, members and employees applicable laws, ordinances, regulations, policies and procedures, and. ~~He shall also have~~ such other functions and duties as may be assigned by the City Manager.

§ C12.02. Fire Chief.

The Fire Chief shall be appointed by the City Manager and shall have administrative responsibility for fire fighting and fire prevention activities including code enforcement as directed by the City

Manager and the Fire Commissioner consistent with applicable laws, ordinances, regulations, policies and procedures.

§ C12.0302. Bureau of Code Compliance.

There shall be a Bureau of Code Compliance headed by the Code Compliance Supervisor, who shall be under the direct supervision of the Fire Commissioner ~~Chief~~. The offices of the Building Inspector and the Plumbing Inspector shall be within the Bureau of Code Compliance.

§ C12.09. Compensation of Fire Department personnel.

- A. The Council shall, by ordinance, determine and regulate the compensation of all personnel of the Fire Department, except as otherwise provided by law.
- B. Any member of the Fire Department shall, while serving in an acting capacity in a grade or position above that regularly held by such a member, be entitled to receive the same minimum compensation as that provided for the position or grade in which he is so acting.

§ C12.10. Organization of Police and Fire Departments; rules of operation of Police, Fire and Health Departments.

The Police and Fire Departments shall, as to their membership and component parts, remain as now constituted until the same shall be changed by action of the Council. The Council has power at all times by ordinance to determine the number of officers and members of each of said Departments and the classes and grades into which they shall be divided and may pass ordinances not inconsistent with law for the government of Police, Fire and Health Departments and regulating the powers and duties of their officers and members. Members of the Fire Department shall be appointed by the City Manager consistent with New York State Civil Service Law ~~continue to be elected by the several companies composing the Fire Department of said City in the manner provided by the bylaws and rules of said companies and in existing ordinances of the City.~~

§ C12.13. Issuance of appearance tickets.

Members of the Fire Department are public servants and as such shall have the power to enforce all the laws, ordinances and regulations of the City and the state pertaining to fire prevention and fire safety, including those sections of the Vehicle and Traffic Law regulating parking in the vicinity of a fire station, parking in the vicinity of a fire hydrant, following or parking in the vicinity of emergency fire vehicles, crossing of a fire hose and parking in a designated fire lane. For this purpose, they are authorized to issue and serve legal process as defined by the laws of the state for violations of the aforesaid laws, ordinances and regulations, including the authority to issue and serve appearance tickets as defined by the Criminal Procedure Law. The City Manager shall designate those members of the Fire Department who shall exercise this function and shall have the authority to make regulations governing its exercise.

~~§ C12.13. Exemption of police and firemen from military and jury duty or arrest.~~

~~No member of the Police or Fire Department shall be liable to military or jury duty or to arrest on criminal or civil process while on duty.~~

§ C12.40. Powers and duties of Building Inspector.

The Building Inspector shall pass upon all plans and specifications for buildings or other structures to be erected within the City. He shall not approve any such plans or specifications unless they shall comply in all respects with the ordinances of the City relating thereto. He shall generally inspect all buildings and other structures erected in the City during the course of their construction. He shall have power summarily to stop the construction of any building or structure which is not being constructed in accordance with the ordinances of the City relating thereto and shall have the power summarily to cause the removal of any building or other structure or portion thereof which, because of a violation of the ordinances of the City relating thereto, he deems unsafe.

§ C12.50. Powers and duties of Plumbing Inspector.

The Plumbing Inspector, when required, shall assist the Building Inspector in the examination and approval of plans and specifications filed with him in relation to the plumbing provided for in such plans and specifications. He shall inspect all plumbing in new buildings before the same is used, and the same shall not be used until his permit therefor is given. He may require the installation of new plumbing in any building or structure within the City, the plumbing of which does not conform to the ordinances of the City relating thereto. He shall have all the powers in relation to plumbing in buildings and structures within the City herein granted to the Building Inspector in relation to buildings and structures therein.

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 shall be effective on 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 XII
Department of Fire

§ C12.00. Department established; head; bureaus. [Added 9-14-1987 by L.L. No. 4-1987]

There shall be a Department of Fire headed by the Fire Chief and including the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance.

§ C12.01. Fire Chief. [Added 9-14-1987 by L.L. No. 4-1987]

The Fire Chief as the head of the Department of Fire shall have supervision and control of the Bureau of Fire, the Bureau of Fire Prevention and the Bureau of Code Compliance. He shall also have such other functions and duties as may be assigned by the City Manager.

