



CITY OF NEWBURGH  
COUNCIL MEETING AGENDA  
*SESION GENERAL DEL CONSEJAL*

November 27, 2023  
7:00 PM

Mayor/Alcaldesa

1. Moment of Silence / Momento de Silencio
2. Pledge of Allegiance / Juramento a la Alianza

City Clerk:/Secretaria de la Ciudad

3. Roll Call / Lista de Asistencia

Communications/Comunicaciones

4. Approval of the minutes from the City Council meeting of November 13, 2023 / Aprobacion del Acta de la Reunion General del Consejo del 13 de noviembre de 2023
5. City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

Presentations/Presentaciones

6. Boys & Girls Club of Newburgh  
*Club de Niños y Niñas de Newburgh*

Comments from the public regarding agenda and general matters of City Business/Comentarios del público con respecto a la agenda y sobre asuntos generales de la Ciudad.

Comments from the Council regarding the agenda and general matters of City Business/Comentarios del Consejo con respecto a la agenda y sobre asuntos generales de la Ciudad

City Manager's Report/ Informe del Gerente de la Ciudad

7. Resolution No. 235 - 2023 - City Event Sponsorship Policy

A resolution amending the City of Newburgh Public Special Events Sponsorship Policy and Procedure

*Resolución por la que se modifica la Política y el Procedimiento de Patrocinio de Eventos Públicos Especiales de la Ciudad de Newburgh*

8. Resolution No. 236 - 2023 - Nearmap renewal

Resolution authorizing a renewal agreement with Nearmap U.S., Inc. for digital

aerial imagery services for a one-year term at a cost of \$2,500.00

*Resolución por la que se autoriza un acuerdo de renovación con Nearmap U.S., Inc. para la contratación de servicios de imágenes aéreas digitales por un periodo de un año a un coste de \$2,500.00*

9. Resolution No. 237 - 2023 - Contract with Deckard Technologies, Inc

Resolution authorizing an agreement with Deckard Technologies, Inc. for short-term rental inventory and compliance services at a cost of \$3,500.00 in the first year

*Resolución por la que se autoriza un acuerdo con Deckard Technologies, Inc. para inventario de alquiler a corto plazo y los servicios de cumplimiento a un costo de \$ 3,500.00 en el primer año*

10. Resolution No. 238 - 2023 - Resolution certifying base percentages, base proportions & adjusted base proportions under RPTL Article 19

Resolution to certify the base percentages, current percentages, current base proportions and adjusted base proportions under the Homestead Option of Article 19 of the Real Property Tax Law of the State of New York

*Resolución para certificar la base de los porcentajes, los porcentajes actuales, las proporciones de la base actual y las proporciones de la base ajustada bajo la opción de vivienda del artículo 19 de la Ley de Impuestos sobre Bienes raíces del Estado de Nueva York*

11. Resolution No. 239 - 2023 - Resolution adopting the FY2024 Budget

*Resolución adoptando el Presupuesto para el Año Fiscal 2024*

12. Resolution No. 240 -2023 - Commercial Insurance Proposal for Workers Compensation Renewal

Resolution authorizing an agreement between the City of Newburgh and the New York State Municipal Workers' Compensation Alliance for Worker' Compensation Insurance

*Resolución por la que se autoriza un acuerdo entre la Ciudad de Newburgh y la Alianza Municipal de Compensación de los Trabajadores del Estado de Nueva York para el Seguro de Compensación de los Trabajadores*

13. Resolution No. 241 - 2023 - Updated Non-Bargaining Resolution

Resolution to amend and restate the Benefit Plan for Non-Bargaining Unit Employees.

*Resolución para enmendar y reformular el Plan de Beneficios para Empleados de Unidades que No Negociantes.*

14. Resolution No. 242 - 2023 - Temporary Assistant Maintenance Mechanic  
Resolution amending the 2023 Personnel Analysis Book to add one Assistant Maintenance Mechanic position on a temporary basis in the Water Division

*Resolución por la que se modifica el Libro de Análisis de Personal 2023 para añadir una plaza de Mecánico Auxiliar de Mantenimiento con carácter temporal en la División de Aguas*

15. Resolutoin No. 243 - 2023 - Ordinance amending Chapter 163 "Fees"  
Ordinance amending Chapter 163 entitled "Fees" of the Code of the City of Newburgh.

*Ordenanza enmendando Capitulo 163 titulado "Tarifas" del Código de la Ciudad de Newburgh.*

16. Resolution No. 244 - 2023 - Resolution authorizing continued participation in settlement class in the re: aqueous film-forming foams products liability litigation

Resolution authorizing continued participation in settlement class in the in re: aqueous film-forming foams products liability litigation, mdl no. 2:18-mn-02873 relating to City of Camden, et al. V. E.I. Dupont de Nemours and Company, et al. No. 2:23-cv-03230-rmg in connection with the contamination of Washington Lake and the City of Newburgh water supply

*Resolución por la que se autoriza a seguir participando en la clase de conciliación en referencia: litigios por responsabilidad de productos de espumas formadoras de película, mdl no. 2:18-mn-02873 relativo a la Ciudad de Camden, et al. V. E.I. Dupont de Nemours and Company, et al. No. 2:23-cv-03230-rmg en relación con la contaminación del lago Washington y el suministro de agua de la ciudad de Newburgh*

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

Final Comments from the City Council/ Comentarios Finales del Ayuntamiento:

Adjournment/ Aplazamiento:

Agenda Item 6.

**Boys & Girls Club of Newburgh**

*Club de Niños y Niñas de Newburgh*



Agenda Item 7.

### **Resolution No. 235 - 2023 - City Event Sponsorship Policy**

A resolution amending the City of Newburgh Public Special Events Sponsorship Policy and Procedure

*Resolución por la que se modifica la Política y el Procedimiento de Patrocinio de Eventos Públicos Especiales de la Ciudad de Newburgh*

#### **Background:**

This resolution to amend the Public Special Events Sponsorship Policy strikes the NECSD-sponsored "Back to School" event from the list of Recurring Public Special Events of the City of Newburgh.

#### **ATTACHMENTS:**

Description	Upload Date	Type
Resolution amending Special Events Sponsorship Policy & Procedures	11/17/2023	Resolution Letter
Special Events Sponsorship Policy - amended	11/17/2023	Backup Material
Public Special Events Sponsorship Application	11/17/2023	Backup Material

RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AMENDING THE CITY OF NEWBURGH  
PUBLIC SPECIAL EVENTS SPONSORSHIP POLICY AND PROCEDURE**

**WHEREAS**, by Resolution No. 20-2023 of February 13, 2023, the City Council of the City of Newburgh adopted the City of Newburgh Public Special Events Sponsorship Policy and Procedure 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; and

**WHEREAS**, the City Council has reviewed the recommendations of City Staff and finds that amending the Public Special Events Sponsorship Policy and Procedure is in the best interest of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, New York hereby amends the City of Newburgh Public Special Events Sponsorship Policy and Procedure, a copy of which is attached hereto and made a part of this Resolution; and

**BE IT FURTHER RESOLVED**, that the City of Newburgh Public Special Events Sponsorship Policy and Procedure, as amended, shall take effect on January 1, 2024.

## **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~~
- 9/11-Patriot Day Remembrance Ceremony
- Halloween
- Christmas Tree Lighting
- Annual Community Clean Up
- Newburgh Illuminated

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 exist 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.

**VI. Effective Date:** This Policy is effective on January 1, 2024 ~~February 15, 2023~~.

DRAFT



**Event Sponsorship Request Application Form**

**Sponsor Information:**

Sponsor Name: \_\_\_\_\_  
(\*Sponsor is name of person or organization that will host the event)  
(Attach additional contact information sheets for any event Co-Sponsors)

Sponsor Type:      Individual \_\_\_\_\_      Business \_\_\_\_\_      Not-for-Profit \_\_\_\_\_  
                         Charitable \_\_\_\_\_      Government \_\_\_\_\_

Sponsor Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Sponsor Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Sponsor Website: \_\_\_\_\_

Tax ID #: \_\_\_\_\_

Is the Sponsor tax-exempt?    ☐ Yes      ☐ No

Contact Name for Sponsor: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Event Information:**

Event Name: \_\_\_\_\_

Event Date(s): \_\_\_\_\_

Event Start/End Time(s): \_\_\_\_\_

Event Location: \_\_\_\_\_

Estimated Total Attendance: \_\_\_\_\_

Event Summary: Briefly describe the event for which you are seeking sponsorship and describe how the event and sponsorship will support a public interest such as community, economic or cultural benefit to the City of Newburgh. Attach additional sheets as needed.

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Total Event Budget: \$ \_\_\_\_\_ (including all funding)

Event frequency: Recurring/annual ☐ or New/first time event ☐

If recurring/annual, list the number of times and/or years event held: \_\_\_\_\_.

Prior Events in City of Newburgh:

Has City of Newburgh participated with your organization in the past? ☐ Yes ☐ No ☐

Have you and/or your Organization received any other grants, sponsorships or support from the City of Newburgh in the past? If yes, please list event and services requested from and provided by the City:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Sponsorship Request by Community Member or Organizer (select 1 of 4 options below):**

☐ Option 1 – Insurance Coverage: ☐ Yes ☐ No ☐

☐ Option 2 – In Kind Contribution of Public Safety Goods (Select from List):

- ☐ Trash Cans and/or dumpsters
- ☐ Jersey Barriers
- ☐ Traffic Barricades
- ☐ Water Truck

☐ Option 3 – In Kind Contribution of Public Services<sup>1</sup> (Select from List):

- ☐ Traffic or Pedestrian Control
  - ☐ Police Department Public Safety/Security Services
  - ☐ Fire Department Public Safety/Fire Prevention Services
- Contingent on sufficient availability of police and fire personnel

☐ Option 4 – Direct Funding<sup>2</sup>: Amount \$ \_\_\_\_\_

<sup>1</sup>Contingent on sufficient availability of police and fire personnel

<sup>2</sup>Contingent on sufficient funding allocation in the City current fiscal year budget

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Maximum sponsorship amount cannot exceed the lesser of \$1,500.00 per event or 10% of total City Sponsorship-Community Event event B budget line.  
Contingent on sufficient funding allocation in the City current fiscal year budget

Attach a copy of your most recent 990 and W-9 for your nonprofit organization.

**City Council Member Sponsorship:**

1. Requires prior commitment from city council memberperson(s)
2. Can be used in addition to the above community member/organizaer sponsorship request.

Sponsoring Council Mmember(s): \_\_\_\_\_

(\$ ) Amount: \_\_\_\_\_

Attach a copy an event budget for use of funds.

Attach a copy of your most recent 990 and W-9 for your nonprofit organization.

By signing below, the Applicant acknowledges it has: (1) authority to bind the Applicant and the Sponsor to apply for Public Special Events Sponsorship; (2) received and reviewed of the City of Newburgh Mass Gathering/Event Permit Application; (3) received and reviewed City Code Chapter 110; (4) agreed, both as Applicant and on behalf of the Sponsor, to the terms and conditions of any permit issuance; and (6) attests under penalty of perjury that the information contained in this application is true and accurate.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ (copy of ID also required)

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**FOR OFFICE USE ONLY**

Permit Application Sponsor Name: \_\_\_\_\_

Proposed Date(s) of Event: \_\_\_\_\_

Event Permit Submitted: YES ☐ NO ☐

Date: \_\_\_\_\_ Receipt No.: \_\_\_\_\_ N/A: \_\_\_\_\_

Event Permit Approved:

Date: \_\_\_\_\_ Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ N/A: \_\_\_\_\_

**Sponsorship Approval:**

Date	Department Name/Title	Recommendation	Adjustment
_____	Comptroller _____	Yes _____ No _____	_____
_____	Law _____	Yes _____ No _____	_____
_____	Police _____	Yes _____ No _____	_____
_____	DPW _____	Yes _____ No _____	_____
_____	Fire _____	Yes _____ No _____	_____
_____	Water _____	Yes _____ No _____	_____

CITY MANAGER: Approved: \_\_\_\_\_ Denied \_\_\_\_\_

\_\_\_\_\_  
Todd Venning  
City Manager

\_\_\_\_\_  
Date

RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AUTHORIZING A RENEWAL AGREEMENT WITH  
NEARMAP U.S., INC. FOR DIGITAL AERIAL IMAGERY SERVICES  
FOR A ONE-YEAR TERM AT A COST OF \$2,500.00**

**WHEREAS**, by Resolution No. 5-2021 of January 11, 2021, the City Council of the City of Newburgh approved an agreement with Nearmap U.S., Inc. for a three-year term for digital aerial imagery services to the City; and

**WHEREAS**, the use of such digital aerial imagery supports municipal uses such as asset management, property change detection, land use management, facilities monitoring, emergency management, and location-based services; and

**WHEREAS**, this Council finds it in the best interest of the City of Newburgh to renew the agreement with Nearmap U.S., Inc. for digital aerial imagery services at a cost of \$2,500.00 which will be derived from A.1355.0448.0001.0000; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a renewal agreement with Nearmap U.S., Inc. for a one-year term at a total cost of \$2,500.00 for digital aerial imagery services to the City of Newburgh.

# RENEWAL QUOTE

**Nearmap US, Inc.**  
 10897 South River Front Parkway, Suite 150  
 South Jordan, UT 84095 USA  
**Phone:** +1 (801) 609 7250

<b>Customer Name</b>	City of Newburgh, NY	<b>Quote Number</b>	Q094307
<b>Contract Commencement</b>	Contract commences upon signing of quote.	<b>Quote Expiry</b>	01/11/2024
<b>Subscription Term</b>	12 Month	<b>Account Rep</b>	Stephanie Nagle stephanie.nagle@nearmap.com
<b>Subscription Start Date</b>	01/11/2024	<b>Payment Term</b>	Net 30
		<b>Payment Method</b>	Invoice
<b>Bill To</b>	City of Newburgh, NY Joanne Majewski 83 Broadway, Newburgh, New York, 12550 845-569-7333 jmajewski@cityofnewburgh-ny.gov	<b>Ship To</b>	City of Newburgh, NY Francis Spinelli , New York, 8455697412 fspinelli@cityofnewburgh-ny.gov

PRODUCT	ALLOWANCE	COVERAGE	SEATS
GeoData Link	NA	Nationwide	NA
3D Viewer	NA	Nationwide	NA
ArcGIS Integration	NA	NA	NA
Nearmap Oblique for ArcGIS	NA	Nationwide	NA
Nearmap Oblique for Government	NA	Nationwide	Unlimited
<b>Subtotal</b>			\$2,500.00
<b>Estimated Tax</b>			\$0.00
<b>Total</b>			<b>USD \$2,500.00</b>

**ACCEPTANCE OF Q094307 will constitute an Agreement with Nearmap**

By selecting “**Yes**” or **signing below**, you acknowledge that (a)(i) the attached terms and conditions will continue to form part of the Agreement with the Licensee, (ii) the Additional Terms and Conditions in the latest signed Quote between the Licensee and Nearmap applies to this Renewal Quote, unless otherwise specified in Schedule 1 of this Renewal Quote, and (iii) the Product-Specific Terms set out in <https://www.nearmap.com/us/en/legal/product-agreements> applies to this Renewal Quote, (b) you have the authority to agree to this Renewal Quote, (c) you agree to pay the fees set forth herein. You acknowledge that the Coverage Area by Nearmap is outlined at <https://www.nearmap.com/us/en/current-aerial-maps-coverage>.

Note: The terms of your Agreement remain the same unless varied by this Renewal Quote. The total in this Renewal Quote is only an estimate of your next invoice. Final credits and amendments to the subscription is dependent upon the date this Renewal Quote is accepted.

Signature / Digital Acceptance:

Date:

Full Name:

Position:

PO Number (if required):

If printed, please sign, scan and email to: [orders.us@nearmap.com](mailto:orders.us@nearmap.com)

**Additional Terms and Conditions**





PLEASE READ THIS PRODUCTS AGREEMENT CAREFULLY. BY ACCEPTING THIS AGREEMENT BY EXECUTING A QUOTE, YOU AGREE TO BE BOUND BY THIS PRODUCTS AGREEMENT, THE QUOTE AND ALL TERMS INCORPORATED BY REFERENCE. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, DO NOT ACCESS OR USE, YOU MUST NOT ACCEPT THIS PRODUCTS AGREEMENT AND NOT USE ANY NEARMAP PRODUCTS AND SERVICES.

## PRODUCTS AGREEMENT

### Recitals

- A. Nearmap is a provider of aerial imagery and location data and associated products and services.
- B. Nearmap agrees to supply the Licensee with the Products described in the Quote, subject to the terms of this agreement, the Additional Terms and Conditions, Product-Specific Terms, any Schedules and the Quote which together constitute the legal agreement between the Licensee and Nearmap (the "**Agreement**").

Definitions of capitalized words are set out in section B.1717 of the Agreement.

### 1. GRANT OF LICENSE TO USE PRODUCTS

- 1.1 **Grant** Subject to the terms of this Agreement and payment by the Licensee of the Fees, Nearmap grants to the Licensee a limited, non-exclusive, non-transferrable license for the Term to use the Products only for the Permitted Purpose (the "**License**").
- 1.2 **Authorized Users** The Products available under this License are only to be used by the total number of Authorized Users. The Licensee shall implement reasonable controls to ensure that it does not exceed the number of Authorized Users. If the number of users exceeds the total number of Authorized Users, the Licensee will be in breach of this Agreement.
- 1.3 **Renewal** Unless otherwise notified by the Licensee in writing at least thirty (30) days prior to the expiry of the Term of its intention not to renew this Agreement and subject to any amendments to this Agreement required by Nearmap, the Term will automatically be renewed for successive renewal terms of twelve (12) months each (each a "**Renewal Term**").
- 1.4 **Product Updates** Nearmap may from time to time supply the Licensee with a Product of no lesser quality than the previously supplied Product at its absolute discretion. If requested by Nearmap, the Licensee must stop using any previously supplied Product and use the new Product from the date of delivery from Nearmap.
- 1.5 **Acknowledge Nearmap source** The Licensee must expressly acknowledge Nearmap, in a reasonably prominent manner (by displaying the Nearmap logo or other appropriate attribution), as the source of any Product or Derivative Works that the Licensee uses, copies, modifies, or distributes. Unless otherwise permitted in writing, the Licensee must not remove or cause to be removed any Nearmap logo, watermark, or other Nearmap attribution in any Product or Derivative Works.
- 1.6 **Data Use for Government Products** Nearmap measures data usage by the Licensee under this License for Government Products. When using Government Products, Nearmap's Fair Use Policy regulates the Licensee's consumption of data during the Term (or Renewal Term). The following conditions also apply to the Licensee's use of Government Products:
- (a) the amount of data used by the Licensee on the Government Products will be monitored and then calculated at the end of every Term or Renewal Term based on the total data of all users who access and use the Licensee's Nearmap account during that Period; and
  - (b) if the Licensee elects to download and/or export Government Products available to the Licensee on the Website, this will be applied to the calculation of the Licensee's use of the Government Products.
- 1.7 **Allowance for Non-Government Products** Non-Government Products licensed to the Licensee may be subject to additional Allowance, Periodic Allowance, or Periodic Data Allowance terms that are published in the Product-Specific Terms, and if applicable, the Periodic Allowance Section.
- 1.8 **Unavailability** Subject to section 12, if a Product is not available for a period of three (3) consecutive days, the Term will be extended by the period of such unavailability.

### 2. RESTRICTIONS ON RIGHT TO USE PRODUCTS

- 2.1 **No right to distribute, transfer, resell, assign or sublicense** This License is granted only to the Licensee. The Licensee must not distribute, transfer, resell, assign, rent, lease, or sublicense any Product or any of the Licensee's rights under this License without Nearmap's prior written consent.
- 2.2 **No third party access** Unless otherwise provided in this Agreement, the Licensee must not make any Product available in any medium or manner to any third party (including but not limited to the Licensee's subsidiaries, affiliates, any lower or higher tiered governments and any neighboring local government).
- 2.3 **Employees** Subject to sections 1.1 and 1.2, the Licensee may make Products available to any employee of the Licensee, subject to that person complying with the terms of the Agreement as if they were a party to it and the total number of Authorized Users has not been exceeded. These employees are deemed to be Authorized Users. The Licensee is responsible and liable for all Authorized Users who use the Licensee's account access details or use Products made available to the Licensee in breach of this Agreement, including, without limitation, for any additional fees that become payable if the Licensee exceeds the number of Authorized Users.