§ C12.02. Bureau of Code Compliance. [Added 10-13-1981 by L.L. No. 7-1981]

There shall be a Bureau of Code Compliance headed by the Code Compliance Supervisor, who shall be under the direct supervision of the Fire Chief. The offices of the Building Inspector and the Plumbing Inspector shall be within the Bureau of Code Compliance.¹

§ C12.09. Compensation of Fire Department personnel. [Added 11-5-1963; amended 9-14-1987 by L.L. No. 4-1987]

- A. The Council shall, by ordinance, determine and regulate the compensation of all personnel of the Fire Department, except as otherwise provided by law.
- B. Any member of the Fire Department shall, while serving in an acting capacity in a grade or position above that regularly held by such a member, be entitled to receive the same minimum compensation as that provided for the position or grade in which he is so acting.

§ C12.10. Organization of Police and Fire Departments; rules for operation of Police, Fire and Health Departments.

The Police and Fire Departments shall, as to their membership and component parts, remain as now constituted until the same shall be changed by action of the Council. The Council has power at all times by ordinance to determine the number of officers and members of each of said Departments and the classes and grades into which they shall be divided and may pass ordinances not inconsistent with law for the government of Police, Fire and Health Departments and regulating the powers and duties of their officers and members. Members of the Fire Department shall continue to be elected by the several companies composing the Fire Department of said City in the manner provided by the

1. Editor's Note: Former Secs. 12.05 and 12.08, as amended, which immediately followed this section and dealt with the authority of the Police Commissioner and subordinate officers and minimum salaries in the Police Department, were repealed 2-24-1975 by L.L. No. 2-1975.

bylaws and rules of said companies and in existing ordinances of the City.²

§ C12.13. Issuance of appearance tickets. [Added 3-28-1988 by L.L. No. 3-1988]

Members of the Fire Department are public servants and as such shall have the power to enforce all the laws, ordinances and regulations of the City and the state pertaining to fire prevention and fire safety, including those sections of the Vehicle and Traffic Law regulating parking in the vicinity of a fire station, parking in the vicinity of a fire hydrant, following or parking in the vicinity of emergency fire vehicles, crossing of a fire hose and parking in a designated fire lane. For this purpose, they are authorized to issue and serve legal process as defined by the laws of the state for violations of the aforesaid laws, ordinances and regulations, including the authority to issue and serve appearance tickets as defined by the Criminal Procedure Law. The City Manager shall designate those members of the Fire Department who shall exercise this function and shall have the authority to make regulations governing its exercise.

§ C12.14. Exemption of police and firemen from military and jury duty or arrest.

No member of the Police or Fire Department shall be liable to military or jury duty or to arrest on criminal or civil process while on duty.³

§ C12.40. Powers and duties of Building Inspector. [Amended 9-14-1987 by L.L. No. 4-1987]

The Building Inspector shall pass upon all plans and specifications for buildings or other structures to be erected within the City. He shall not approve any such plans or specifications unless they shall comply in all respects with the ordinances of the City relating thereto. He shall generally inspect all buildings and other structures erected in the City during the course of their construction. He shall have power summarily to stop the construction of any building or structure which is not being constructed in accordance with the ordinances of the City relating thereto and shall have the power summarily to cause the removal of any building or other structure or portion thereof which, because of a violation of the ordinances of the City relating thereto, he deems unsafe.

§ C12.50. Powers and duties of Plumbing Inspector.

The Plumbing Inspector, when required, shall assist the Building Inspector in the examination and approval of plans and specifications filed with him in relation to the plumbing provided for in such plans and specifications. He shall inspect all plumbing in new buildings before the same is used, and the same shall not be used until his permit therefor is given. He may require the installation of new plumbing in any building or

2. Editor's Note: Former Sec. 12.12, which immediately followed this section, was renumbered as Sec. 11.17 by L.L. No. 3-1975, adopted 2-24-1975. Former Sec. 12.13, which dealt with the City Manager's authority to delegate his power of appointment and was derived from L.L. No. 3-1972, adopted 12-11-1972, was repealed 2-24-1975 by L.L. No. 2-1975.

3. Editor's Note: Former Secs. 12.16, 12.18 and 12.20, which immediately followed this section, were renumbered as Secs. 11.14, 11.15 and 11.16, respectively, by L.L. No. 3-1975, adopted 2-24-1975. Former Sec. 12.31, which dealt with the powers, functions and duties of the Health Officer, was repealed 9-14-1987 by L.L. No. 4-1987.

structure within the City, the plumbing of which does not conform to the ordinances of the City relating thereto. He shall have all the powers in relation to plumbing in buildings and structures within the City herein granted to the Building Inspector in relation to buildings and structures therein.⁴

4. Editor's Note: Former Sec. 12.60, which immediately followed this section and was added 9-22-1980 by L.L. No. 6-1980 and dealt with the power of the City Manager to authorize the issuance of appearance tickets, was renumbered as § C3-94B by L.L. No. 4-1987, adopted 9-14-1987. Former Sec. 12.80, which dealt with the duties, functions and powers of the Sealer of Weights and Measures, was deleted 3-25-1974 by L.L. No. 2-1974.