- 2.4 **No machine learning** The Licensee must not conduct machine learning work

in connection with this Agreement on any Products, which includes but is not limited to running any:

- (a) machine learning models (including the model form and model parameters);
  - (b) outputs of machine learning models;
  - (c) software that processes or transforms input data for training a machine learning model or getting a prediction from a machine learning model into a format suitable for training or making such prediction; or
  - (d) software used to train a machine learning model or compute outputs of a machine learning model for a given set of input data.
- 2.5 **No caching and creation of database** Except as expressly permitted under this Agreement, the Licensee is not permitted to:
- (a) use its access to the Products under this Agreement for the purposes of creating a database of imagery for resale, distribution, sublicense, or other commercial purposes, or for mass downloads or bulk feeds of any imagery; and
  - (b) pre-fetch, retrieve, cache, index, or store any Content or portion of the Products.
- 2.6 **Restriction on integration methods** The Licensee is only permitted to use API integration methods, or other integration methods, as authorized by Nearmap in writing, including but not limited to integration with the Licensee's or other third party platforms or software.
- 2.7 **Limits on use of Website** In the Licensee's use of the Website, the Licensee must not (without the prior written consent of Nearmap):
- (a) provide a link to another URL;
  - (b) upload content or other information to the Website (except as necessary to use the Products);
  - (c) do anything to damage, interfere or disrupt access to the Website or do anything which might impair its functionality;
  - (d) use the Website in any way to send any unsolicited email (commercial or otherwise) or any other material for marketing or publicity purposes;
  - (e) publish, post, distribute, disseminate, or otherwise transmit, defamatory, offensive, infringing, obscene, indecent, or other unlawful or objectionable confidential material or information;
  - (f) make available, upload, or distribute by any means any material or files that contain any viruses, bugs, corrupt data, "trojan horses", "worms", or any other harmful software;
  - (g) remove any content or information from the Website, other than that permitted under the terms of this License;
  - (h) falsify the true ownership of a Product or other material or information made available via the Website;
  - (i) obtain or attempt to obtain unauthorized access, through whatever means, to the Website;
  - (j) use the Website other than in accordance with this Agreement;
  - (k) attempt any of the above acts or engage, encourage or permit another person to do any of the above acts; or
  - (l) provide or allow access to the Website which exceeds the total number of Authorized Users in connection with use of the Product.
- 2.8 **Breach** If the Licensee breaches any of sections 2.1 to 2.7 inclusive, Nearmap reserves its rights to terminate the Agreement in accordance with section 6.2, restrict the Licensee's access to the Products, and take any other steps available to it at law.

### 3. THE LICENSEE'S ACCESS TO PRODUCTS AND SERVICES

- 3.1 **Authorized Users** Any password issued by Nearmap to an Authorized User is personal and confidential to that Authorized User. If Nearmap suspects that any password/ID is being used by an unauthorized person, by a different Authorized User who is not the person to whom it was issued, or the number of Authorized Users has been exceeded, Nearmap may:
- (a) cancel that user's access;
  - (b) immediately cease the Licensee's access to the Product;
  - (c) require the Licensee to pay for any additional fees due based on the standard Nearmap Fees for the applicable Product, in respect of any such unauthorized use; and/or
  - (d) exercise any other right available to Nearmap under the terms of this Agreement or at law.

- 3.2 **Downtime** Nearmap will use reasonable efforts to ensure that the Website and APIs remain available but cannot guarantee that this will be the case at all times. Nearmap agrees that, wherever possible, all planned maintenance will be done out of normal Operational Hours to ensure optimal uptime of the Website. The Licensee may elect to subscribe to the Nearmap status page at <https://status.nearmap.com/> to receive notifications and updates relating to planned maintenance and uptime/downtime of the Website and APIs. When Nearmap becomes aware of any Fault, Nearmap will use reasonable efforts to:
- (a) allocate such resources as may be necessary to remedy the Fault; and
  - (b) otherwise take all reasonable steps to remedy the Fault so as to minimize any disruption to the Licensee's use of the Products.
- 3.3 **Expiry** The Licensee's License will expire at the end of the Term unless renewed in accordance with section 1.3 and may be suspended or terminated, in accordance with section 6.2, if the Licensee is in breach of this Agreement.
- 3.4 **Unauthorized Use** Licensee shall take reasonable steps to prevent unauthorized access to the Products, including without limitation, protecting its passwords and other log-in information. The Licensee shall notify Nearmap immediately of any known or suspected unauthorized use of the Products, or breach of its security, and shall use best efforts to stop said breach and minimize the adverse impact of said breach on Nearmap.
- 3.5 **Audit** During the Term of this Agreement, and for two (2) years after termination or expiry of this Agreement, the Licensee shall maintain records regarding its use of the Products according to its usual record keeping policies and procedures. The Licensee shall permit Nearmap (or its auditors) access to the Licensee's records pertaining to the Licensee's use of the Products. Nearmap will give at least thirty (30) days prior written notice of an audit and will not conduct an audit more than once per calendar year unless non-compliance findings are noted, in which case the audit period may be extended.
- 3.6 **Audit Findings** If an audit results in findings of non-compliance, Nearmap may, at its discretion:
- (a) invoice any additional license fees due based on the standard Nearmap Fees in place at the time of the original license grant;
  - (b) recover the reasonable cost of the audit if additional Fees exceed 5% of the Fees paid during the audit period; and
  - (c) terminate this Agreement in accordance with section 6.1. Licensee must pay all invoices issued under this section within thirty (30) days following the date of invoice or such other period agreed between the parties.
4. **FEES**
- 4.1 **Fees** The Fees payable by the Licensee are set out in the Quote.
- 4.2 **Payment** The Fees are payable by the Licensee to Nearmap in the manner and by the due date, as set out in the Quote, at the beginning of each Term unless otherwise agreed by Nearmap. Where the Fees are payable by credit card, the Licensee authorizes Nearmap to charge the Licensee's credit card for all purchased Products listed in the Quote for the initial Term and any Renewal Term.
- 4.3 **No cancellation** Subject to section 4.4, all Fees are non-cancellable and non-refundable, except as expressly set out in this Agreement.
- 4.4 **Refund of Fees** If the Licensee is not in breach of this Agreement, and Nearmap elects to terminate this Agreement under section 6.3, Nearmap will refund the Licensee any pre-paid fees relating to the portion of Term remaining as at the date of termination.
- 4.5 **Taxes** Unless otherwise stated, Fees and Late Payment Fee do not include any direct or indirect local, state, provincial, federal, or foreign taxes, levies, duties, or similar governmental assessments of any nature, including value-added, excise, use or withholding taxes (collectively, "**Taxes**"). Licensee is responsible for paying all Taxes, except those assessable against Nearmap based on its income. Nearmap will invoice Licensee for such Taxes if Nearmap believes it has a legal obligation to do so and Licensee agrees to pay such Taxes if so invoiced.
- 4.6 **Late Payment** If a scheduled Fee payment is still overdue after seven (7) days' notice from Nearmap, to remedy the payment default, the Licensee agrees that Nearmap may immediately limit or terminate access to the Products provided under this License.
- 4.7 **Amendments** Subject to section 1.3, Nearmap may, at its absolute discretion, increase the price, for the Products at the end of the Term by an amount which reflects up to the current rate of Inflation plus 2.5%.
5. **THE LICENSEE'S WARRANTIES**
- 5.1 **Warranty** The Licensee warrants that:
- (a) any information the Licensee supplies to Nearmap in respect of the Agreement is complete and correct. The Licensee must keep Nearmap informed of any change to the Licensee's information provided to Nearmap, including any change to the Licensee's contact details, or the details of a credit card used for payment;
  - (b) the Licensee will immediately notify Nearmap of any usage of any Product outside the Permitted Purpose, and provide any other information reasonably requested by Nearmap;
  - (c) the Licensee has the power to enter into this Agreement and to perform the obligations under it; and
  - (d) the Licensee has and will comply with all relevant laws relating to the Licensee's use of the:
    - (i) License;
    - (ii) Products; and
    - (iii) Website.
6. **TERMINATION AND EXPIRY**
- 6.1 **Initial Term** This Agreement commences on the Commencement Date and continues until expiry of the Term unless terminated earlier in accordance with the terms of this Agreement or renewed under section 1.3.
- 6.2 **Termination by Either Party** Either party may terminate this Agreement with immediate effect by giving notice to the other party if:

- (a) the other party breaches any of its obligation under this Agreement capable of remedy and fails to remedy that breach within fourteen (14) days after receiving notice requiring it to do so;
  - (b) the other party breaches any of its obligations under this Agreement incapable of remedy and Content; or
  - (c) the other party files for protection under bankruptcy laws, makes an assignment for the benefit of creditors, appoints, or suffers appointment of a receiver or trustee over its property, files a petition under any bankruptcy or insolvency act, or has any such petition filed against it which is not discharged within sixty (60) days of the filing thereof, or admits in writing its inability to pay its debt generally as they become due.
- 6.3 **Termination by Nearmap** Notwithstanding anything else in this Agreement, but subject to section 4.4, Nearmap has the right, in its absolute discretion and upon giving the Licensee ten (10) Business Days' notice, to terminate this Agreement.
- 6.4 **Consequences** If the Agreement is terminated under sections 6.2 or 6.3 or expires at the end of the Term:
- (a) the License immediately terminates and the Products will no longer be available to the Licensee;
  - (b) the Licensee must immediately destroy, delete, or return to Nearmap all Products; and
  - (c) subject to section 7.3, the Licensee and the Authorized Users are not permitted to use any Products for any purpose.
- 6.5 **Costs** Nearmap reserves all rights following termination of this Agreement, including any rights available to Nearmap to collect any outstanding Fees which may be owed by the Licensee. The Licensee will be liable for any reasonable legal costs incurred by Nearmap in enforcing its rights following termination of this Agreement.
- 6.6 **Continuing obligations** After expiry or termination of this Agreement, sections 1.5, 2, 4, 6.5, 7, 8, 9, 10, 13, 14, 15, and 17 will still be binding on the Licensee in relation to Products licensed or obtained during the Term.
7. **INTELLECTUAL PROPERTY**
- 7.1 **Ownership** Unless otherwise indicated, the Website, the Products, the Content, and all associated Intellectual Property Rights, data, information, and software are owned by Nearmap and are protected by copyright, moral rights, trademark, and other laws relating to the protection of intellectual property. Nearmap reserves all of its Intellectual Property Rights. Except for the limited License granted to the Licensee in section 1.1, no ownership or Intellectual Property Rights in the Website, APIs, any Product, or Content will pass or be licensed to the Licensee.
- 7.2 **Trademarks** The Nearmap trademarks and all associated Intellectual Property Rights are owned by Nearmap. Nothing in this Agreement confers upon the Licensee any rights to use or modify any of Nearmap's trademarks, except that Nearmap grants the Licensee a royalty free, limited, non-exclusive, non-transferrable, non-sublicensable license to reproduce and display Nearmap trademarks only to the extent necessary to comply with the Licensee's obligations under this Agreement. Any such reproduction and display of those marks must comply with the policies and rules Nearmap makes available to the Licensee from time to time.
- 7.3 **Derivative Works** Subject to compliance with all other terms of this Agreement, the Licensee is granted a non-exclusive right to produce and use Derivative Works for the Permitted Purpose. Unless otherwise notified to the Licensee by Nearmap, the Licensee may continue using Derivative Works following termination or expiry of this Agreement. For the avoidance of doubt, Nearmap will continue to own all rights in and to any Products and Content embedded in a Derivative Work, but all other rights in and to the Derivative Work will belong to the Licensee.
8. **THIRD PARTY PROVIDERS**
- 8.1 The Licensee acknowledges and accepts that Nearmap engages with Third Party Providers in order to provide the Products under this Agreement. The provision of the Products is contingent upon adequate delivery of products and services by those Third Party Providers and are subject to those Third Party Provider terms and conditions (as updated from time to time). By entering into this Agreement, the Licensee agrees that where applicable they must comply with those terms and conditions which are applicable to the use of those Third Party Providers products, where incorporated into Nearmap's Products. Nearmap has set out the type of Third Party product or services incorporated into Nearmap's Products and the relevant Third Party Providers terms and conditions below for reference.
- (a) **Google** – [https://maps.google.com/help/terms\\_maps.html](https://maps.google.com/help/terms_maps.html) in connection with the use of Google Street Maps;
  - (b) **NASA/NCAS** – <https://www.nearmap.com/au/en/legal/copyright> in connection with viewing satellite imagery on the Website; and
  - (c) **Precisely** – <https://www.precisely.com/legal/licensing/software-and-data-end-user-license-agreement> in connection with viewing property datasets on the Website and/or through an API.
9. **WARRANTY AND LIABILITY**
- 9.1 **Warranty** Nearmap agrees to use industry standard GPS to ensure captured imagery has accurate geographical positioning.
- 9.2 **DISCLAIMER OF WARRANTIES** OTHER THAN AS SET FORTH IN SECTION 9.1, THE WEBSITE AND THE PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, TO THE FULLEST EXTENT PERMITTED BY LAW. NEARMAP AND ITS CONTENT PROVIDERS, THIRD PARTY PROVIDERS, AGENTS, MANDATARIES, AND AFFILIATES EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED REPRESENTATIONS, WARRANTIES, CONDITIONS, OR GUARANTEES OF MERCHANTABILITY, TITLE, FITNESS

- FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND COURSE OF DEALING OR PERFORMANCE.
- 9.3 **NO REPRESENTATIONS** WHILE NEARMAP USES REASONABLE EFFORTS TO ENSURE THE ACCURACY, CORRECTNESS AND RELIABILITY OF THE CONTENT, THE PRODUCTS, AND THE WEBSITE, NEARMAP AND ITS THIRD PARTY PROVIDERS MAKE NO REPRESENTATIONS, WARRANTIES, CONDITIONS, OR GUARANTEES AS TO THE ACCURACY, CORRECTNESS, OR RELIABILITY OF ANY PRODUCT OR CONTENT CONTAINED ON THE WEBSITE AND/OR OBTAINED THROUGH AN API. THE PRODUCTS, THE WEBSITE AND APIS MAY BE SUBJECT TO ERRORS, OMISSIONS, INACCURACIES, AND DISTORTIONS, AND NEARMAP WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR ANY CLAIMS MADE BY OR ARISING OUT OF, ANY PERSON OR ENTITY SEEKING TO RELY ON ANY OF THE PRODUCTS, THE WEBSITE OR APIS.
- 9.4 **LIMIT OF LIABILITY** NEARMAP'S LIABILITY FOR: (A) A BREACH OF A WARRANTY UNDER SECTION 9.1; OR (B) A BREACH OF A REPRESENTATION, WARRANTY, CONDITION, OR GUARANTEE WHICH IS IMPLIED OR IMPOSED IN RELATION TO THIS LICENSE UNDER LEGISLATION AND CANNOT BE EXCLUDED, WILL BE LIMITED TO, AT NEARMAP'S OPTION, REPLACING OR REPAIRING THE PRODUCTS OR SUPPLYING PRODUCTS EQUIVALENT TO THE RELEVANT PRODUCTS, OR PAYING THE COST OF REPLACING OR REPAIRING THE PRODUCTS.
- 9.5 **NO LIABILITY FOR CLAIMS** TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL NEARMAP, ITS CONTENT PROVIDERS, AGENTS, MANDATARIES, OR AFFILIATES BE LIABLE FOR ANY CLAIMS OF ANY KIND ARISING FROM OR CONNECTED WITH THE USE OF THE WEBSITE OR APIS, THE CONTENT OR THE PRODUCTS, OR THE UNAVAILABILITY OF THE SAME, INCLUDING BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS, OR LOSS OF DATA, AND DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), EXTRACONTRACTUAL LIABILITY, OR OTHERWISE. THE LICENSEE IS RESPONSIBLE FOR THE ENTIRE COST OF ALL SERVICING, REPAIR, OR CORRECTION REQUIRED DUE TO THE LICENSEE'S USE OF THIS WEBSITE, THE CONTENT OR THE PRODUCTS. THIS EXCLUSION APPLIES, WITHOUT LIMITATION, TO ANY CLAIMS CAUSED BY OR RESULTING FROM RELIANCE BY A USER ON ANY INFORMATION OBTAINED FROM NEARMAP.
- 9.6 **AGGREGATE LIMIT** IN NO EVENT WILL THE AGGREGATE LIABILITY OF NEARMAP, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), EXTRACONTRACTUAL LIABILITY, PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE USE OF THE PRODUCTS, THE CONTENT, THE WEBSITE OR THE APIS, EXCEED ANY COMPENSATION OR FEE THE LICENSEE HAS PAID, IF ANY, TO NEARMAP FOR ACCESS TO OR USE OF THE PRODUCTS OVER THE TWELVE (12) MONTH PERIOD PRIOR TO THE ALLEGED DEFAULT, BREACH, OR EVENT GIVING RISE TO THE LIABILITY.
- 9.7 **Third Party Providers** The Licensee acknowledges that Nearmap relies on the services of Third Party Providers in order to supply the Products and related services. Without limiting any of the above, to the fullest extent permitted by applicable law, Nearmap will not be liable for any loss, damage, or cost of any kind, which is caused, or contributed to, by a third party service provider except to the extent it was caused or contributed by the acts, defaults or omissions of Nearmap.
- 9.8 **Indemnity** To the extent permitted by law, the Licensee agrees to indemnify Nearmap and its directors, officers, employees, agents, mandataries, and subcontractors, from and against any and all direct or indirect claims, damages, losses, liabilities, expenses, and costs (including reasonable attorney's fees and costs) arising from or out of:
- the Licensee's actual or alleged breach of any provisions of this Agreement;
  - the Licensee's use of the Product for any purpose; and
  - the Licensee's use of, or any third party's use of, or inability to use, any Derivative Works, including without limitation, any output from the Derivative Works.
- 9.9 **Notice of claim** Nearmap will provide the Licensee with notice of any claim or allegation, under section 9.8, and Nearmap has the right to participate in the defense of any such claim at its expense.
- 10. COPYRIGHT COMPLAINTS**
- 10.1 If any third party brings a Claim against the Licensee alleging that the Licensee's use of the Products, in accordance with this License, infringes their copyright ("**Infringement Claim**"), Nearmap will defend the Licensee against the Claim and pay any settlement to which Nearmap consents or final court-awarded damages for which the Licensee is liable.
- 10.2 The Licensee must:
- promptly notify Nearmap of any such Infringement Claim;
  - not make any admissions in relation to the Infringement Claim without Nearmap's prior written consent;
  - permit Nearmap to conduct the defense of the Infringement Claim including all negotiations for settlement; and
  - provide Nearmap with any assistance reasonably requested to allow Nearmap to defend the Infringement Claim.
- 10.3 Nearmap will have no liability for any Infringement Claim:
- that arises from any:
    - use of the Product in violation of this Agreement;
    - modification of the Product by anyone other than Nearmap, or a party authorized by Nearmap, in writing to modify the portion of the Product applicable to the Infringement Claim; or
  - third-party products, services, hardware, software, or other materials, or a combination of these with the Products, which would not be infringing without this combination; or
- if the Licensee fails to comply with section 10.2.
- 10.4 To the maximum extent permitted by law, this section 10 sets out Nearmap's sole and exclusive liability, and the Licensee's sole and exclusive remedy, for any third party Infringement Claims brought against the Licensee in relation to an infringement of Intellectual Property Rights.
- 11. PRIVACY POLICY**
- 11.1 Nearmap will collect, use, and disclose any personal information supplied by the Licensee as set out in Nearmap's Privacy Policy, as amended from time to time, and currently available at <https://www.nearmap.com/us/en/legal/privacy-policy>. The Licensee hereby consents to those collections, uses, and disclosures.
- 11.2 To the maximum extent permitted by law, by entering into this Agreement, the Licensee expressly consents to receiving general emails relating to product updates, new products, or anything related to the usage of the product from Nearmap, but prior written consent is required to receive by email direct marketing communications from Nearmap.
- 11.3 By entering into this Agreement, the Licensee acknowledges that personal information provided by the Licensee in the course of accessing Products (including, without limitation, credit or debit card details provided by the Licensee for the purpose of paying Nearmap) may be disclosed to and held by one or more of Nearmap's third party suppliers and partners (including, without limitation, providers of payment processing services), and used by those third parties in connection with the supply of Products.
- 12. FORCE MAJEURE**
- 12.1 **Force Majeure Event** If a party is unable to perform or is delayed in performing an obligation under this Agreement (except for any obligation to pay money, including Fees) because of an act of war, terrorism, hurricane, earthquake, other act of God or of nature, strike or other labor dispute, riot or other act of civil disorder, embargo, or other cause beyond the performing party's reasonable control ("**Force Majeure Event**"):
  - that obligation is suspended but only so far and for so long as that party is affected by the Force Majeure Event; and
  - the affected party will not be responsible for any loss or expense suffered or incurred by the other party, as a result of, and to the extent that, the affected party is unable to perform, or is delayed in performing, its obligations under this Agreement because of the Force Majeure Event.
- 12.2 **Notice of Force Majeure Event** If a Force Majeure Event occurs, the party affected by the Force Majeure Event must:
  - Promptly (when reasonably possible to do so) give the other party notice of the Force Majeure Event and an estimate of the non-performance and delay;
  - take all reasonable steps to overcome the effects of the Force Majeure Event; and
  - resume compliance as soon as practicable after the Force Majeure Event no longer affects it.
- 13. CONFIDENTIALITY**
- 13.1 Subject to any other written agreements between the parties in connection with this Agreement, any information provided in writing or orally or data provided by either party under this Agreement ("**Discloser**") to the other party ("**Recipient**") and marked or identified as proprietary or Confidential Information shall not be disclosed for a period of three (3) years from termination or expiry of this Agreement, unless mutually agreed in writing by the parties. The parties will disclose Confidential Information only to their employees who have a need to know for the purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Licensee's duty hereunder. The Recipient will protect Confidential Information from unauthorized use, access, or disclosure in the same manner as it would protect their own confidential or proprietary information of similar nature and with no less than reasonable care.
- 13.2 The confidentiality obligations do not apply to the Recipient if:
- the Discloser has first agreed in writing to the particular disclosure, use, or copying;
  - the Confidential Information was generally known by or available to the public through no wrongful act of the Recipient or otherwise than as a consequence of a breach of this Agreement;
  - the Confidential Information was received by the Recipient without breach of this Agreement from a third party without restriction as to the use and disclosure of the Confidential Information; or
  - the disclosure of Confidential Information is legally compelled due to compliance with federal and state laws or an order by a court.
- 13.3 Immediately upon termination or expiry of this Agreement, the Recipient must (at its expense):
  - cease all use of the materials and Confidential Information;
  - destroy or return (at the Discloser's discretion) the Confidential Information to the Discloser together with all copies, reproductions and summaries of the same;
  - destroy all of its notes, memoranda and records (in whatever form) containing, referring to or based on the Confidential Information;
  - ensure that any person who receives the Confidential Information by the Recipient's authority returns the Confidential Information to the Discloser in any form in which it is held or destroys it and gives evidence of its destruction to the Discloser; and
  - provide to the Discloser a written certificate confirming compliance with the requirements under this section.
- 14. NOTICES**
- 14.1 All notices and consents will be in writing and will be considered delivered and

- effective upon receipt (or when delivery is refused) when:
- (a) personally delivered;
  - (b) sent by registered or certified mail (postage prepaid, return receipt requested);
  - (c) sent by nationally recognized private courier (with signature required and all fees prepaid); or
  - (d) sent by email with confirmation of transmission.
- 14.2 Notices must be sent to the Licensee at the address set forth in the Quote (or if none is specified, the address to which Nearmap sends invoices) and for Nearmap to 10897 South River Front Parkway, Suite 150, South Jordan, UT 84095, USA, or at another address as a party may designate in writing.
15. **TECHNOLOGY EXPORT**
- The Licensee shall not: (a) permit any third party to access or use the Product in violation of any U.S. or Canadian law or regulation; or (b) export any software provided by Nearmap, or otherwise remove it from the United States or Canada, except in compliance with all applicable U.S. and Canadian laws and regulations. Without limiting the generality of the foregoing, the Licensee shall not permit any third party to access or use the Product in, or export such software to, a country subject to a United States embargo (as of the Effective Date, Cuba, Iran, North Korea, Sudan, and Syria) or a Canadian embargo.
16. **MISCELLANEOUS TERMS**
- 16.1 **Nearmap customer** Licensee grants Nearmap the right to use Licensee's name and logo to identify as a Nearmap customer for marketing or promotional purposes in public or private communications with Nearmap's existing or potential customers, subject to Licensee's standard trademark usage guidelines as provided to Nearmap from time to time.
- 16.2 **Additional Terms and Conditions** The Additional Terms and Conditions form part of, and should be read in conjunction with, this Agreement.
- 16.3 **Precedence of Documents** This Agreement is comprised of:
- (a) the Additional Terms and Conditions under Schedule 1;
  - (b) the Quote and attached Schedules;
  - (c) any Product-Specific Terms; and
  - (d) this products agreement.
- If there is any ambiguity or inconsistency between the documents comprising the Agreement, the document appearing higher in the list will have precedence. If the Licensee purchases the Products through a reseller, the terms and conditions under this Agreement will apply. This Agreement between Nearmap and the Licensee supersedes all terms and conditions attached to the Licensee's and/or reseller's purchase order.
- 16.4 **Independent Contractors** The parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf. The parties agree that neither party's employee or contractor is an employee of the other party.
- 16.5 **Construction** The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason for authorship.
- 16.6 **Waiver** Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement.
- 16.7 **Severability** If one or more of the terms of this Agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining terms will not be affected.
- 16.8 **Amendments** Other than as expressly specified in this Agreement, this Agreement may only be varied with the written consent of Nearmap and the Licensee.
- 16.9 **Assignment** This Agreement shall not be assigned by either party without the prior written consent of the other party which shall not be unreasonably withheld; provided, however, that Nearmap may, upon written notice to the Licensee, assign all of its rights under this Agreement to (i) a parent, subsidiary or Affiliate of Nearmap, (ii) a purchaser of all or substantially all assets related to this Agreement, or (iii) a third party participating in a merger, acquisition, sale of assets or other corporate reorganization in which Nearmap is participating. Any attempt to assign this Agreement in violation of this provision shall be void and of no effect. This Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.
- 16.10 **Entire Agreement** This Agreement:
- (a) comprises the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement; and
  - (b) supersedes any prior agreement or understanding on anything connected with that subject matter.
- 16.11 **Counterparts** This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one and the same instrument. This Agreement is not binding on any party unless one or more counterparts have been duly executed by, or on behalf of, Nearmap and the Licensee.
- 16.12 **Language** The parties have expressly agreed that this Agreement, and all ancillary agreements, documents, or notices relating to the Agreement, be drafted solely in the English language. Les parties aux présentes ont expressément convenu que cet accord et toute autre convention, document ou avis y afférent soient rédigés en anglais seulement.
- 16.13 **Governing Law** This Agreement will be governed by and construed in accordance with the laws of the State where the Licensee conducts business (without giving effect to the conflicts of laws provisions thereof).
17. **DEFINITIONS**
- In this Agreement:
- Additional Terms and Conditions** means the additional terms and conditions (if any) set out in the Quote.

**Affiliate** means, with respect to Nearmap, any entity that controls or is controlled by Nearmap, or is under common control with Nearmap. For purposes of this definition, an entity shall be deemed to control another entity if it owns or controls, directly or indirectly, at least 50% of the voting equity of another entity (or other comparable interest for an entity other than a corporation).

**Allowance** means any usage allowance the Licensee is permitted to use and/or drawn down against for any Licensed Non-Government Products as specified the Quote.

**API** means application programming interface.

**Authorized User** means the number of persons specified in the "Seats" section of the Quote, who have been granted access to the Product by the Licensee pursuant to the term and conditions of this Agreement, and who either has been assigned a unique Nearmap user login credential or whom the Licensee has assigned a user login credential that enables access to the Product through the Website or API.

**Business Days** means any day other than a Saturday, a Sunday or a recognized public holiday in the State of Utah, USA.

**Claim** means any claim, cost (including legal costs on a solicitor and client basis), damages, debt, expense, tax, liability, loss, obligation, allegation, suit, action, demand, cause of action, proceeding, or judgment of any kind, however calculated or caused, and whether direct or indirect, consequential, incidental or economic.

**Commencement Date** means (a) for New Subscription Quotes, the date as specified in the "Contract Commencement" section or the "Subscription Start Date" section of the Quote, whichever is later, or (b) for Renewal Quotes or Amendment Quotes, the date as specified in the "Subscription Start Date" section of the Quote.

**Commercial Purpose** means to distribute, transfer, sell, sublicense, or pass possession of any Products (in whole or in part) for the purpose of direct commercial benefit or gain by the Licensee.

**Confidential Information** means the terms of this Agreement, the pricing, and any other information relating to the business, finances, strategy, methods, processes, products, metadata, services or other affairs of a party or its representatives or related bodies corporate which is disclosed to, learnt by or accessed by the Licensee in connection with the Agreement, whether before or after the Licensee entered into the Agreement, whether orally, electronically, in writing or otherwise.

**Content** means any content made available by or on behalf of Nearmap to the Licensee in connection with the License, whether or not through the Website or an API.

**Coverage Area** means the area specified in the "Coverage" section of the Quote for which Nearmap has available Products, which may cover part or all of that area and which may cover part (but not all) of the area covered by the Survey.

**Derivative Work** means any new work created by or for the Licensee that incorporates, embeds, or includes all or part of a Nearmap Product or Content.

**Discloser** has the meaning given in section 13.1.

**Fair Use Policy** means the policy as attached to the Quote.

**Fault** means any fault, failure, error, or defect which prevents the Licensee from accessing the Products, other than where access is prevented due to a planned outage, because of an unforeseeable event beyond Nearmap's reasonable control or any conduct or activity undertaken by the Licensee, the Licensee's employees, agents, or mandataries.

**Fees** means the fees specified in the Quote, payable by the Licensee for the License, or as otherwise agreed in writing between Nearmap and the Licensee.

**Force Majeure Event** has the meaning given in section 12.1.

**Government Products** means any Products specified in the Quote that are described as "Nearmap Vertical for Government" and "Nearmap Oblique for Government" and includes any other Products offered by Nearmap for government customers only where use of its License is connected to the Fair Use policy.

**Infringement Claim** has the same meaning given in section 10.1.

**Intellectual Property Rights** includes all industrial and intellectual property rights throughout the world, including copyright, moral rights, trademarks, patents, rights to protect confidential information, and any other similar rights.

**License** means the license granted in section 1.1.

**Licensee** means the person or entity specified in the "Customer Name" section of the Quote.

**Nearmap** means Nearmap US, Inc.

**Non-Government Products** means all Products specified in the Quote that do not fall under the definition of Government Products.

**Operational Hours** means 9am to 5pm MT.

**Periodic Allowance or Periodic Data Allowance** means the data allowance specified in the "Allowance" section of the Quote unless otherwise agreed in writing between Nearmap and the Licensee.

**Periodic Allowance Section** means section 1.6 (or its equivalent) in the most current version of the products agreement currently located at [here](#).

**Permitted Purpose** means the use of Products by the Licensee for internal purposes in the Licensee's ordinary business, and at all times excludes any:

- (a) Commercial Purpose;
- (b) Unlawful Purpose;
- (c) Integration, or attempt to integrate, the Products in an internal system of the Licensee or of a third party; and
- (d) Redistribution or copying of files, images, or photographs, or making such files, images, or photographs available in any medium or manner that is contained in the Products to any third party (except as expressly permitted under this Agreement).

**Products** means any Nearmap products specified in the Quote (and further described on the Website) and, if applicable, the Survey. For the avoidance of doubt, Products include Content.

**Product-Specific Terms** means additional terms and conditions that apply to certain Products, currently located [here](#).

**Quote** the document produced after the Licensee places an initial order for the Product(s), requests any changes to its License, or renews its License, which may be titled "New Subscription Quote", "Renewal Quote" or "Amendment Quote".

**Recipient** has the meaning given in section 13.1.

**Renewal Term** has the meaning given in section 1.3.

**Schedule** means a schedule to this Agreement, where such schedule has been incorporated by reference to form part of this Agreement.

**Subscription Period** means the period stated in the "Subscription Period" column of the Quote.

**Subscription Start Date** means the date specified in the "Subscription Start Date" section of the Quote.

**Term** means the term specified in the "Subscription Term" section of the Quote, commencing on the Commencement Date. Where a Subscription Period is stated on the Quote, "Term" means the Subscription Period.

**Third Party Providers** means third party providers of products and services to Nearmap.

**Unlawful Purpose** means any unlawful purpose, including but not limited to stalking, harassing or intimidating any person or engaging in misleading or deceptive conduct.

**URL** means a Uniform Resource Locator.

**Website** means all pages and sub-sites available within the nearmap.com domain.

## FAIR USE POLICY

### General

1. It is important to Nearmap that all customers are able to access the Products and Services. Accordingly, we have devised a Fair Use Policy that applies to the data usage of the Products and Services.

2. In this Fair Use Policy:

- a. **Excessive Use** has the meaning given to that term in section 7 of this Fair Use Policy;
- b. **Fair Use Policy** means this policy;
- c. **Nearmap, we, us or our** means Nearmap US, Inc.;
- d. **Products** has the meaning given to that term in Your Nearmap Agreement;
- e. **Services** has the meaning given to that term in Your Nearmap Agreement;
- f. **You or Your** means any customer of Nearmap;
- g. **Your Nearmap Agreement** means the agreement pursuant to which Nearmap provides You with various products and services; and
- h. **Unreasonable Use** has the meaning given to that term in section 5 of this Fair Use Policy.

3. We reserve the right to vary the terms of this Fair Use Policy from time to time.

4. This Fair Use Policy is in addition to Your Nearmap Agreement and in the event of any inconsistency between the terms of this Fair Use Policy and the terms and conditions of Your Nearmap Agreement, Your Nearmap Agreement prevails.

### Unreasonable Use

5. We consider Your use of the Products and Services unreasonable where You use it in a manner which is reasonably considered by Nearmap to be fraudulent use, to be contrary to Your Nearmap Agreement or to adversely affect other Nearmap customers' use of or access to the Products and Services.

6. Among other things, "fraudulent use" includes resupply of the Products and Services without Nearmap's consent so that someone else may access or use the Products and Services or take advantage of the Products and Services.

### Excessive Use

7. Excessive Use is a continuing and unreasonably disproportionate use of the Products and Services when compared to other average individual named users.

### Nearmap's Rights

8. Where Your use of the Products and Services constitutes Unreasonable Use and/or Excessive Use, Nearmap may contact You to discuss changing Your usage pattern so that it conforms with this Fair Use Policy, or to upgrade to a more suitable Product or Service (if applicable).

9. If, after Nearmap has contacted You, Your Unreasonable Use and/or Excessive Use continues, Nearmap may, without further notice to You:

- a. restrict Your access to low resolution imagery for the remainder of the month; and/or
- b. restrict Your access to low resolution imagery for the remainder of the month until Your data allowance is reset at the beginning of the next month (if applicable); and/or
- c. restrict Your access for the remainder of the month; and/or
- d. restrict Your access to Nearmap until Your data allowance is reset at the beginning of the next month (if applicable); and/or
- e. immediately cease Your access to Nearmap; and/or
- f. exercise any other right available to Nearmap under the terms of Your Nearmap Agreement.

## Agenda Item 9.

### **Resolution No. 237 - 2023 - Contract with Deckard Technologies, Inc**

Resolution authorizing an agreement with Deckard Technologies, Inc. for short-term rental inventory and compliance services at a cost of \$3,500.00 in the first year

*Resolución por la que se autoriza un acuerdo con Deckard Technologies, Inc. para inventario de alquiler a corto plazo y los servicios de cumplimiento a un costo de \$ 3,500.00 en el primer año*

#### **Background:**

Subscription with Deckard Technologies for short-term rental inventory and compliance services. The platform identifies, tracks and reports STR registrations, booking activities, licenses, and transient occupancy tax payments.

Budget code: A.1315.0453.0000.0000

#### **ATTACHMENTS:**

Description	Upload Date	Type
Resolution approving Deckard Technologies contract	11/15/2023	Resolution Letter
Deckard Technologies contract	11/14/2023	Backup Material

RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH  
DECKARD TECHNOLOGIES, INC. FOR SHORT-TERM RENTAL INVENTORY  
AND COMPLIANCE SERVICES AT COST OF \$3,500.00 IN THE FIRST YEAR**

**WHEREAS**, the City of Newburgh has recognized a need for professional support services to conduct a short-term rental property inventory to ensure compliance with applicable laws, rules and regulations, including the City of Newburgh Hotel Room Occupancy Tax; and

**WHEREAS**, Deckard Technologies, Inc. has developed professional support services to assist with the City of Newburgh's short-term rental inventory and compliance project; and

**WHEREAS**, funding for the cost of the first year of the contract will be \$3,500.00 and derive from budget line A.1315.0453; and

**WHEREAS**, this Council finds it in the best interest of the City of Newburgh to enter into an agreement with Deckard Technologies, Inc. for professional support services;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into an agreement with Deckard Technologies, Inc. at a cost of \$3,500.00 in the first year for professional support services to assist with the City of Newburgh's short-term rental inventory and compliance project.



## MASTER PROFESSIONAL SERVICES AGREEMENT

This Master Professional Services Agreement (the "Agreement") is made and entered into as of \_\_\_\_\_ (the "Effective Date") by and between Deckard Technologies, Inc., a Delaware corporation ("Deckard"), having its principal offices located at 1620 5<sup>th</sup> Avenue, Suite 400, San Diego, CA 92101 and **City of Newburgh, NY** ("Client"), having its principal offices at \_\_\_\_\_ 83 Broadway, Newburgh, NY 12550 \_\_\_\_\_

### RECITALS

**WHEREAS**, Deckard provides advanced data analytics and technology solutions for real estate through its proprietary Rentalscape platform (the "Platform");

**WHEREAS**, Client desires to engage Deckard to perform the services described in SOWs attached to this Agreement in accordance with the terms and conditions hereof;

**NOW THEREFORE**, the parties hereby agree as follows:

#### 1. Statements of Work.

1.1. Client hereby retains Deckard and Deckard hereby agrees to use the Platform to perform certain data analytics services (the "Services"), which shall be specified in writing in statement(s) of work executed by the parties hereto (each an "SOW"). The SOW for the initial Services to be performed by Deckard is attached hereto as **Exhibit A**. Each subsequent SOW shall be signed by both parties and shall set forth, upon terms mutually agreeable to the parties, the specific Services to be performed by Deckard, the timeline and schedule for the performance of such Services and the compensation to be paid by Client to Deckard for the provision of such Services, as well as any other relevant terms and conditions. If an SOW includes the development of specific work product, the specifications of such work product shall be set forth on the relevant SOW. The parties shall attach a copy of each Statement of Work to this Agreement and each such SOW shall be incorporated herein by reference. Any changes to an SOW shall be in writing, executed by each party (each a "Change Order"), attached to the original SOW and incorporated therein and attached hereto as part of **Exhibit A**. All such executed SOWs and Change Orders are subject to the terms and conditions of this Agreement, are incorporated herein, and made a part hereof. In the event of any conflict between the terms of this Agreement and any SOW or Change Order the terms of this Agreement shall control.

1.2. Deckard agrees to apply Deckard's best efforts to the performance of Services under this Agreement competently and professionally, and will deliver the work product as set forth in the applicable SOW. Deckard shall devote such time and attention to the performance of Deckard's duties under this Agreement, as shall reasonably be required by Client, or as customary in the software industry.