RESOLUTION NO.: _____ - 2023

OF

FEBRUARY 13, 2023

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR FEBRUARY 27, 2023
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
CHAPTER 42, ENTITLED “FIRE DEPARTMENT”
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

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 42, entitled ‘Fire Department’ of the Code of Ordinances of the City of Newburgh”; 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 27th day of February, 2023 in the Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York.

LOCAL LAW NO.: _____ - 2023

OF

_____, 2023

**A LOCAL LAW AMENDING CHAPTER 42 ENTITLED “FIRE DEPARTMENT” OF
THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law amending Chapter 42 entitled ‘Fire Department’ of the Code of Ordinances of the City of Newburgh”.

SECTION 2 - AMENDMENT

Article I of Chapter 42 of the Code of Ordinances of the City of Newburgh entitled “Composition and Organization” hereby is amended to read as follows:

Chapter 42. Fire Department

Article I. Composition and Organization

§ 42-1. Personnel.

~~The personnel of the Fire Department shall be composed and organized as provided in Article XII of the Charter of the City of Newburgh consist of a Chief of the Fire Department, two Deputy Chiefs and such Assistant Chiefs, Captains, Lieutenants and firemen as the City Manager shall deem advisable, appointed by the City Manager in accordance with the provisions of the Civil Service Law of the State, and such call men as the City Manager may from time to time appoint.~~

§ 42-2. Reserved Duties of Chief.

~~It shall be the duty of the Chief of the Fire Department, under the general administrative supervision of the City Manager, to:~~

- ~~A. Plan and direct all fire fighting and fire prevention activities.~~
- ~~B. Be responsible for the instruction and training of recruits.~~
- ~~C. Maintain high standards of performance throughout the Department.~~
- ~~D. Keep such records, make such examinations and reports and perform such related duties as may be required by the City Manager.~~

§ 42-3. Reserved Duties of Deputy Chiefs.

It shall be the duty of the Deputy Chiefs of the Fire Department to:

- A. ~~Assist the Chief at all times in the performance of his duties.~~
- B. ~~Exercise, during the absence or disability of the Chief, all the powers and duties of the Chief of the Fire Department as enumerated in § 42-2 of this article, in order of their seniority as Deputy Chief or as otherwise designated by the Chief.~~

§ 42-4. Reserved Duties of Assistant Chiefs.

It shall be the duty of each Assistant Chief of the Fire Department to direct the work of the Department on assigned shifts within the limits of departmental policy and instructions of the Chief.

§ 42-5. Reserved Duties of call men.

It shall be the duty of each call man of the Fire Department to:

- A. ~~Plan and direct all fire fighting and fire prevention activities.~~
- B. ~~Be responsible for the instruction and training of recruits.~~
- C. ~~Maintain high standards of performance throughout the Department.~~
- D. ~~Keep such records, make such examinations and reports and perform such related duties as may be required by the City Manager.~~

§ 42-6. Personnel; duties Assignment to duty; hours.

- A. All officers and firemen shall be assigned to duties at the discretion of the Fire Commissioner Chief of the Fire Department.
- B. The hours of duty of all officers and firemen shall be fixed by the Chief of the Fire Department, such hours of duty to be in conformance with all local and state laws and ordinances, rules and regulations.

§ 42-7. Compensation.

All members of the ~~paid~~ Fire Department shall receive such compensation as shall be fixed by local law or by the City Council. The City Council shall not set any compensation lower than any local or state law or ordinance.

§ 42-8. Supervision and control; charges against firemen.

- A. ~~Generally. Subject to the authority granted the City Manager by law, all firefighters, paid firemen shall at all times, be under the direct supervision and control of the Fire Commissioner, Fire Chief, and officers of the Department and the ~~paid officers of the unit to which they are attached.~~~~
- B. ~~Charges against firemen. The Captain of each unit, after first presenting the same to the Chief, shall prefer charges to the City Manager against any firemen assigned to his unit who may be guilty of insubordination, disobedience to orders or the violation of any rule, law or ordinance or regulation of the Department or who shall be intoxicated while on duty, and such Captain may, in his discretion, suspend such employee from duty until such charges are heard and a determination made thereon.~~

§ 42-9. Charges, sSuspension or dismissal.