**2. Performance of Services.** In carrying out the Services, Deckard shall fully comply with any and all applicable codes, laws and regulations and, if applicable, the rules of the site at which the Services are performed. Deckard shall provide a project manager who shall oversee the day-to-day performance of the Services and ensure the orderly performance of the Services consistent with each SOW and this Agreement. Deckard's project manager shall reasonably cooperate with Client's project manager and keep him or her informed of the work progress.

### **3. Fees.**

3.1. Client shall pay all fees in the amount and in the time periods set forth in the applicable SOW. In no event shall the fees payable to Deckard hereunder exceed any maximum amount set out in the SOW. Client shall reimburse Deckard for actual and reasonable expenses incurred in performing the Services that are set forth in an SOW or otherwise approved in advance by Client, including meals, incidental expenses and reasonable travel costs incurred for travel in such amounts as authorized by the Federal or specified State or local travel regulations. Original receipts must be presented with any invoice for such costs and/or expenses and Deckard shall attest that the costs and/or expenses are actual and allocated to the Services.

3.2. Deckard agrees to use commercially reasonable efforts to ensure that invoices comply with the form, timeliness and any supporting certification requirements that are provided to Deckard by Client in writing from time to time during the Term. Unless otherwise specified in an SOW, Client shall pay all invoices within 30 days of Client's receipt of such invoice.

3.3. Client agrees that custom development requests outside of the scope of work may incur a fee of \$250 hourly rate at a minimum of 2 hours of labor. Client agrees that custom requests may or may not be released on the original agreed upon release date.

**4. Taxes.** Deckard acknowledges that as an independent contractor, Deckard may be required by law to make payments against estimated income or other taxes due federal, state and other governments. Deckard agrees to bear any and all expenses, including legal and professional fees, increased taxes, penalties and interest that Deckard or Client may incur as a result of any attempt to challenge or invalidate Deckard's status as an independent contractor, and Deckard agrees to defend, and hold Client harmless from any liability thereon.

### **5. Term and Termination.**

5.1. The term of this Agreement ("Term") shall commence on the Effective Date and shall continue in force and effect for a period of one year; the Term shall be automatically renewed thereafter for additional periods of one year each unless terminated by either party by giving written notice of termination to the other party not less than 60 days before the end of the then-current period. Termination shall have no effect on Client's obligation to pay the applicable labor rate with respect to Services rendered prior to the effective date of termination.

5.2. **Termination.** This Agreement shall be terminated as follows:

5.2.1. By either party by giving the other party 60 days prior written notice; provided that, such termination shall not be effective until each and every SOW then outstanding shall have been fully performed in accordance with the terms and conditions of the SOW.

5.2.2. Upon the entering into or filing by or against either party of a petition, arrangement, or proceeding seeking an order for relief under the bankruptcy laws of the United States, a receivership for any of the assets of the other party, an assignment for the benefit of its creditors, or the dissolution, liquidation, or insolvency of the other party.

5.2.3. Client may terminate this Agreement or any SOW if Deckard materially breaches this Agreement or the applicable SOW and fails to cure such breach to Client's reasonable satisfaction within 30 days of Deckard receipt of written notice thereof.

5.3. **Continuation.** This Agreement shall continue in full force and effect following the termination of any SOW, unless otherwise agreed by the parties.

5.4. **Post Termination Obligations.** Upon the expiration or termination of this Agreement or any SOW for any reason, Deckard shall: **(i)** carry out an orderly winding down of the affected work; **(ii)** deliver to Client the applicable work/deliverables not previously delivered in its then current form and any documents or other information in whatever manner related thereto, **(iii)** return any property of the Client then in Deckard's possession; and **(iv)** submit a final invoice to Client for any Services performed prior to the date of such termination and as otherwise permitted by this Agreement. Client shall pay Deckard those amounts due for Services performed up to the date of termination.

6. **Cooperation.** Deckard expressly agrees that it shall reasonably cooperate with and assist Client in: **(a)** responding to any inquiry or claim by or from any Federal, State or local government agency regarding the performance of this Agreement; and/or **(b)** exercising any rights that Client may have to pursue any remedies available to it under any applicable Federal, State or local law or regulation.

7. **Deckard Personnel.** Deckard shall perform all Services in a professional and workmanlike manner by individuals qualified to perform the Services. Deckard may, at its discretion, subcontract with other companies or individuals to carry out some part of the Services, provided that Deckard shall remain responsible for the oversight of all work performed.

8. **Relationship of the Parties.** Deckard is, and at all times during the term of this Agreement shall be, an independent contractor of Client. Deckard shall not represent to any Client customer or other person or entity that it has any right, power or authority to create any contract or obligation, either express or implied, on behalf of, or binding upon Client or to any way modify the terms and conditions of any SOW. This Agreement shall not create or in any way be interpreted to create a partnership, joint venture, or formal business organization of any kind between the parties.

## 9. **Representations and Warranties.**

9.1. Deckard represents and warrants that:

9.1.1. Deckard shall perform all Services in a competent, professional, workman-like manner and in accordance with the governing SOW and any applicable industry and/or professional standards;

9.1.2. It has the legal right and authority to enter into this Agreement and perform the Services under any SOW under which it agrees to perform Services;

9.1.3. Upon execution by an authorized representative, this Agreement will be a binding agreement, enforceable against Deckard in accordance with its terms; and

9.1.4. Entering into this Agreement or performing work under a particular SOW shall not violate any agreement (written or implied) with any third party.

9.2. Client represents and warrants that:

9.2.1. It has the legal right and authority to enter into this Agreement and to deliver the Data to Deckard to perform the Services;

9.2.2. Upon execution by an authorized representative, the Agreement will be a binding Agreement, enforceable against Client in accordance with its terms; and

9.2.3. Entering into this Agreement or performing work under a particular SOW shall not violate any agreement (written or implied) with any third party.

These warranties shall survive inspection, acceptance, and payment and are in addition to all other warranties expressed or implied by law.

**10. Nondisclosure of Confidential Information.** During the performance of this Agreement certain proprietary, technical and financial information may be disclosed by one party ("Disclosing Party") to the other party ("Receiving Party") and shall be deemed proprietary if marked with a conspicuous legend identifying it as proprietary or confidential information ("Confidential Information"). The Receiving Party shall not use less than the same efforts to prevent the disclosure of Confidential Information received hereunder as is used to protect its own Confidential Information, and in no event, however, less than a reasonable degree of care. Disclosure of Confidential Information received hereunder shall be restricted to those individuals who are directly participating in the performance of the Services under this Agreement. Confidential Information shall not include information that the Receiving Party can demonstrate by competent evidence is **(a)** rightfully known to the Receiving Party without obligations of non-disclosure, prior to receipt of such information from the Disclosing Party; **(b)** independently developed by the Receiving Party without the benefit or use of the Confidential Information furnished by the Disclosing Party, or obtained in good faith from a third party having no obligation to keep such information confidential; or **(c)** publicly known through no breach of this Agreement. Receiving Party may disclose Confidential Information when required by operation of law or pursuant to the order of a governmental agency, but only upon prior written notice to the other party to allow the other party the opportunity to take appropriate legal measures to protect the Confidential Information. The parties acknowledge that any unauthorized use or disclosure of the Confidential Information may cause irreparable damage to the other Party, for which there is no adequate remedy at law, and shall entitle the other Party to obtain immediate injunctive relief without any requirement to post bond, in addition to all other available remedies.

**11. Liability Limitations; Disclaimer.** ALL DELIVERABLES PROVIDED TO CLIENT BY DECKARD UNDER THIS AGREEMENT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. IN NO EVENT SHALL EITHER PARTY OR ITS RESPECTIVE EMPLOYEES, REPRESENTATIVES OR SUBSIDIARIES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE, INCIDENTAL OR SPECIAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT PAID BY CLIENT TO DECKARD UNDER THIS AGREEMENT.

**12. Indemnification.** Deckard shall indemnify and hold Client harmless from and against any third party claims against and damages incurred by Client that are finally awarded by a court of competent jurisdiction (including reasonable attorneys' fees) as a result of **(a)** injury or death to persons, or loss of or damage to property caused by the acts of Deckard or its agents; **(b)** a claim that the Services infringe the intellectual property rights of any third party; and **(c)** any violation by Deckard,

its employees, agents, representatives or any person or entity acting on its behalf of any, Federal, State and/or local law, or regulation. Deckard shall be entitled to assume control of the settlement, compromise, negotiation and defense of any claim, and in such case, Deckard shall not enter into any settlement of any claim or action that adversely affects Client's business or interests without its prior approval, which shall not be unreasonably withheld or delayed. Client shall indemnify and hold Deckard harmless from and against any third party claims against and damages incurred by Deckard that are finally awarded by a court of competent jurisdiction (including reasonable attorneys' fees) as a result of **(a)** injury or death to persons, or loss of or damage to property caused by the acts of Client, its customers or its agents; **(b)** any violation by Client, its customers, employees, agents, representatives or any person or entity acting on its behalf of any, Federal, State and/or local law, or regulation. Client shall be entitled to assume control of the settlement, compromise, negotiation and defense of any claim, and in such case, Client shall not enter into any settlement of any claim or action that directly affects Deckard's business or interests without its prior approval, which shall not be unreasonably withheld or delayed.

**13. Proprietary Rights.** The results of the Services delivered to Client in the form delivered to Client, including all reports, technical communications, drawings, records, charts, or other materials originated or prepared by Deckard for Client in performing the Services (all of the foregoing, collectively, the "Work Product") shall be the property of Client, and Deckard hereby assigns all rights to such Work Product to Client. Without limiting the generality of the foregoing and subject to Deckard's confidentiality obligations under this Agreement, Client acknowledges that the Work Product will include the aggregation and analysis of certain publicly available data and agrees that nothing contained in this Agreement shall be interpreted to prohibit Deckard from using its technology and other intellectual property to analyze the same or similar publicly available information for third parties. In addition, to the extent that Deckard incorporates any Deckard Property (as defined below), including any pre-existing or copyrighted work of Deckard into the Work Product, such Deckard Property shall remain the property of Deckard. Deckard grants to Client a perpetual, royalty-free, irrevocable, worldwide, non-exclusive license to use such Deckard Property in connection with exercising the rights of ownership granted to Client under this Agreement. In addition, nothing herein shall grant to Client any rights in the Platform or any other proprietary technologies and intellectual property used by Deckard in preparing any Work Product ("Deckard Property").

**14. Governing Law.** This Agreement and all disputes relating to this Agreement shall be governed by the laws of the State of California, except as to any provisions of this Agreement that are properly governed by the laws of the United States. All controversies or disputes arising out of this Agreement shall be heard in either the state or federal courts sitting in San Diego County, California or in another location agreed to by the parties.

**15. Assignment.** Deckard shall not assign, transfer or sell its rights or obligations under the Agreement without Client's prior written consent, which shall not be unreasonably withheld; provided that such consent shall not be required if the assignment is in connection with the sale of all or substantially all of Deckard's business to which this Agreement relates, whether by merger, sale of stock, sale of assets or otherwise.

**16. Severability; Survival.** If any part, term, or provision of the Agreement is held invalid or unenforceable for any reason, the remainder of the Agreement shall continue in full force and effect as if the Agreement has been executed with the invalid portion thereof eliminated. Upon termination or expiration of this Agreement, the terms and conditions set out in Sections 5.4, 8, and 10 through 22 will survive such termination.

**17. Waiver of Breach.** The waiver of a breach of the Agreement or the failure of a party to exercise any right under the Agreement shall in no event constitute a waiver of any other breach, whether similar or dissimilar in nature, or prevent the exercise of any right under the Agreement.

**18. Force Majeure.** Neither party shall be liable for any failure to perform, or delay in performing, any of its obligations hereunder due to causes beyond its reasonable control, and without the fault or negligence of that party. Such causes shall include, without limitation, Acts of God, acts of civil or military authority, fire, flood, epidemic, pandemic, quarantine, freight embargo, civil commotion or acts of war, declared or undeclared.

**19. Compliance with Laws.** Each party agrees to comply with all applicable local, state, and federal laws and executive orders and regulations issued pursuant thereto and agrees to defend, indemnify, and hold the other party harmless from any claim, suit, loss, cost, damage, expense (including reasonable attorney's fees), or liability by reason of the other party's violation of this provision.

**20. Dispute Resolution.** In the event of a claim or dispute between the parties arising under this Agreement, such claim or dispute shall be settled by mutual agreement between the senior management of the parties, subject to ratification by Client's legislative body. If an agreement is not reached within a reasonable time, except as otherwise provided in this section, any dispute concerning the terms and conditions of this Agreement may be resolved by pursuing any right or remedy available at law or in equity in accordance with this Agreement. Deckard shall, at all times, proceed diligently with the performance of the Services hereunder. Notwithstanding the above, Client's contract with a governmental entity may include a disputes clause under FAR 52.233-01 (the "Disputes Clause"), pursuant to which a prime contractor may pursue certain procedures in the event of a dispute between the customer and Client with respect to questions of law or fact relating to the government contract. In such case, all Deckard claims, controversies or disputes concerning matters that are subject to the Disputes Clause of the government contract shall be governed solely by such disputes clause Deckard shall be responsible for providing any and all certifications required by law or Client to enable Client or its customer to verify, support, or confirm such certifications. Both parties agree that the occurrence of a dispute under the Disputes Clause shall not interfere with either party's performance or other obligations under this Agreement.

**21. Entire Agreement.** This Agreement and each SOW issued hereunder represent the entire understanding and agreement between the parties hereto and supersede all other prior written or oral agreements made by or on behalf of Client or Deckard. In the event of a conflict between the terms and conditions of this Agreement and any SOW, the Agreement shall control, unless the SOW expressly provides that it is intended to modify the Agreement. Deckard's proposals shall not be part of this Agreement unless specifically referenced in the SOW and agreed to in writing by Client. This Agreement may be modified only by written agreement signed by the authorized representatives of the parties.

**22. Communications and Notices.** Other than communications required to be made by Deckard's project manager to Client's project manager, all notices, orders, directives, requests or other communications of the parties in connection with this Agreement shall be in writing and shall be provided as follows:

In the case of Client:

Todd Venning

Title: City Manager

83 Broadway

Newburgh, NY 12550

With a copy to:

Corporation Counsel

83 Broadway

Newburgh, NY 12550

In the case of Deckard

Nickolas R. Del Pego

Title: CEO

1620 Fifth Ave Suite 400

San Diego, CA 92101

**23. Media and/or Logo Use.** Client agrees that Deckard shall have the right to use Client's name on website, marketing materials and advertisements. In addition, Client shall have the right to revoke Deckard's right to use its name by providing Deckard with 30 days' advance written notice. Upon the expiration or termination of this Agreement the rights set forth in this Section 23 shall terminate.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, Deckard and Client have each caused this Agreement to be executed by their duly authorized representatives, effective as of the dates indicated below

**DECKARD TECHNOLOGIES, INC.**

**CLIENT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**  
**STATEMENT OF WORK**

This Statement of Work ("SOW") will be effective as of the last date of signature below, and upon execution will be incorporated into the Master Services Agreement between Deckard Technologies, Inc. and **City of Newburgh, NY** dated [EFFECTIVE DATE OF MASTER SERVICES AGREEMENT] (the "**Master Agreement**"). Capitalized terms used in this SOW will have the same meaning as set forth in the Agreement.

**1. Short Term Rental Service.** Client desires to engage Deckard to use the Rentalscape Platform to prepare real estate property data for short-term rentals ("STRs") on all identifiable properties within the City of: **Newburgh**\_\_\_\_\_ in the State of **NY**\_\_\_\_\_ based upon publicly available data and such other data relevant to the Designated Geography to be provided to the client by Deckard (reports accessible from Rentalscape). The Reports shall include at a minimum:

- 1.1. Information on STRs currently active in the Designated Geography;
- 1.2. The aggregate revenue from actively listed bookings;
- 1.3. The average number of nights booked per reservation;
- 1.4. The major platforms used by STR hosts;
- 1.5. Average daily rates;
- 1.6. Booking trends during the Reporting Period;
- 1.7. Identify, by address, the following violations of STR ordinances within the Designated Geography;
  - 1.7.1. Listings or advertisements that do not include an STR permit number;
  - 1.7.2. Listings or advertisements that represent or offer occupancy in excess of the occupancy maximums in the Designated Geography; and
  - 1.7.3. Properties advertised as STRs that are only permitted as long-term rentals;
- 1.8. Identify the actively listed STRs by month and address;
- 1.9. The total number of properties actively listed in the Designated Geography each month during the Reporting Period;
- 1.10. List the property owners; and
- 1.11. List the permit history of each property offering STRs in the Designated Geography.

**2. Designated Geography. City of Newburgh, NY**

**3. Reporting Period.** Reports available in the Rentalscape Platform throughout the year.

#### **4. Fees; Payments.**

**4.1. Annual Software Subscription:** \$3,500 (Identification, Compliance monitoring and Rental activity listed in Rentalscape as STRs). We approximate **90** properties by the end of year one as being Monitored in Rentalscape. Should the number of properties exceed the approximations, this increase will be included in the Maximum Price and not subject to additional fees in the first year. These increases may be reflected in years 2 and beyond. (\$10 to ID, \$25 to Monitor. Min Price = \$3,500)

**4.2. Maximum Price:** In no event will the total subscription fees in the first year exceed \$3,500

**4.3 Timing:** Client will pay the annual subscription fees within 30 days of receipt of invoices from Deckard.

All terms and conditions of the Agreement will apply to this SOW. This SOW will be effective as of the date of the last signature below.

**SOW AGREED TO AND ACCEPTED BY:**

**DECKARD TECHNOLOGIES, INC.**

**CLIENT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Agenda Item 10.

**Resolution No. 238 - 2023 - Resolution certifying base percentages, base proportions & adjusted base proportions under RPTL Article 19**

Resolution to certify the base percentages, current percentages, current base proportions and adjusted base proportions under the Homestead Option of Article 19 of the Real Property Tax Law of the State of New York

*Resolución para certificar la base de los porcentajes, los porcentajes actuales, las proporciones de la base actual y las proporciones de la base ajustada bajo la opción de vivienda del artículo 19 de la Ley de Impuestos sobre Bienes raíces del Estado de Nueva York*

**ATTACHMENTS:**

Description	Upload Date	Type
Resolution certifying base percentages with schedules	11/22/2023	Resolution Letter

RESOLUTION NO.: \_\_\_\_\_-2023

OF

NOVEMBER 27, 2023

**A RESOLUTION TO CERTIFY THE BASE PERCENTAGES, CURRENT  
PERCENTAGES, CURRENT BASE PROPORTIONS AND  
ADJUSTED BASE PROPORTIONS UNDER THE HOMESTEAD  
OPTION OF ARTICLE 19 OF THE REAL PROPERTY TAX LAW OF  
THE STATE OF NEW YORK**

**BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that this Council does hereby certify the base percentages, current percentages, current base proportions and the adjusted base proportions as set forth on the annexed certificates, pursuant to Article 19 of the Real Property Tax Law of the State of New York.



RP-6703	NEW YORK STATE OFFICE OF REAL PROPERTY SERVICES 16 SHERIDAN AVENUE, ALBANY, NY 12210-2714					11/21/23
CERTIFICATE OF ADJUSTED BASE PROPORTIONS PURSUANT TO ARTICLE 19, RPTL FOR THE 2023 ASSESSMENT ROLL						
*****						
Approved Assessing Unit		City of Newburgh, 331100				
Name of Portion		City of Newburgh, 331100				
Reference Rol		2022				
Levy Roll		2023				
*****						
DETERMINATION OF PORTION CLASS NET CHANGE IN ASSESSED VALUE DUE TO PHYSICAL AND QUAN						
Section I EQUALIZATION CHANGES AND COMPUTATION OF CLASS CHANGE IN LEVEL OF ASSESSMENT FACTOR						
(A) Total Assessed Value on the Reference Roll Excluding roll section 5		(B) Total Assessed Value of Physical and Quantity Increases between the Reference Roll and Levy Roll		(C) Total Assessed Value of Physical and Quantity Decreases between the Reference Roll and Levy Roll		
(D) Net Assessed Value of Physical and Quantity Changes		(E) Surviving Total Assessed Value on the Reference Roll				
Class		(B-C)		(A-C)		
Homestead		1,017,255,623		5,486,300		
		2,483,700		3,002,600		
		1,014,771,923				
Nonhomestead		447,979,450		3,916,500		
		2,427,300		1,489,200		
		445,552,150				
(F) Total Assessed Value of Equalization Increases between the Reference Roll and Levy Roll		(G) Total Assessed Value of Equalization Decreases between the Reference Roll		(H) Net Equalization Changes		
(I) Change in Level of Assessment Factor						
Class		(F-G)		(H/E)+1		
Homestead		258,860,430		5,891,800		
		252,968,630		1.24929		
		0.9336				
Nonhomestead		163,717,352		1,564,131		
		162,153,221		1.36394		
		1.0005				
COMPUTATION OF PORTION CLASS ADJUSTMENT FACTOR						
Section II		(J) Taxable Assessed Value on the Levy Roll Excluding roll section5		(K) Taxable Assessed Value on the Levy Roll at the Reference Roll Level of Assessment (J/I)		
(L) Assessed Value of Special Franchise on the Levy Roll at the Reference Roll Level of Assmnt		(M) Total Taxable Assessed Value on the Levy Roll at the Reference Roll Level of Assessment (K+L)		(N) Taxable Assessed Value on the Reference Roll		
(O) Class Adjustment Factor		(M/N)				
Class						
Homestead		1,224,428,039		980,102,114		
		0		980,102,114		
		978,148,751		1.00200		
		0.9491				
Nonhomestead		593,479,203		435,121,932		
		81,134,532		516,256,464		
		508,844,387		1.01457		
		0.9988				
COMPUTATION OF ADJUSTED BASE PROPORTIONS						
Section III		(P) Current Base Proportions		(Q) Current Base Proportions adjusted for Physical and Quantity Changes (P*O)		
(R) Adjusted Base Proportions		(Q/sum of Q)				
Class						
Homestead		56.41079		56.52344		
				56.10401		
Nonhomestead		43.58921		44.22415		
				43.89599		
Total		100.00000		100.74759		
				100.00000		

I, the clerk of the legislative body of the approved assessing unit identified above, hereby certify that the legislative body determined on \_\_\_\_\_ base percentages, current percentages, and current base proportions as set forth herein for the assessment roll and portion as identified above.

signature

title

I, the clerk of the legislative body of the approved assessing unit identified above, hereby certify that the legislative body determined on \_\_\_\_\_ base percentages, current percentages, and current base proportions as set forth herein for the assessment roll and portion as identified above.

signature

title

0.9491

0.9988

Local Adjustments to the Adjusted Base Proportions

The municipality may make certain adjustments to the ABPs.  
See Subsection 1903-4(c) of the Real Property Tax Law

City of Newburgh

2023

STEP 1 - Subtract the Adjusted Base Proportion for the Homestead Class from the  
Current Percentage for the Homestead Class

Current Percentage for Homestead Class (Part I of form RP-6701)		65.78031
Adjusted Base Proportion for Homestead Class (column R of form RP-6703)	-	<u>56.10401</u>
Difference		9.67630

STEP 2 - Take the Difference computed in STEP 1 and multiply it by  
10%, 20%, 25%, 30%, 40%, 50%, 60%, 70%, 75%, 80%, and 90%.  
Add this amount to the Homestead Adjusted Base Proportion.

			POSSIBLE TAX SHARES WHICH MAY BE ADOPTED	
Select a Percentage	Amount to be added to Homestead ABP		<u>Homestead</u>	<u>NonHomestead</u>
			56.10401	43.89599
10%	0.96763		57.07164	42.92836
20%	1.93526		58.03927	41.96073
25%	2.41908		58.52309	41.47691
30%	2.90289		59.00690	40.99310
40%	3.87052		59.97453	40.02547
50%	4.83815		60.94216	39.05784
60%	5.80578		61.90979	38.09021
70%	6.77341		62.87742	37.12258
75%	7.25723		63.36124	36.63876
80%	7.74104		63.84505	36.15495
90%	8.70867		64.81268	35.18732
100%	9.67630		65.78031	34.21969



Agenda Item 11.

**Resolution No. 239 - 2023 - Resolution adopting the FY2024 Budget**

*Resolución adoptando el Presupuesto para el Año Fiscal 2024*

**ATTACHMENTS:**

Description	Upload Date	Type
Resolution adopting the FY2024 Budget	11/22/2023	Resolution Letter
NYS Comptroller Letter #B23-6-9	11/17/2023	Backup Material
Changes from Manager's Proposed to Council Adopted	11/17/2023	Backup Material
2024 Levy	11/22/2023	Backup Material

RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION ADOPTING THE BUDGET  
FOR THE FISCAL YEAR 2024**

**WHEREAS**, the City Manager, on October 10, 2023, submitted to the City Council of the City of Newburgh, New York, a detailed estimate, including the “Manager’s Proposed Fiscal Year 2024 Budget” and the “Manager’s Proposed Personnel Analysis Book” of same date, of revenues and expenditures necessary and proper for all municipal activities accounted for in the General, Water, Sewer, Sanitation and Self-Insurance Funds during the fiscal year of 2024; and

**WHEREAS**, such detailed estimates have been filed in the City Clerk’s Office as required by the Charter of the City of Newburgh so that said estimates may be inspected by anyone interested, and a public hearing was held on November 13, 2023 in reference to said estimates for any item thereof; and

**WHEREAS**, the Council has made such changes, alteration, corrections and amendments to the said budget as it appears to said Council to be proper, including incorporating such changes as deemed necessary in response to the New York State Office of the State Comptroller’s budget review report #B23-6-9 dated November 17, 2023; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York does hereby approve, determine and adopts the budget for the year 2024 as appears in the annexed “City Council Adopted Fiscal Year 2024 Budget” on November 27, 2023; and

**BE IT FURTHER RESOLVED**, that the sum of \$23,547,684 be levied and raised on account of City taxes for the year 2024 on all the taxable property in the City of Newburgh according to the valuation of the last assessment roll of said City for State, County and City purposes, being \$1,224,428,039 for Homestead Properties and \$680,619,408 for Non-Homestead Properties, including special franchise assessments, in accordance with the Real Property Tax Law of the State of New York; and

**BE IT FURTHER RESOLVED**, that the City Collector is authorized and directed to cause said amount of \$23,547,684 to be extended and apportioned and adjusted on said assessment roll at \$10.789687 for Homestead Properties and \$15.186885 for Non-Homestead Properties on every \$1,000 of taxable real property, including special franchise assessments; and

**BE IT FURTHER RESOLVED**, that the required sewer, water and sanitation fees for the taxable and non-taxable properties for the year 2023 is as set forth in Section 163-1 of the City Code of Ordinances; and

**BE IT FURTHER RESOLVED**, that the City Collector is authorized and directed to cause any and all amounts reported as omitted taxes to be levied against the real property subject to said omitted taxes and to cause the amounts reported by the City Collector as overdue and unpaid water rents, sewer rents and sanitation user fees, and unpaid charges of property abatement, with the interest and penalties thereon, to be added to the tax levied against the real property for which or in connection with which such water, sewer and sanitation was provided; and

**BE IT FURTHER RESOLVED**, that said City tax roll shall be delivered to the City Collector on the 2nd day of January 2024, signed by the City Manager and under the seal of the City, directing and commanding said City Collector to receive and collect in the manner provided by the law for the levying and collecting of County taxes by City Collectors, these several amounts in the roll specified as against the persons or property therein mentioned and described, and that said warrant shall direct the City Collector to collect said assessments in four equal installments as follows:

The first installment commencing on the 2nd day of January 2024, and collect up to and including the 5th day of February 2024, without fees, and to add 5% from the 6th day of February 2024, up to and including the 1st day of April 2024.

The second installment commencing on the 1st day of March 2023, and collect up to and including the 5th day of April 2024, without fees, and to add 5% from the 6th day of April 2024, up to and including the 30th day of May 2024.

The third installment commencing on the 1st day of May 2024, and collect up to and including the 5th day of June 2024, without fees, and to add 5% from the 6th day of June 2024, up to and including the 30th day of July, 2024.

The fourth installment commencing on the 1st day of July 2024, and collect up to and including the 5th day of August 2024, without fees, and to add 5% from the 6th day of August 2024, up to and including the 30th day of September, 2024.

In addition, thereto, for all late payments remaining unpaid for ninety (90) days after the first date designated for the collection of same, there shall be added an additional penalty in the amount of 10% per annum computed from said first date of collection; and

**BE IT FURTHER RESOLVED**, that the amounts, when collected, be deposited daily with the TD Bank, Key Bank of NY, NA, New York Cooperative Liquid Assets Securities System (NYCLASS) or in any of the said banks in compliance with the requirements set forth in the Newburgh Fiscal Recovery Act by said City Comptroller and credited and applied to the several respective funds and accounts as stated in the Adopted Budget for taxes now confirmed and approved by said City Council, including credit balances heretofore appropriated.



**THOMAS P. DiNAPOLI**  
STATE COMPTROLLER

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
110 STATE STREET  
ALBANY, NEW YORK 12236

DIVISION OF LOCAL GOVERNMENT  
AND SCHOOL ACCOUNTABILITY  
Tel: (518) 474-4037 Fax: (518) 486-6479

November 17, 2023

Honorable Torrance Harvey, Mayor  
Members of the City Council  
City of Newburgh  
83 Broadway  
Newburgh, NY 12550

Report Number: B23-6-9

Dear Mayor Harvey and Members of the City Council:

Chapter 223 of the Laws of 2010 (Chapter 223) authorizes the City of Newburgh (City) to issue debt not to exceed \$15 million to liquidate the accumulated deficit in the City's general fund as of December 31, 2010. During the time that Chapter 223 is in effect, the City's proposed annual budgets must be submitted to the State Comptroller for examination and recommendations.

The proposed budget must be submitted no later than 30 days before the date scheduled for the governing board's vote on the adoption of the final budget or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller must examine the proposed budget and make recommendations, as deemed appropriate. Recommendations, if any, are made after the examination of the City's estimates of revenues and expenditures.

The City Council, no later than five days prior to the adoption of the budget, must review all recommendations made by the State Comptroller and must make adjustments to its proposed budget consistent with those recommendations contained in this report.

Our Office completed an independent evaluation (review) of the City's budget for the 2024 fiscal year. The review addressed the following question:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

Our review disclosed the following matters which should be reviewed by City officials for appropriate action. Chapter 223 requires the City Council to make adjustments to the proposed budget consistent with our recommendations. We believe that such adjustments will help improve the City's financial condition.

To accomplish the review’s objective, we requested your proposed budget, salary schedules, debt payment schedules and other pertinent information. We identified and examined significant estimated revenues and expenditures for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We analyzed, verified and/or corroborated trend data and estimates, where appropriate. We identified any significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items and to assess whether the estimates were realistic and reasonable. We also evaluated the amount of fund balance appropriated in the proposed budget to be used as a financing source and determined whether the amount of fund balance was available and sufficient for that purpose. Lastly, we compared the proposed tax levy with the City’s tax levy limit.

The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS). We do not offer comments or make specific recommendations on public policy decisions, such as the type and level of services under consideration to be provided.

The proposed budget package submitted for review for the 2024 fiscal year consisted of the following:

- Cover Letter
- 2024 Proposed Budget
- Supplementary Information

The proposed budget submitted to our Office is summarized in Figure 1:

<b>Figure 1: 2024 Proposed Budget</b>					
<b>Fund</b>	<b>Appropriations and Provisions for Other Uses</b>	<b>Estimated Revenues</b>	<b>Appropriated Fund Balance</b>	<b>Fund Transfers In (Out)</b>	<b>Real Property Taxes</b>
General	\$64,261,442	\$39,444,272	\$3,399,807	(\$2,157,282)	\$23,574,645
Sewer	11,655,172	11,195,938	2,545,107	(2,085,873)	0
Water	6,307,079	7,892,188	24,770	(1,609,879)	0
Sanitation	4,233,421	5,544,209	0	(1,310,788)	0
Self-Insurance	3,548,246	0	0	3,548,246	0
<b>Total</b>	<b>\$90,005,360</b>	<b>\$64,076,607</b>	<b>\$5,969,684</b>	<b>(\$3,615,576)</b>	<b>\$23,574,645</b>

## Nonrecurring Funding Sources

**Fund Balance** – The City is appropriating \$3.4 million of its projected unassigned general fund balance of \$23.8 million at the end of the 2023 fiscal year. In addition to appropriating fund balance in the general fund, the City has appropriated approximately \$2.5 million of sewer fund balance and appropriated \$24,770 of fund balance for the water fund. However, the water fund already has a deficit fund balance of \$58,722 and therefore no fund balance is available to appropriate (Figure 2).

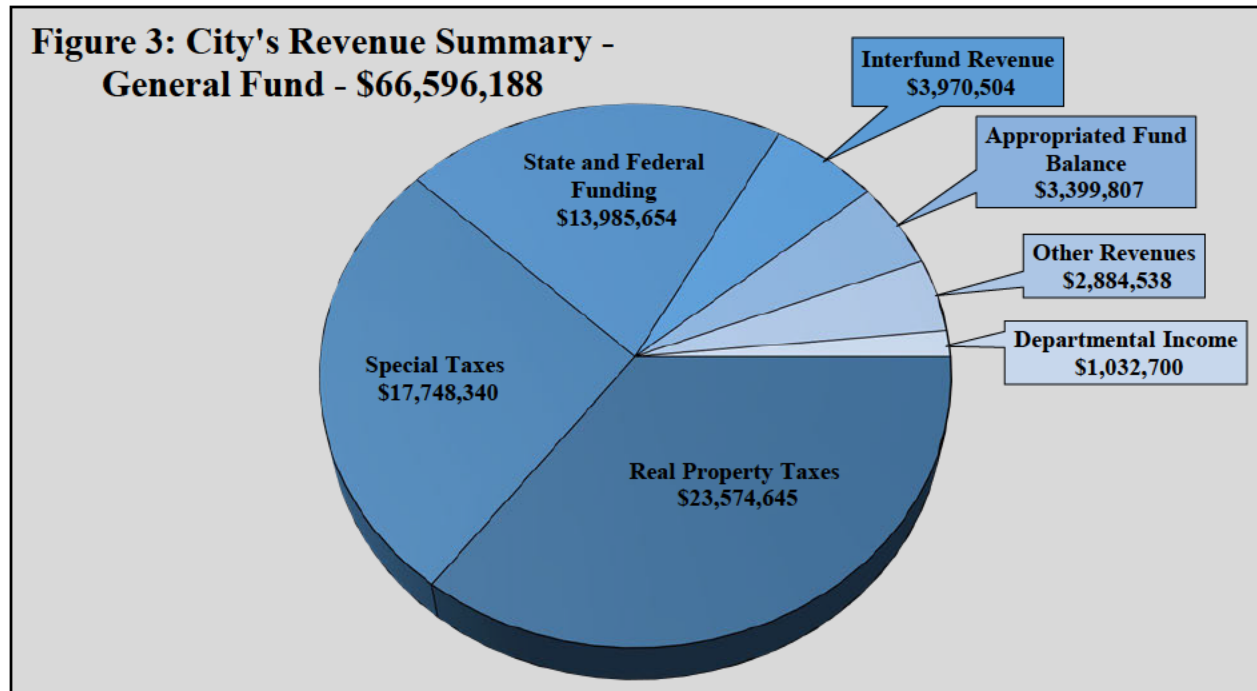
Figure 2: Fund Balance			
Fund	Fund Balance Appropriated	Projected Fund Balance Available	Percent Appropriated
General	\$3,399,807	\$23,756,503	14%
Sewer	\$2,545,107	\$4,561,189	56%
Water	\$24,770	(\$58,722)	N/A
Self-Insurance	\$0	\$1,084,729	0%
Sanitation	\$0	(\$939,438)	0%

The City's use of fund balance to close gaps in the budget decreases the fund balance that is available to cover unforeseen circumstances, shortfalls in revenue or cash flow needs. It also exposes the City to cash shortages and may lead to the City appropriating more fund balance than available, as may be the case with the water fund, which will impact operations. Continuous use of fund balance also leaves the City without a cushion against unexpected costs or contingencies that may occur.

**New York State Touring Route Program** – The City is estimating \$5.3 million in revenue in the 2024 proposed budget in the form of reimbursements from the State. These reimbursements are for eligible expenditures incurred for repairing highways, bridges, highway-railroad crossings, and other transportation facilities. Amounts unused by the City, subject to reappropriation by the State, can be carried over from one State Fiscal Year (SFY) to the next but are encouraged by the State to be utilized in the year appropriated. The State allocated \$1.1 million to the City in the 2021-22 and 2022-23 SFY budgets and \$1.5 million in the 2023-24 SFY budget, providing the City with \$3.7 million in possible reimbursements for eligible expenditures. Because there is no assurance the State will appropriate additional funds for this program in the 2024-25 SFY, the City should refrain from including the \$1.5 million revenue and corresponding expenditures in its 2024 adopted budget for this program.

## Revenues

The proposed budget submitted to our Office for the City's general fund revenues is summarized in Figure 3.



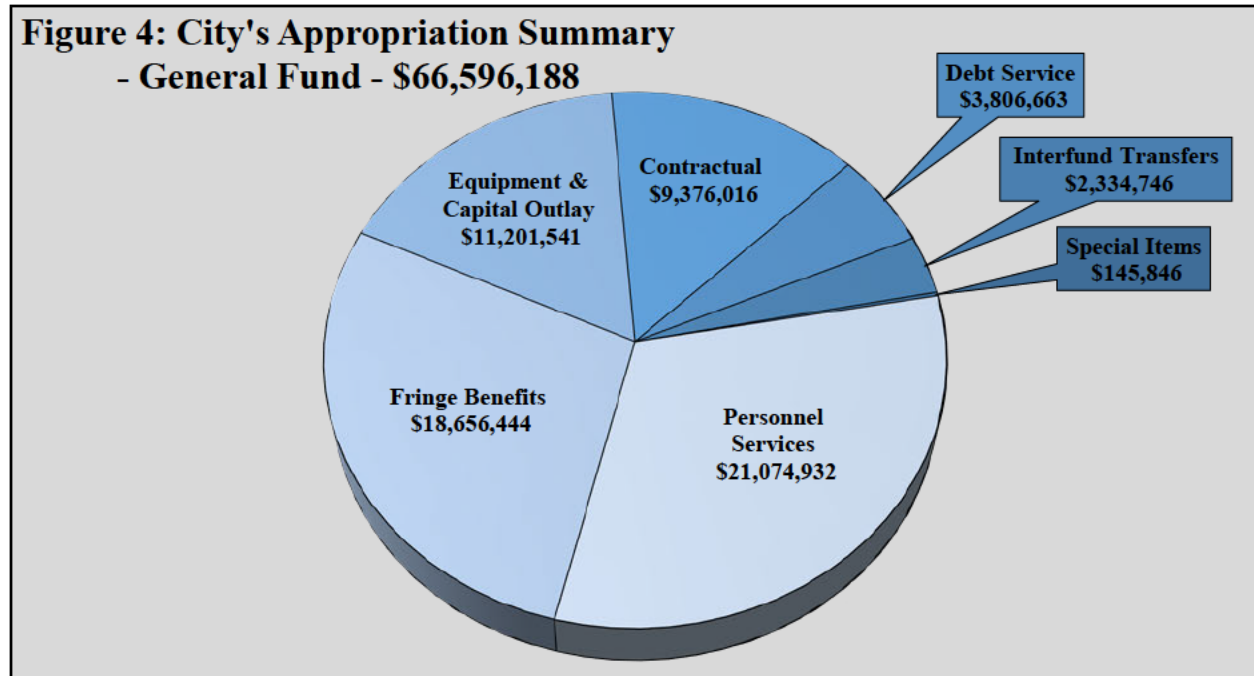
Sale of Metered Water – The 2024 proposed budget includes sale of metered water revenue of \$6.3 million, which is an increase of approximately \$730,000 from the amount collected in the 2022 fiscal year. We project that the City will receive approximately \$6 million from the sale of metered water revenue in the 2024 fiscal year if water usage and rates do not change. The City could potentially face a shortfall of \$240,000 if revenue estimates are not realized. The City plans to increase rates for the sale of metered water by 6 percent, but this requires the City Council to pass a resolution to raise water rates prior to the adoption of the budget.