Any member or employee of the Fire Department who shall fail to perform his duty or who shall be guilty of disorderly conduct while on duty or of insubordination or disobedience to orders or who shall violate any law or ordinance or any rule or regulation of the Department may be suspended for a definite period or dismissed from the Department by the City Manager consistent with applicable laws, rules, regulations, and procedures.

§ 42-10. Badges.

Each member of the Fire Department shall be issued a badge, which shall be worn as directed by the rules and regulations of the Department.

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 on 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 I

Composition and Organization

[Adopted 11-13-1967 (Ch. 7, Art. II, of the Code of Ordinances of the City of Newburgh)]

§ 42-1. Personnel. [Amended 12-27-1977; 2-14-1984]

The personnel of the Fire Department shall consist of a Chief of the Fire Department, two Deputy Chiefs and such Assistant Chiefs, Captains, Lieutenants and firemen as the City Manager shall deem advisable, appointed by the City Manager in accordance with the provisions of the Civil Service Law of the State, and such call men as the City Manager may from time to time appoint.

§ 42-2. Duties of Chief.

It shall be the duty of the Chief of the Fire Department, under the general administrative supervision of the City Manager, to:

- A. Plan and direct all fire-fighting and fire-prevention activities.
- B. Be responsible for the instruction and training of recruits.
- C. Maintain high standards of performance throughout the Department.
- D. Keep such records, make such examinations and reports and perform such related duties as may be required by the City Manager.

§ 42-3. Duties of Deputy Chiefs.

It shall be the duty of the Deputy Chiefs of the Fire Department to:

- A. Assist the Chief at all times in the performance of his duties.
- B. Exercise, during the absence or disability of the Chief, all the powers and duties of the Chief of the Fire Department as enumerated in § 42-2 of this article, in order of their seniority as Deputy Chief or as otherwise designated by the Chief. **[Amended 2-14-1984; 6-13-1988 by L.L. No. 4-1988]**

§ 42-4. Duties of Assistant Chiefs.

It shall be the duty of each Assistant Chief of the Fire Department to direct the work of the Department on assigned shifts within the limits of departmental policy and instructions of the Chief.

§ 42-5. Duties of call men.

It shall be the duty of each call man of the Fire Department to:

- A. Answer all box alarms and regular drills.
- B. Assist in the extinguishment of all fires under the direction and command of the officers of the Department and the officers of the unit to which he is attached.

- C. Obey promptly and efficiently all orders and instructions of his superior officers while on duty.
- D. Comply with the rules and regulations governing call men.

§ 42-6. Assignment to duty; hours.

- A. All officers and firemen shall be assigned to duties at the discretion of the Chief of the Fire Department.
- B. The hours of duty of all officers and firemen shall be fixed by the Chief of the Fire Department, such hours of duty to be in conformance with all local and state laws and ordinances.

§ 42-7. Compensation.

All members of the paid Fire Department shall receive such compensation as shall be fixed by local law or by the City Council. The City Council shall not set any compensation lower than any local or state law or ordinance.

§ 42-8. Supervision and control; charges against firemen.

- A. Generally. Subject to the authority granted the City Manager by law, all paid firemen shall at all times be under the direct supervision and control of the officers of the Department and the paid officers of the unit to which they are attached.
- B. Charges against firemen. The Captain of each unit, after first presenting the same to the Chief, shall prefer charges to the City Manager against any firemen assigned to his unit who may be guilty of insubordination, disobedience to orders or the violation of any rule, law or ordinance or regulation of the Department or who shall be intoxicated while on duty, and such Captain may, in his discretion, suspend such employee from duty until such charges are heard and a determination made thereon.

§ 42-9. Suspension or dismissal.

Any member or employee of the Fire Department who shall fail to perform his duty or who shall be guilty of disorderly conduct while on duty or of insubordination or disobedience to orders or who shall violate any law or ordinance or any rule or regulation of the Department may be suspended for a definite period or dismissed from the Department by the City Manager.¹

§ 42-10. Badges.

Each member of the Fire Department shall be issued a badge, which shall be worn as directed by the rules and regulations of the Department.²

1. Editor's Note: Former Secs. 7.29(b), which dealt with the right of appeal, and 7.30, which dealt with removal of Fire Department apparatus from the City, which immediately followed this section, were repealed 6-13-1988 by L.L. No. 4-1988.

2. Editor's Note: Former Sec. 7-31(b), which immediately followed this section and dealt with returning of badges, was repealed 6-13-1988 by L.L. No. 4-1988.