Sewer Usage – The 2024 proposed budget includes sewer usage revenue of approximately \$7.7 million, which is an increase of approximately \$1.9 million from the amount collected in the 2022 fiscal year. We project that the City will receive approximately \$6.3 million from sewer usage revenue in the 2024 fiscal year, a potential shortfall of \$1.4 million. Although officials said they plan to increase rates for sewer usage by 6.48 percent, factoring the rate increase the City's potential shortfall is reduced to \$984,000 but is not eliminated.



## Expenditures

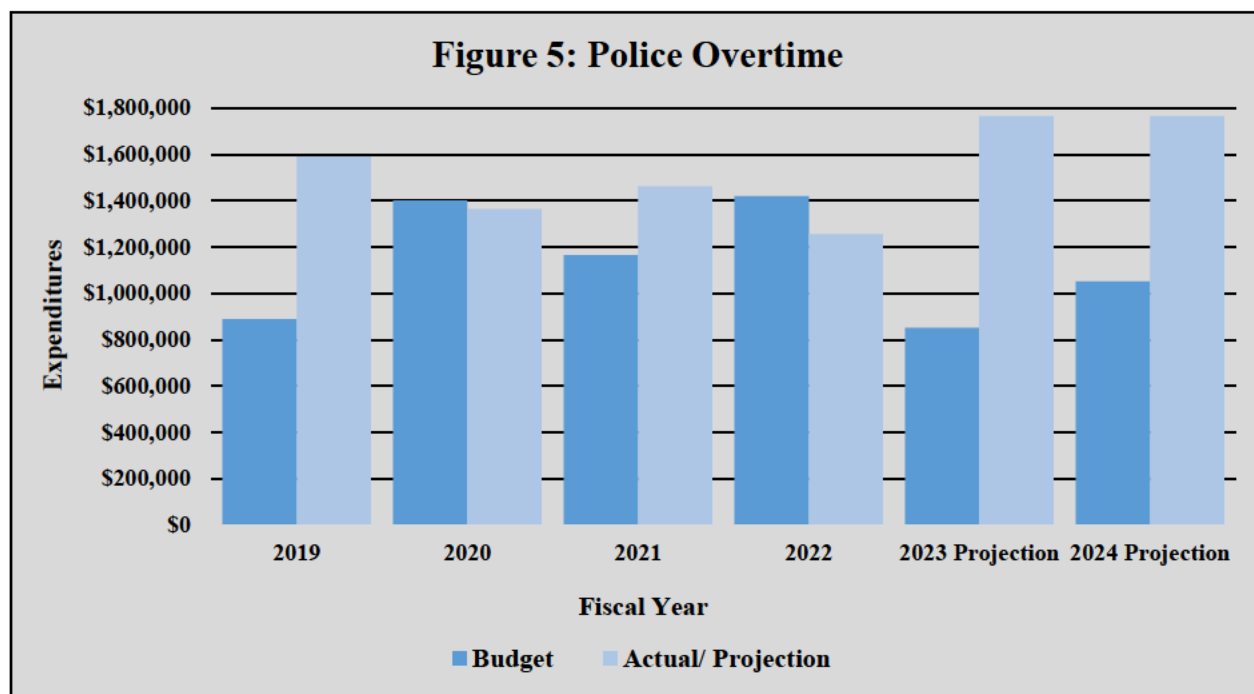
The proposed budget submitted to our Office for the City's general fund appropriations is summarized in Figure 4.



Personnel Services – The City has budgeted \$24,734,615 for personnel services in the general fund and water fund combined. However, the City budget includes a reduction of \$2,013,521 in the general fund and \$201,683 in the water fund for a “vacancy factor,” a budgeting technique used by the City to account for open personnel positions. According to City officials, the vacancy factor is used when there are significant salary savings in prior fiscal years. However, the use of a “vacancy factor” may not be prudent, as it leaves personnel services appropriations with insufficient amounts to cover expenditures. As a result, the appropriations for personnel services are likely underestimated by as much as \$2 million.

Police Overtime – In prior years, we have expressed concern about the City routinely exceeding budgeted amounts for police overtime costs. The City’s 2024 proposed budget includes overtime funding of \$1.1 million for the police department. The City spent \$1.3 million on police overtime in 2022 and approximately \$1.3 million as of September 30, 2023. Based on our projections, the City will spend approximately \$1.8 million on police overtime in the 2023 fiscal year. Based on historical trends, we projected the City will spend the same as 2023 projections, which means the appropriation for overtime is likely underestimated by at least \$715,000 (Figure 5).





**Contingency** – Contingency appropriations are used by local governments as a means of providing funding for unexpected events. The City’s proposed budget does not include a contingency appropriation in the general fund. In light of recent economic conditions, it would be prudent for City officials to have contingency funding available for unforeseen increases in expenditures or revenue shortfalls. City officials should establish a contingency appropriation at a level that would provide the City with flexibility in the event that it has to deal with unanticipated expenditure or revenue shortfalls, as identified in this review.

### Other Matters

**Tax Overlay** – It is important for City officials to make necessary adjustments to the tax levy each year to ensure that the full budgeted property tax revenue is collected, especially when they are responsible to enforce unpaid tax amounts for the school district and county. These adjustments are known as a tax overlay, which is the amount of taxes estimated to be uncollected and unavailable to finance budgetary appropriations. Adding the tax overlay to the original calculated amount that is needed to operate the City determines the actual amount of the current year’s tax levy.

The proposed budget does not include a tax overlay, which could potentially create a shortfall in revenue in 2024. The last time the City budgeted for a tax overlay was in the 2021 adopted budget. During the last 10 years, the average amount of uncollected property tax has been 4.34 percent. City officials should reassess whether 100 percent property tax collection is achievable and, if not, estimate a tax overlay at an appropriate level. In light of recent economic conditions, it would be prudent for City officials to budget for a tax overlay.

Conflicting Budget Postings – During our review of the City’s proposed 2024 budget, two conflicting proposed budget documents were posted to the City’s website. One document was part of the 2024 Manager’s Budget Presentation and was the budget document shown at the City Council’s budget hearing meeting on October 10, 2023. The other document was the detailed Managers Proposed Budget. These documents were posted side by side on the City’s website. While we found the variances between the budgets to be immaterial, presenting two different proposed budget documents is concerning from a transparency perspective as members of the public, who rely on the proposed budget to make informed decisions, may not have been using the most accurate information.

## **Tax Cap Compliance**

General Municipal Law Section 3-c establishes a tax levy limit for local governments. The law generally precludes local governments from adopting a budget that requires a tax levy that exceeds the prior year tax levy by more than 2 percent or the rate of inflation, whichever is less, unless the governing board adopts a local law to override the tax levy limit.

The City’s proposed 2024 budget includes a tax levy of \$23,574,645, which is \$1,126,062 from exceeding the tax levy limit. In adopting the 2024 budget, the City Council should be mindful of the legal requirement to adopt a budget that includes a tax levy no greater than the tax levy limit, unless it adopts a local law to override the limit.

## **Recommendations**

The City Council should:

1. Lower the estimate for sale of metered water or pass a resolution to raise water rates prior to the adoption of the budget.
2. Adopt a budget that includes a tax levy no greater than the tax levy limit (tax cap) unless a local law is adopted to override the limit.

City officials should:

3. Develop a plan to maintain fund balance at a reasonable level to ensure funds are available in case of unanticipated expenditures or a shortfall in revenues during the fiscal year.
4. Review the amount of fund balance appropriated for the water fund and amend to the amount that is available.
5. Review the estimates for New York State Touring Route Program revenue and expenditures and amend as necessary.
6. Review the estimate for sewer usage revenue and amend as necessary.
7. Consider including a reasonable estimate for contingencies in the budget.

8. Review the estimate for personnel services and amend as necessary.
9. Review the estimate for police overtime and increase it to an appropriate level or implement changes in procedures to manage costs within budgeted amounts.
10. Consider establishing a reasonable estimate for a tax overlay in the budget.
11. Ensure the budget presented to the public and posted to the City's website are consistent.

We request that you provide us with a copy of the adopted budget.

We hope that this information is useful as you adopt the upcoming budget for the City. If you have any questions on the scope of our work, please feel free to contact Dara Disko-McCagg, Chief Examiner of the Newburgh office, at (845) 567-0858.

Sincerely,

Randy Partridge  
Assistant Comptroller

cc: Todd Venning, City Manager  
Janice Gaston, City Comptroller  
Lorene Vitek, City Clerk  
Hon. Carl E. Heastie, Speaker of the House, NYS Assembly  
Hon. Crystal Peoples-Stokes, Majority Leader, NYS Assembly  
Hon. William Barclay, Minority Leader, NYS Assembly  
Hon. Helene E. Weinstein, Chair, NYS Assembly Ways and Means Committee  
Hon. Andrea Stewart-Cousins, President Pro Tempore and Majority Leader, NYS Senate  
Hon. Robert Ortt, Minority Leader, NYS Senate  
Hon. Liz Krueger, Chair, NYS Senate Finance Committee  
Blake G. Washington, Director, NYS Division of the Budget  
Dara Disko-McCagg, Chief of Municipal Audits, Newburgh Regional Office

Account Name	Fund	Account ID	Reason	MP	CA	Difference	Has Change been Implemented? Y/N
HEALTH INSURANCE-RETIREES..	A	A.1010.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 15,953.00	\$ 20,035.39	\$ 4,082.39	Y
HEALTH INSURANCE-RETIREES..	A	A.1230.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 22,073.00	\$ 28,197.04	\$ 6,124.04	Y
HEALTH INSURANCE-RETIREES..	A	A.1315.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 72,340.75	\$ 92,752.75	\$ 20,412.00	Y
HEALTH INSURANCE-RETIREES..	A	A.1330.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 35,631.00	\$ 41,755.02	\$ 6,124.02	Y
HEALTH INSURANCE-RETIREES..	A	A.1355.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 15,953.00	\$ 20,035.39	\$ 4,082.39	Y
HEALTH INSURANCE-RETIREES..	A	A.1410.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 6,120.00	\$ 8,161.64	\$ 2,041.64	Y
HEALTH INSURANCE-RETIREES..	A	A.1420.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 40,777.00	\$ 40,777.04	\$ 0.04	Y
HEALTH INSURANCE-RETIREES..	A	A.1620.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 15,952.99	\$ 20,035.39	\$ 4,082.40	Y
HEALTH INSURANCE-RETIREES..	A	A.1680.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 6,120.44	\$ 8,161.64	\$ 2,041.20	Y
HEALTH INSURANCE-RETIREES..	A	A.3120.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 3,185,461.11	\$ 3,332,799.13	\$ 147,338.02	Y
HEALTH INSURANCE-SURVIVORS.	A	A.3120.0860.0002	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 9,894.00	\$ 30,290.22	\$ 20,396.22	Y
HEALTH INSURANCE-RETIREES..	A	A.3321.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 15,952.99	\$ 20,035.39	\$ 4,082.40	Y
HEALTH INSURANCE..RETIREES	A	A.3412.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 2,268,029.54	\$ 2,429,284.34	\$ 161,254.80	Y
HEALTH INSURANCE-SURVIVORS.	A	A.3412.0860.0002	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 36,348.26	\$ 53,618.35	\$ 17,270.09	Y
HEALTH INSURANCE..RETIREES	A	A.5010.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 6,120.44	\$ 8,161.64	\$ 2,041.20	Y
HEALTH INSURANCE..RETIREES	A	A.5110.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 96,073.56	\$ 106,279.56	\$ 10,206.00	Y
HEALTH INSURANCE-SURVIVORS.	A	A.5110.0860.0002	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 6,058.00	\$ 6,058.04	\$ 0.04	Y
HEALTH INSURANCE..RETIREES	A	A.5132.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 60,099.86	\$ 76,429.46	\$ 16,329.60	Y
HEALTH INSURANCE..RETIREES	A	A.7110.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 23,608.00	\$ 27,690.60	\$ 4,082.60	Y
HEALTH INSURANCE..RETIREES	A	A.7140.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 22,073.00	\$ 28,197.04	\$ 6,124.04	Y
HEALTH INSURANCE..RETIREES	A	A.8664.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 50,267.00	\$ 64,555.72	\$ 14,288.72	Y
HEALTH INSURANCE-SURVIVORS	A	A.8664.0860.0002	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 6,058.00	\$ 6,058.04	\$ 0.04	Y
HEALTH INSURANCE-RETIREES..	A	A.8684.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 28,194.00	\$ 36,358.68	\$ 8,164.68	Y
IAFF-EMPLOYEE BENEFIT	A	A.3412.0880.0001	Per Resolution #143-2023 for MOA with IAFF-Employee Benefit Fund has been removed and clothing allowance increased	\$ 26,002.08	\$ -	\$ (26,002.08)	Y
UNIFORMS	A	A.3412.0417.0000	Per Resolution #143-2023 for MOA with IAFF-Employee Benefit Fund has been removed and clothing allowance increased	\$ 50,000.00	\$ 76,002.08	\$ 26,002.08	Y
DUES & SUBSCRIPTIONS..	A	A.1315.0453	Annual Renewal for ClearGov	\$ 2,600.00	\$ 39,000.00	\$ 36,400.00	Y
HEALTH INSURANCE-RETIREES..	F	F.8310.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 61,416.96	\$ 73,664.16	\$ 12,247.20	Y

Account Name	Fund	Account ID	Reason	MP	CA	Difference	Has Change been Implemented? Y/N
HEALTH INSURANCE-RETIREES..	F	F.8320.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 56,730.04	\$ 60,812.44	\$ 4,082.40	Y
HEALTH INSURANCE-RETIREES..	F	F.8330.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 137,825.42	\$ 156,196.22	\$ 18,370.80	Y
HEALTH INSURANCE-RETIREES..	F	F.8340.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 51,584.41	\$ 61,790.41	\$ 10,206.00	Y
CONTRIBUTION TO SELF-INSURANCE..	F	F.9900.0923	Decrease Contribution to Self-Insurance and shift cost to General Fund	\$ 404,500.04	\$ 334,823.64	\$ (69,676.40)	Y
APPROPRIATED FUND BALANCE..	A	A.0000.0599.1000		\$ (3,399,807.00)	\$(3,894,643.47)	\$ (494,836.47)	Y
APPROPRIATED FUND BALANCE..	F	F.0000.0599.1000	Decrease due to Y/E FB projection for fund is insolvent	\$ (24,770.00)	\$ -	\$ 24,770.00	Y
HEALTH INSURANCE-RETIREES..	G	G.8120.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 15,952.99	\$ 20,035.39	\$ 4,082.40	Y
APPROPRIATED FUND BALANCE..	G	G.0000.0599.1000	Increased due to overstated sewer usage (facility charge double counted)	\$ (2,545,107.00)	\$(3,529,757.40)	\$ (984,650.40)	Y
SEWER USAGE..	G	G.0000.2120	Decreased due to overstated sewer usage (facility charge double counted)	\$ (9,205,156.00)	\$(8,224,588.00)	\$ 980,568.00	Y
WORKERS COMPENSATION..	M	M.9040.0408	Reduce Projected Cost to Updated Estimated	\$ 1,273,161.00	\$ 1,203,485.00	\$ (69,676.00)	Y
HEALTH INSURANCE RETIREES..	S	S.8160.0860.0001	To capture the medicare portion not included in original master health insurance file for retirees and survivors	\$ 83,708.06	\$ 104,120.06	\$ 20,412.00	Y
EARNINGS ON INVESTMENTS	S	S.0000.2401	Increase due to reasonableness to forecast	\$ (25,000.00)	\$ (45,412.00)	\$ (20,412.00)	Y
WATER FUND - INTERFUND REVENUES	M	M.0000.2816	General Fund's contribution increase to absorb increase cost of Water	\$ (404,500.04)	\$ (334,824.04)	\$ 69,676.00	Y
REAL PROPERTY TAXES OMITTED	A	A.0000.1001.0000.0001	Final omitteds received from assessor 11.15.23	\$ (26,961.49)	\$ (29,093.61)	\$ (2,132.12)	Y
SALARY	F	F.8320.0101	Amending 2023 personnel to add 1 temp Assistant Maintenance Mechanic position	\$ 52,097.00	\$ -	\$ (52,097.00)	Y
TEMPORARY	F	F.8320.0110.0000.0000	Amending 2023 personnel to add 1 temp Assistant Maintenance Mechanic position	\$ -	\$ 52,097.00	\$ 52,097.00	Y

FUND	Sum of Difference	MP BUDGET	CA BUDGET	VARIANCE
A	\$0	\$ 66,596,188	\$ 67,093,157	\$ 496,969
F	\$0	\$ 8,154,955	\$ 8,130,185	\$ (24,770)
G	\$0	\$ 13,741,046	\$ 13,745,128	\$ 4,082
S	\$0	\$ 5,544,209	\$ 5,564,621	\$ 20,412
M	\$0	\$ 3,548,246	\$ 3,478,570	\$ (69,676)
Grand Tot	\$0	\$ 97,584,644	\$ 98,011,661	\$ 427,017

Home Non-Homestead Calculation	Homestead	Non-Homestead	Totals
<b>2024 City Council Levy (based on 2024 levy)</b>	23,547,684	23,547,684	
Home Non-Homestead Allocation %age	56.10401	43.89599	100.00000
Tax Levy Allocated to Each Type	13,211,195	10,336,489	23,547,684
Tax Levy Allocated to Each Type	13,211,195	10,336,489	23,547,684
2023 Taxable Assessed Value	1,224,428,039	680,619,408	1,905,047,447
2024 Tax Rate per \$1,000 Assessed Value	10.789687	15.186885	
2024 Tax Rate per \$1,000 Assessed Value	10.789687	15.186885	
2023 Tax Rate per \$1,000 Assessed Value	12.980359	21.475381	
2024 Tax Rate Inc/(Dec) Amt per \$1,000	(2.190672)	(6.288496)	
2023 Tax Rate Increase %age per \$1,000	-16.88%	-29.28%	
2024 \$ change for \$200,000 Assessed Value	(438.13)	(1,257.70)	
City Council Options to Balance Allocation	Homestead	Non-Homestead	Totals
10% Allocation Change	57.071640	42.928360	100.00000
20% Allocation Change	58.039270	41.960730	100.00000
10% Allocation Change Rate Calculation	Homestead	Non-Homestead	Totals
2024 Manager's Proposed Levy	23,547,684	23,547,684	
Home Non-Homestead Allocation %age	57.071640	42.928360	100.00000
Tax Levy Allocated to Each Type	13,439,049	10,108,635	23,547,684
Tax Levy Allocated to Each Type	13,439,049	10,108,635	23,547,684

2023 Taxable Assessed Value	<u>1,224,428,039</u>	<u>680,619,408</u>	1,905,047,447
2024 Tax Rate per \$1,000 Assessed Value	10.975777	14.852110	
2024 Tax Rate per \$1,000 Assessed Value	10.97578	14.85211	
2023 Tax Rate per \$1,000 Assessed Value	<u>12.98036</u>	<u>21.47538</u>	
2024 Tax Rate Inc/(Dec) Amt per \$1,000	(2.00458)	(6.62327)	
2024 Tax Rate Increase %age per \$1,000	-15.44%	-30.84%	
2024 \$ change for \$200,000 Assessed Value	(400.92)	(1,324.65)	
20% Allocation Change Rate Calculation	<u>Homestead</u>	<u>Non-Homestead</u>	<u>Totals</u>
2023 Manager's Proposed Levy	23,547,684	23,547,684	
Home Non-Homestead Allocation %age	<u>58.03927</u>	<u>41.96073</u>	100.00000
Tax Levy Allocated to Each Type	13,666,904	9,880,780	23,547,684
Tax Levy Allocated to Each Type	13,666,904	9,880,780	23,547,684
2023 Taxable Assessed Value	<u>1,224,428,039</u>	<u>680,619,408</u>	1,905,047,447
2024 Tax Rate per \$1,000 Assessed Value	11.161868	14.517335	
2024 Tax Rate per \$1,000 Assessed Value	11.161868	14.517335	
2023 Tax Rate per \$1,000 Assessed Value	<u>12.98036</u>	<u>21.47538</u>	
2024 Tax Rate Inc/(Dec) Amt per \$1,000	(1.818492)	(6.958045)	
2024 Tax Rate Increase %age per \$1,000	-14.01%	-32.40%	
2024 \$ change for \$200,000 Assessed Value	(363.70)	(1,391.61)	

## Agenda Item 12.

### **Resolution No. 240 -2023 - Commercial Insurance Proposal for Workers Compensation Renewal**

Resolution authorizing an agreement between the City of Newburgh and the New York State Municipal Workers' Compensation Alliance for Worker' Compensation Insurance

*Resolución por la que se autoriza un acuerdo entre la Ciudad de Newburgh y la Alianza Municipal de Compensación de los Trabajadores del Estado de Nueva York para el Seguro de Compensación de los Trabajadores*

#### **Background:**

To allow Brown & Brown of New York, Inc. to coordinate with our current Workers Compensation provider (NY Comp Alliance) in working with their reinsurance partners to provide the City with a renewal quote for workers compensation. The "Two-Year" term quote allows City of Newburgh to lock in the same premium for the next Two-Years (2024 thru 2026) which would be billed as separate years.

#### **ATTACHMENTS:**

Description	Upload Date	Type
Resolution approving 2 year CompAlliance agreement	11/16/2023	Resolution Letter
WC Proposal	11/15/2023	Backup Material
2 Year Term Disclaimer	11/15/2023	Backup Material
Participation Agreement	11/15/2023	Backup Material



RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN  
THE CITY OF NEWBURGH AND THE NEW YORK STATE  
MUNICIPAL WORKERS' COMPENSATION ALLIANCE  
FOR WORKERS' COMPENSATION INSURANCE**

**WHEREAS**, the City of Newburgh wishes to enter into the annexed agreement with the New York State Municipal Workers' Compensation Alliance; and

**WHEREAS**, the agreement provides workers' compensation insurance claims management and related services for the period of January 1, 2024 to December 31, 2025; and

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

**NOW, THEREFORE BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with the New York State Municipal Workers' Compensation Alliance, in substantially the same form as annexed hereto with any other provision that Counsel may require, for providing workers' compensation insurance claims management and related services.



PROPERTY & CASUALTY

## Proposal Prepared for City of Newburgh

Policy Period 01/01/2024 - 12/31/2024



# Who We Are

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## Growth has no finish line.

No matter where you are on your growth journey, we can help you find solutions to meet your ever-evolving insurance and risk management needs. If you are a highly complex multinational company, an individual or anything in between, our experienced teams can help every step of the way.

## Discover Our Capabilities

As a successful business, you plan for the future and adapt as circumstances change your course. At Brown & Brown, we help you navigate the path forward, by taking a different approach to how you view, analyze and purchase insurance. Your exposures are unique, and you deserve coverage options designed to help protect your assets, interests and reputation. Our teams work to understand your business and your risk management plan by providing personalized local service complemented by the exceptional resources and capabilities of a national brokerage.

## Our History

Brown & Brown Insurance was founded in Daytona Beach, Florida, in 1939 by cousins J. Adrian Brown and Charles Covington Owen. In 1959, Adrian's son, Hyatt, took leadership of the family business. Under his direction, the Brown & Brown vision of a lean and profit-oriented organization came into focus. Following a merger in 1993, the company became Poe & Brown, Inc., publicly traded on Nasdaq. In 1998, Poe & Brown was changed back to Brown & Brown and became listed on the New York Stock Exchange (NYSE: BRO), joining the S&P 500 in 2021. The company has continued to thrive under Chief Executive Officer (CEO) J. Powell Brown, who became the third generation to lead the organization in 2009. We consistently deliver high-quality solutions and services to a broad array of customers. With a precise and focused acquisition strategy, Brown & Brown has become one of the insurance industry's most powerful and influential leaders.

## Our Mission

We are dedicated to making a positive difference in the lives of our customers by helping to protect what they value most. With 350+ locations and growing, we have teammates across the globe who are dedicated to serving our customers and local communities.

## Our Culture

We believe in doing what is best for our customers, communities, teammates, carrier partners and shareholders—always. Powered by a culture that values high performance and perseverance, the cornerstone of Brown & Brown's guiding principles are people, service and innovation.



**5TH LARGEST**

Insurance Brokerage in the Nation



**350+ LOCATIONS**

And Growing

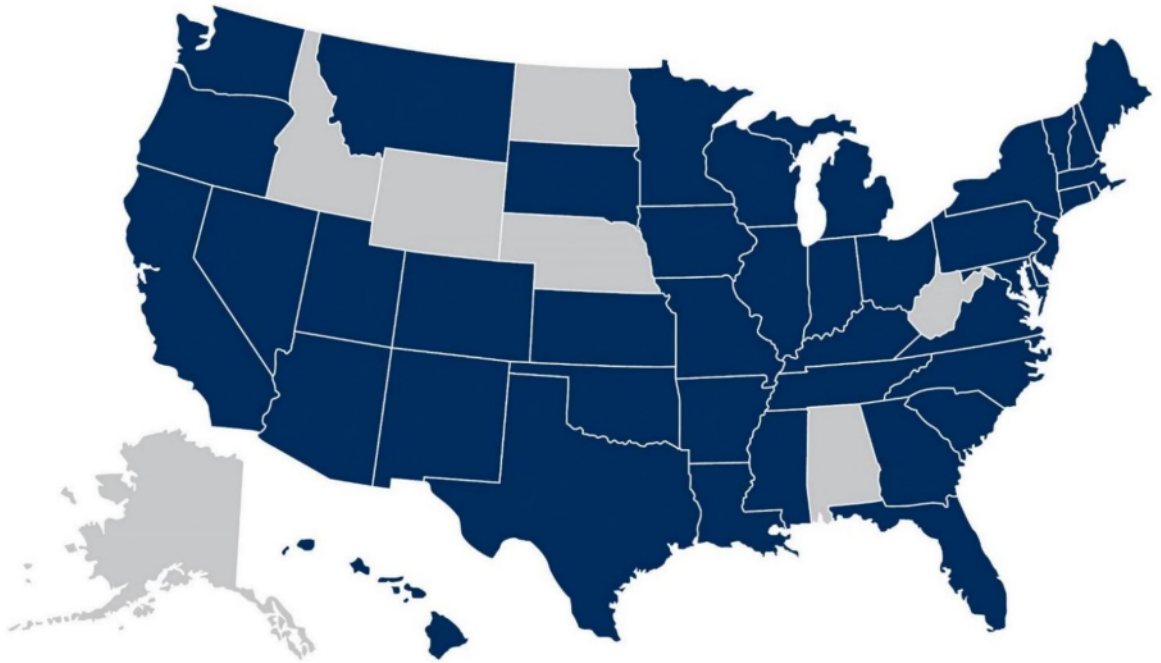


**8,000+**

Retail Teammates



*This proposal is based upon the exposures made known to the Agency by you and contains only a general description of the coverage(s) and does not constitute a policy/contract. For complete policy information, including exclusions, limitations, and conditions, please refer to your policy. In the event of differences, the policy will prevail.*



Canada



London, England



Ireland



Bermuda & Grand Cayman

In the map above, blue indicates states or countries with Brown & Brown locations.

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# Preparing You for Tomorrow's Risks—Today™

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We pride ourselves on our ability to couple national strength with local, personalized service. Our Brown & Brown of New York, Inc. - based team is as connected to the more than 11,000 teammates across Brown & Brown and our team of companies as it is here in our community.

We have become a leading insurance brokerage because we view insurance differently and utilize our vast experience and wide-reaching network to deliver superior service and solutions to our customers, both big and small.

We believe that our teammates and the relationships they form with our customers are our strength. Our reputation has been built on a solid foundation of teamwork, strengthened by people who are dedicated to providing the highest degree of service. Our team thanks you for the opportunity to work together. Please find our contact information below.

## Service Team

Name	Title	Email	Business Phone
Brian Miles	PCL	Brian.Miles@bbrown.com	(845)743-7003
Nicholas Fulciniti	Risk Manager	Nick.Fulciniti@bbrown.com	(845)743-7016
Diane Greenberg	Account Executive	Diane.Greenberg@bbrown.com	(845)743-7009



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# Compensation Disclosure

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**Compensation.** In addition to the commissions or fees received by us for assistance with the placement, servicing, claims handling, or renewal of your insurance coverages, other parties, such as excess and surplus lines brokers, wholesale brokers, reinsurance intermediaries, underwriting managers and similar parties, some of which may be owned in whole or in part by Brown & Brown, Inc., may also receive compensation for their role in providing insurance products or services to you pursuant to their separate contracts with insurance or reinsurance carriers. That compensation is derived from your premium payments. Additionally, it is possible that we, or our corporate parents or affiliates, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. We generally do not know if such a contingent payment will be made by a particular insurer, or the amount of any such contingent payments, until the underwriting year is closed. That compensation is partially derived from your premium dollars, after being combined (or “pooled”) with the premium dollars of other insureds that have purchased similar types of coverage. We may also receive invitations to programs sponsored and paid for by insurance carriers to inform brokers regarding their products and services, including possible participation in company-sponsored events such as trips, seminars, and advisory council meetings, based upon the total volume of business placed with the carrier you select. We may, on occasion, receive loans or credit from insurance companies. Additionally, in the ordinary course of our business, we may receive and retain interest on premiums you pay from the date we receive them until the date of premiums are remitted to the insurance company or intermediary. In the event that we assist with placement and other details of arranging for the financing of your insurance premium, we may also receive a fee from the premium finance company.

If an intermediary is utilized in the placement of coverage, the intermediary may or may not be owned in whole or part by Brown & Brown, Inc. or its subsidiaries. Brown & Brown entities operate independently and are not required to utilize other companies owned by Brown & Brown, Inc., but routinely do so. In addition to providing access to the insurance company, the Wholesale Insurance Broker/Managing General Agent may provide additional services including, but not limited to: underwriting; loss control; risk placement; coverage review; claims coordination with insurance company; and policy issuance. Compensation paid for those services is derived from your premium payment, which may on average be 15% of the premium you pay for coverage, and may include additional fees charged by the intermediary.

**Questions and Information Requests.** Should you have any questions, or require additional information, please contact this office at (845) 628-4500 or, if you prefer, submit your question or request online at <http://www.bbinsurance.com/customerinquiry/>



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## Risk Management Services



[www.compalliance.org](http://www.compalliance.org)

We do more than just pay claims. The Risk Control Specialists at the Comp Alliance will work with you to develop long-term solutions to reduce your workers' compensation exposure.

In its 20 year history, the program has had over a 98% member retention rate - a testament to the exceptional, on-staff risk management employees dedicated to the Comp Alliance.

### These Risk Management Member Services Include:

#### 1. On-Site Risk Management Evaluations

- Interview Key Personnel and Dept. Heads
- Loss/Claims Review
- Inspections of Main Facilities
- Personalized Recommendations for Improved Safety

#### 2. Ongoing Consultative Service Visits

- Safety Committee Development/Participation
- Board Meeting/Dept. Head Meeting Participation

#### 3. Loss Control Service Tools

- On-site Safety Awareness Training
- Regional Safety Awareness Seminars
- Accident/Employee Injury Review Training

#### 4. WCA Safety Training

- Slip/Fall Prevention
- Personal Protective Equipment
- Hazard Communication/Right to Know
- Lockout Tagout
- Bloodborne Pathogen
- Chainsaw Safety
- Excavation/Trenching Safety
- Driver Safety
- Workplace Violence Prevention
- Confined Space Awareness

#### 5. Other Services

- Website Bulletins and Articles
- Newsletter
- High Exp. Mod. Review and Consultation

For more information on how we can help you personalize your safety program and help control your workers' compensation costs please contact

**Laurie Noonan, Risk Management Coordinator**

Phone: 914-589-5454 E-mail: [lnoonan@wrightinsurance.com](mailto:lnoonan@wrightinsurance.com) [www.compalliance.org](http://www.compalliance.org)



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BROWN & BROWN



## STABILITY

Flexible Options

### 1 Year Plan

- traditional
- established

### 2 Year Plan

- stability
- piece of mind
- cost predictability = ease of budgeting

### 3 Year Plan

- longer term cost predictability = stability
- limited eligibility (speak to Comp Alliance Rep.)

## As Easy as 1, 2, 3

**Introducing - Member's Choice**, providing Comp Alliance members with flexible options and the opportunity to design a plan term that is tailored to your needs!

- 1** year membership: Member joins the Comp Alliance for 12 months. Funding contribution is based on rates, loss experience and projected payroll for the 12 month period of membership. Most common, traditional option. No payroll audit.
- 2** year membership: Member joins the Comp Alliance for 24 months. Funding contribution is based on rates, loss experience and projected payroll for the 24 month period of membership. Provides multi-year stability and predictability. No payroll audit.
- 3** year membership: Member joins the Comp Alliance for 36 months. Funding contribution is based on rates, loss experience and projected payroll for the 36 month period of membership. Provides multi-year stability and predictability. No payroll audit. Eligibility is limited, so please contact a Comp Alliance marketing representative for additional details.

#### Program Sponsors



Since 1994

**For more information or to explore any of these great options, please contact us today!**

Aaron Reader, Vice President of Client Services

Phone: 888-887-7885 E-mail: [areader@wrightinsurance.com](mailto:areader@wrightinsurance.com) [www.compalliance.org](http://www.compalliance.org)

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BROWN & BROWN





## Workers' Compensation for Municipalities



Exceptional Service. Long Term Stability.

### Comp Alliance

A not-for-profit group self-insured workers' compensation program designed for municipalities in New York State. The Alliance is sponsored and fiscally overseen by the Association of Towns of the State of New York (AOT) and the New York State Conference of Mayors (NYCOM).

The program strives to provide stable annual funding for its members. This is achieved by helping to create safe workplaces with consultative risk management and expeditious claim handling.

### Advantages of Membership

- Stable, affordable funding contributions reflect four consecutive years of rate reductions.
- Multi-year fixed cost options
- Loyalty Award checks issued to members the past three years
- Safe Workplace Award Incentives employee safety
- No payroll audits
- Flexible training options and resources

### Program Sponsors



### Program Administrator



**For more information or a quote please contact**

Aaron Reader, Vice President of Client Services

Phone: 866-697-7665

E-mail: [areader@wrightinsurance.com](mailto:areader@wrightinsurance.com)

[www.compalliance.org](http://www.compalliance.org)

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# Named Insured

Policy Type	Named Insured
Workers Compensation	City of Newburgh

This list includes all the named insureds we presently have on your policies. Should any revisions to this listing be required, please notify our office immediately.

# Location(s)

Address	City	State	Zip
83 Broadway	Newburgh	NY	12550



*This proposal is based upon the exposures made known to the Agency by you and contains only a general description of the coverage(s) and does not constitute a policy/contract. For complete policy information, including exclusions, limitations, and conditions, please refer to your policy. In the event of differences, the policy will prevail.*

# Workers' Compensation

## A. Workers' Compensation Insurance:

Part One of the policy applies to the Workers' Compensation Law of the states listed below:

State
NY

## B. Employers' Liability Insurance:

Part Two of the policy applies to work in each state listed in Item A

Each Accident Limit	Disease Policy Limit	Disease Each Employee
\$100,000	\$500,000	\$100,000
\$1,000,000	\$1,000,000	\$1,000,000

## C. Other States Insurance:

Part Three of the policy applies to the states, if any listed below:

Does not apply to ND, OH, WA, and WY (Monopolistic States).

### Rating Basis

Class Code	Description	Payroll
5506	Street & Road Construction	\$428,484
7520	Waterworks Operation	\$1,044,537
7580	Sewage Disposal Plant	\$483,350
7710	Firemen - Not Volunteer	\$5,585,823
8391	Auto Gas Station	\$249,726
8810	Clerical Office Employees	\$4,228,285
8820	Attorney - All Employees & Clerical	\$468,673
8831	Hospital -Veterinary	\$62,628
9026	Building Operations - Commercial	\$212,721
9063	YMCA - All Employees & Clerical	\$557,018
9102	Parks NOC - All Employees & Drivers	\$452,398
9402	Street Cleaning & Drivers	\$28,140
9403	Garbage, Ashes or Refuse Collection	\$1,013,437
9410	Municipal Township NOC	\$1,751,317
<b>Total Payroll</b>		<b>\$16,566,537</b>



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# Proposal Premium Summary

Policy Term: 01/01/2024 - 12/31/2024

Line of Business	Expiring 2022-2024 Comp Alliance (Two-Year)	<u>Renewal</u> <u>Option #1</u> 2024-2025 Comp Alliance (One-Year)	<u>Renewal</u> <u>Option #2</u> 2024-2026 Comp Alliance (Two-Year)
Workers Compensation	\$2,119,758	\$1,112,869	\$2,281,381
NYS Estimated Assessment	*\$58,462	\$31,618	*\$63,236
<b>Total Contribution (2 year)</b>	<b>\$2,178,220</b>		<b>\$2,344,617</b>
<b>Annual Cost</b>	<b>\$1,089,110</b>	<b>\$1,144,487</b>	<b>\$1,172,309</b>

\*NYS Assessment is estimated and will be adjusted based on the actual reported payrolls. The figures indicated above represent the (2) year period at approximately \$29k - \$31k per year.

Multiyear policies are considered fully earned and the total amount would be due regardless of whether coverage is moved mid-term. 2-year option with Comp Alliance is a fixed rate.



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### NOTICE AND ACKNOWLEDGEMENT OF ASSESSABLE AND FINANCIAL CONDITION

Brown & Brown of New York Inc. DBA Spain Agency and its parent company, Brown & Brown, Inc. (collectively "Brown & Brown") do not certify, warrant or guarantee the financial soundness or stability of any insurance carrier or alternative risk transfer or pooling entity. We endeavored to place your coverage with an insurance carrier with an A.M. Best Company financial rating of "A-" or better.\* While Brown & Brown cannot certify, warrant or guarantee the financial soundness or stability of any insurance carrier or alternative risk transfer or pooling entity or otherwise predict whether the financial condition of any such entity might improve or deteriorate, we are hereby providing you with notice and disclosure of financial condition so that you can make an informed decision regarding the placement of coverage. Accordingly, with receipt of this notice you acknowledge the following with regard to the placement and any subsequent renewal of the coverage indicated below:

- Brown & Brown may have other options for your insurance placement, including quotations with insurance carriers holding an "A-" or better rating from A.M. Best Company. Alternative quotes may be available with an A- or better rated carrier upon your request.
- Your coverage is being placed in, New York State Municipal Workers' Compensation Alliance a self-insurance fund which is currently unrated by A.M. Best Company. In order to obtain coverage you are agreeing to membership in (New York State Municipal Workers' Compensation Alliance and all other underwriting guidelines, conditions and requirements set forth by New York State Municipal Workers' Compensation Alliance.
- New York State Municipal Workers' Compensation Alliance is not subject to the protections afforded by any state guaranty fund or association.
- The financial condition of insurance companies and risk transfer or pooling entities such as New York State Municipal Workers' Compensation Alliance may change rapidly and that such changes are beyond the control of Brown & Brown.
- Membership in the New York State Municipal Workers' Compensation Alliance involves certain obligations as well as benefits. These are outlined in a membership or participation agreement, which must be signed prior to acceptance by the New York State Municipal Workers' Compensation Alliance
- Your attention is directed particularly to that portion of your membership or participation agreement which points out that it is fully assessable. This means to meet loss obligations, each member can be assessed to make up the deficiency. Any assessment will be levied on and payable by all members of the New York State Municipal Workers' Compensation Alliance for the year the deficit occurs, whether or not you are still a member at the time the assessment is levied. The purpose of bringing this provision to your attention is not to cause undue concern, but simply to alert you that prudent business practices should be observed with regard to proper investigation of the financial condition of any self-insured provider, and to encourage your inquiry about any aspects of the contractual agreements.
- You have had an adequate opportunity to make a thorough and complete inquiry into the New York State Municipal Workers' Compensation Alliance's financial condition and the terms and conditions of membership in the New York State Municipal Workers' Compensation Alliance, including to review it with your accountants, legal counsel and advisors, and enter into your relationship with New York State Municipal Workers' Compensation Alliance knowingly, voluntarily and with a full understanding of the risks.

By: [NAME OF AUTHORIZED REPRESENTATIVE OF INSURED]

**Named Insured: City of Newburgh**  
**Line of Coverage(s): Workers Compensation**  
**Policy Number(s): WCNEWBURGH**  
**Policy Period(s): 01/01/2024 - 12/31/2024**  
**Date of Notice: 10/23/23**

\* AM Best Rating Guide: Rating for Stability: A++ to F = Highest to lowest rating  
Financial Size Category: XV to I - Largest to smallest rating  
Rating for Assets/ Surplus: 15 to 1 - Largest to smallest rating



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# A. M. Best Rating of Proposed Carriers

Line of Business	Insurance Company	Rating	Admitted / Non-Admitted
Workers Compensation	New York State Municipal Workers' Compensation Alliance	Not Rated	Admitted

## General Rating:

Rating Categories	Rating Symbols
Superior	A+ to A++
Excellent	A to A-
Good	B+ to B++
Fair	B to B-
Marginal	C+ to C++
Weak	C to C-
Poor	D

These rating classifications reflect AM BEST's opinion of the relative position of each company in comparison with others, based upon averages within the Property-Casualty insurance industry. They are reflective of overall company services and standing within the industry.

## Financial Size Category:

Class	Range (\$ in Thousands)
Class I	Up-\$1,000
Class II	\$1,000-\$2,000
Class III	\$2,000- \$5,000
Class IV	\$5,000-\$10,000
Class V	\$10,000-\$25,000
Class VI	\$25,000-\$50,000
Class VII	\$50,000-\$100,000
Class VIII	\$100,000-\$250,000
Class IX	\$250,000-\$500,000
Class X	\$500,000-\$750,000
Class XI	\$750,000-\$1,000,000
Class XII	\$1,000,000-\$1,250,000
Class XIII	\$1,250,000-\$1,500,000
Class XIV	\$1,500,000-\$2,000,000
Class XV	\$2,000,000-Greater

The Financial Size Category is an indication of the size of an Insurer and is based on reported policyholder's surplus conditional or technical reserve funds, such as mandatory securities valuation reserve, or other investments and operating contingency funds and/or miscellaneous voluntary reserves in liabilities (\$ in Thousands)

This information has been provided to you so that consideration is given to the financial condition of our proposed carriers. The financial information disclosed is the most recent available to Brown & Brown, Inc. Brown & Brown, Inc. does not guarantee financial condition of the insurers listed above.



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- New York State Municipal Workers' Compensation Alliance is not subject to the protections afforded by any state guaranty fund or association.
- The financial condition of insurance companies and risk transfer or pooling entities such as New York State Municipal Workers' Compensation Alliance may change rapidly and that such changes are beyond the control of Brown & Brown.
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- You have had an adequate opportunity to make a thorough and complete inquiry into the New York State Municipal Workers' Compensation Alliance's financial condition and the terms and conditions of membership in the New York State Municipal Workers' Compensation Alliance, including to review it with your accountants, legal counsel and advisors, and enter into your relationship with New York State Municipal Workers' Compensation Alliance knowingly, voluntarily and with a full understanding of the risks.

By: [NAME OF AUTHORIZED REPRESENTATIVE OF INSURED]

**Named Insured: City of Newburgh**  
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New York State  
Municipal Workers'  
Compensation Alliance

## **Member Participation Agreement**

Member: City of Newburgh

Agent: Brown & Brown of NY, Inc.

Participation Period: **January 1, 2024 – December 31, 2026**

The New York State Municipal Workers' Compensation Alliance (Comp Alliance) is a group self-insurance program – a network of municipal employers that have joined together for the purpose of providing the workers' compensation and employers' liability coverages required by New York State Law. By participating in the Comp Alliance, you are pooling your resources with other municipalities in New York State to obtain workers' compensation coverage for your employees, leading to lower administrative costs, diligent claims management and loss control services specifically tailored to the unique risks faced by municipalities. As a member of the Comp Alliance, there are certain legal responsibilities that you must be aware of and which remain enforceable even in the event of withdrawal from the Comp Alliance. Please review this participation agreement carefully and contact the Comp Alliance with any questions.

**How Group Self-Insurance Works:** Each member of the Comp Alliance makes an annual funding contribution that is used to pay for claims incurred during the year over the lifetime of the claim. To help ensure that the funding contributions remain fair, they are designed to reflect each member's projected ultimate costs of claims based on their loss experience and payroll. Funds that are not used to pay claims during the year are placed in reserve to pay the future costs of the claims. These future funds are invested so that the interest received can help offset the future costs of the claims. In the event that there are surplus funds after all future liabilities are determined, the excess may be used to offset future rates or be paid back to the member. Conversely, in the event that the funds are not sufficient to pay future liabilities, members may be called upon to pay a supplemental assessment. To protect against this possibility, the Comp Alliance makes every effort to accurately determine the future liabilities of the program to ensure that its assets are sufficient to pay its total liabilities.

### **Joint and Several Liability**

**Each member shall be responsible, jointly and severally, for all liabilities of the Plan under the Workers' Compensation Law and all rules and regulations enacted pursuant thereto incurred during its respective period of membership in the Comp Alliance.**

A supplemental assessment may be levied in the event that the Comp Alliance does not have sufficient assets to meet its anticipated liabilities. The Comp Alliance works diligently to protect against this possibility by ensuring the annual funding contribution collected from members is sufficient to meet its anticipated liabilities each year. It also strives to maintain a modest surplus that may be used to offset any assessment that is required. In the event that supplemental assessments shall ever be required for any given year, the assessments will be distributed equitably among members for that year in accordance with a plan adopted by the Board of Trustees. The proportionate share of the members funding contribution and ultimate loss for the year in question will be considered in distributing the assessment.

Executive Director: Michael Kenneally  
518-465-0128

Claims: Maria De Los Angeles Luciano  
516-357-4135

Member Services: Aaron Reader  
866-697-7665

**A. Coverages Provided by the Comp Alliance**

**Workers' Compensation Coverage:** provides medical and indemnity (lost time) benefits to employees who are injured in the course of their employment with the municipality.

**Employers' Liability Coverage:** provides coverage for third party actions that are brought against the municipalities arising out of an injury to a municipal employee that occurred in course of his or her employment.

The Comp Alliance provides both Workers' Compensation Coverage and Employers' Liability Coverage pursuant to the New York State Workers' Compensation Law.

- The Comp Alliance will pay the medical and indemnity benefits required of its members by the Workers' Compensation Law for injuries to employees that arise out of the employment of its employees.
- The Comp Alliance will defend any claim or proceeding against its members for benefits payable under the Workers' Compensation Law.
- The Comp Alliance will pay amounts that its members are obligated to pay to third parties that arise from an injury to an employee caused by an event that occurred in the course of this agreement (Employer Liability payments).
- The Comp Alliance will not pay any amounts that the employer is not obligated to pay under the Workers' Compensation Law, or the rules and regulations adopted pursuant thereto. This includes any payments, or portion thereof, that a member may make that are covered by other insurance that the member may maintain, or that the employer may extend to its employees.
- The Comp Alliance will only make indemnity payments up to the amounts awarded by the Workers' Compensation Board. Any member who has in place a "full pay" or similar policy that grants a greater benefit to its employees will be solely liable for the difference between the amounts so paid and the amounts awarded by the Workers' Compensation Board.

**B. Member Responsibilities**

The responsibilities of each member are set forth in detail in the Plan Document. Each member is responsible for knowing its obligations to the Comp Alliance. As a member of the Comp Alliance, you agree to accept and be bound by the terms, conditions and provisions of the Plan Document and Bylaws of the Comp Alliance, and by the New York State Workers' Compensation Law and the regulations promulgated pursuant thereto.

Pursuant to the Plan Document, each member:

- agrees to cooperate with the plan and furnish information necessary for the administration of the plan.
- will timely pay all necessary funding contributions, supplemental assessments and NYS assessments.
- will keep accurate records of all workers' compensation and employers' liability claims.
- is responsible for the prompt reporting of the claims.
- will timely and accurately report its quarterly payroll to the Comp Alliance for NYS assessments.
- will assist the Comp Alliance with the reconciliation of payroll reported on form GA-4 each quarter.

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**C. Services Provided by the Comp Alliance**

The Comp Alliance is a full service, workers' compensation program that provides not only for the payment of claims, but a host of other services to help its members understand the workers' compensation law, their responsibilities, and how to minimize losses in the workplace. Among the services provided by the Comp Alliance are:

*Claims Administration:*

- Assist members with the implementation of an internal claims reporting system and, as necessary, train members' personnel to ensure the ongoing effectiveness of the reporting system.
- Review and, as necessary, investigate all reported claims to determine compensability
- Prepare and distribute checks for appropriate payment of medical, lost time benefits and expenses.
- Monitor medical treatment and review all medical bills in an effort to minimize medical costs.
- Pursue subrogation whenever it is reasonably anticipated that the Plan may be reimbursed for payments made.
- Provide each member with loss run on quarterly basis, which shall include, at a minimum, the: file/claim number; date of accident; name and occupation of injured employee/claimant; description of accident; type of injury/body part; status of claim and classification/severity code; and total medical, indemnity and expense incurred, including payments plus outstanding reserves established by the Plan Manager.
- Represent municipality before the workers' compensation board

*Loss Control Services*

- Loss control inspections to all of members on a regular, recurring basis
- Distribution of information on the establishment and maintenance of safety committees
- Development and training on best practice policies and procedures

*Member Services*

- Educate members on the changes to Workers' Compensation Law
- Interactive Website with information and resources on Workers' Compensation Law, municipal risk management,
- Online claims portal to allow members access to their claims information (in development).

**D. Purpose of Agreement:**

The purpose of this Participation Agreement ("the Agreement") is to set forth the respective responsibilities of the Comp Alliance and its members for the efficient and economical evaluation, processing, administration, defense and payment of claims for workers' compensation payments and employers' liability payments through self-insurance and otherwise. The rights and responsibilities set forth in this agreement shall at all times be subject to, and read in conjunction with, the rights, duties and responsibilities of set forth in the Plan Document, the New York State Workers' Compensation Law and all applicable rules, regulations and procedures promulgated by the Workers' Compensation Board of the State of New York.

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New York State  
Municipal Workers'  
Compensation Alliance

#### **E. Assessments payable to the Workers' Compensation Board**

All members are required to pay an assessment to the New York State Workers' Compensation Board to fund its administration and operations. Until such time as the Workers' Compensation Board implements a system of direct employer charges, the Comp Alliance is required to collect and pay this amount on behalf of its members.

The assessment is charged on a quarterly basis, and is based upon the member's reported payroll for each quarter. This charge is separate from your funding contribution to the Comp Alliance, and an estimated, annual assessment fee is collected from each member with its yearly funding contribution. The collection of an estimated amount up front is necessary to comply with the strict payment schedule set by the Workers' Compensation Board and to help protect members from costly penalties resulting from late reporting and payment.

The assessment that is charged by the Workers' Compensation Board each quarter is based upon the member's actual payroll for the quarter, as reported to the Comp Alliance on form GA-4. Since the actual payroll reported each quarter may deviate from the payroll used to estimate the member's annual assessment charge, the Comp Alliance will reconcile the assessment charges paid on your behalf with the amount that we have collected. The reconciliation will show whether the member's estimated assessment is adequate to cover the *actual* assessment. Where the amount collected (estimated assessment) is more than the actual amount paid out, the member will receive a credit towards the following year's estimated assessment. Where the amount collected is less than the actual amount paid out, the member will receive a debit on the following year's assessment.

The payroll submitted by each member on form GA-4 will be reconciled against the payroll it submits to the NYS Department of Taxation and Finance by the Workers' Compensation Board each quarter. The Comp Alliance will receive this reconciliation and members will be called upon to assist the Comp Alliance in clarifying any discrepancies. The Comp Alliance will then submit a reconciliation report to the Workers' Compensation Board explaining any discrepancies along with a payment, if necessary, for the difference owed to the Workers' Compensation Board from the particular member's assessment funds.

**Members who withdraw from the Comp Alliance program remain responsible for any assessments due and owing to the Workers' Compensation Board for the period of time that they were a member. Members who withdraw from the Comp Alliance will receive any overpayments after the assessment for the last quarter of their membership has been paid.**

---

In witness whereof, the parties have executed this participation agreement intending to fully bound by its terms and conditions.

#### **Member:**

##### **Policy Period:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

##### **Comp Alliance**

Date: October 1, 2023

By: *Michael Kenneally*

Name: Michael Kenneally

Title: Executive Director

Executive Director: Michael Kenneally  
518-465-0128

Claims: Maria De Los Angeles Luciano  
516-357-4135

Member Services: Aaron Reader  
866-697-7665

Agenda Item 13.

**Resolution No. 241 - 2023 - Updated Non-Bargaining Resolution**

Resolution to amend and restate the Benefit Plan for Non-Bargaining Unit Employees.

*Resolución para enmendar y reformular el Plan de Beneficios para Empleados de Unidades que No Negociantes.*

**ATTACHMENTS:**

Description	Upload Date	Type
2022-2026 Non-Bargaining Salary and Benefit Resolution	11/17/2023	Resolution Letter

RESOLUTION NO. \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AMENDING AND RESTATING  
THE SALARY AND BENEFIT PLAN FOR NON-BARGAINING UNIT EMPLOYEES**

**BE IT RESOLVED**, by the Council of the City of Newburgh that Resolution No. 293-2021, as amended by Resolution No 124-2022, establishing a salary and benefit plan for non-bargaining unit employees, is hereby amended and restated as follows:

**Section 1: Covered Employees**

This resolution shall apply to all salaried officers and salaried permanent employees of the City of Newburgh who work regular hours of no less than 35 hours per week and who are not members of any collective bargaining unit.

**Section 2: Holidays**

- (a) Employees covered by this resolution shall be granted leave with pay for the following holidays:

New Year's Day	Columbus Day
Martin Luther King's Birthday	General Election Day
Presidents Day	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Friday following Thanksgiving Day
Labor Day	Christmas Day

- (b) Holiday Pay

The following 24-hour, emergency, on-call personnel shall receive holiday pay in lump sum payment equal to 12 days' pay at their established salary in the first pay period in December of each year:

Police Commissioner, Police Chief, Fire Chief, Superintendent of Public Works, City Engineer, Commissioner of Public Works, and Water Superintendent.

Effective January 1, 2024, Holiday Pay is eliminated.

**Section 3: Vacation**

- (a) All new employees must work one full year from their date of appointment before being eligible to take a vacation.

(b) Vacation may only be taken with the prior approval of the department head or the City Manager. Approval shall not be unreasonably withheld.

(c) Employees shall earn vacation time in accordance with the following schedule:

I. City Manager and Department Heads upon completion of

1 year	20 working days
2 years	21 working days
3 years	22 working days
4 years	23 working days
5 years	26 working days
6 years	28 working days
7 years	29 working days
8 years	30 working days
9 years	31 working days
10 years	32 working days
11+ years	33 working days

II. Deputies and Assistants upon completion of

1 year	15 working days
2 years	16 working days
3 years	17 working days
4 years	18 working days
5 years	20 working days
6 years	21 working days
7 years	22 working days
8 years	23 working days
9 years	24 working days
10 years	25 working days
11 years	26 working days
12 years	27 working days
13 years	28 working days
14 years	29 working days
15 years	30 working days

III. Administrative/Confidential Employees upon completion of

1 year	10 working days
2 years	15 working days
3 years	16 working days
4 years	17 working days
5 years	18 working days
6 years	20 working days
7 years	21 working days

8 years	22 working days
9 years	23 working days
10 years	24 working days
11 years	25 working days
12 years	26 working days
13 years	27 working days
14 years	28 working days
15 years	29 working days
16+ years	30 working days

#### Section 4: Sick Leave

- (a) All employees shall receive 15 sick days per year.
- (b) Employees shall be granted sick leave at half-pay for personal illness after all sick and vacation time has been exhausted but such sick leave at half pay shall not exceed one week for each complete year of service.
- (c) When an employee is off the job due to illness, the City will continue to pay health insurance premiums for a maximum period of three months until a waiver of premium is executed.
- (d) The City Manager may request an employee using sick leave to provide a doctor's certificate for an absence of more than three days.
- (e) Commencing January 1, 2008, a non-bargaining unit employee with at least eight (8) years of employment with the City may seek to convert accrued and unused sick leave to a cash payment subject to the approval of the City Manager and the terms stated herein. The City Manager shall have sole discretion to approve or disapprove the employee's request, and the decision shall be non-reviewable. In addition to the requisite years of employment with the City, the employee must have no less than fifty (50) sick leave days accrued and unused remaining after the requested number of sick leave days is deducted from the employee's sick leave balance.

The employee shall be paid at 75% of the employee's daily rate of pay based on the employee's annual salary at the time of payment for each day of sick leave approved by the City Manager for conversion. The number of sick leave days converted to cash payment shall be deducted from the employee's sick leave balance.

An employee may request and/or receive payment for accrued sick leave no more frequently than once in a five (5) year period. An employee shall not be eligible for conversion of sick leave to cash payment for a five year period after the employee receives the payment provided herein.



## **Section 5: Personal Leave**

All employees shall receive the following personal leave days:

During the first year of employment	1 day
During the second, third and fourth year of employment	2 days
During the fifth and each subsequent year of employment	4 days

## **Section 6: Bereavement Leave**

Employees shall be entitled to four (4) consecutive work days leave of absence with pay between the dates of death and funeral when a death occurs in the immediate family which shall include a grandparent, a grandparent-in-law, parent, mother-in-law, father-in-law, spouse, child, brother, sister, brother-in-law, sister-in-law and grandchild, and also will include a grandparent, parent or a person who stood *in loco parentis*, to the employee whether the employee was a child. *In loco parentis*, as the term is used in the Family and Medical Leave Act, means a relationship in which a person, who may or may not have had a legal or biological relationship to the employee, assumed or discharged the obligations of a parent to the employee when the employee was a child. Provided that uniformed members of the police and fire departments covered by this Resolution shall receive the bereavement leave as is provided to subordinate members of their departments.

## **Section 7: Jury Duty Leave**

Time off with full pay will be allowed for jury duty provided that any reimbursement check for said jury duty is submitted to the City. Payment received for mileage and meal allowance shall belong to the employee.

## **Section 8: Child Care Leave**

Employees shall receive Child Care leave to the same extent as it is granted to other employees of the City.

## **Section 9: Uniform Allowance**

Employees covered by this Resolution who are uniformed members of the Police and Fire Departments shall receive the same clothing allowance as is provided to subordinate members in their respective departments.

## **Section 10: Health Insurance**

- (a) The City shall continue to participate in the New York State Health Insurance Plan and contribute one hundred percent (100%) of the premium for employees and other dependents and continue the present policy upon retirement.
- (b) Health Insurance Waiver - an employee who is covered by another health insurance plan may decline the coverage provided herein on or before the 1<sup>st</sup> day of December of each year by executing a waiver on a form established by the Comptroller. An

employee declining and waiving coverage shall receive a payment equal to 25% of the savings to the City on or before January 30 of the following year.

- (c) All employees hired on or after February 10, 2003 shall contribute 10% of the cost of health insurance for the life of their employment with the City.
- (d) All employees hired after February 8, 2016 shall contribute 15% of the cost of health insurance for the life of their employment with the City.
- (e) Employees must have a minimum of ten (10) years of service with the City of Newburgh to be eligible to receive health insurance upon retirement.

#### **Section 11: Dental and Optical Insurance**

Effective January 1, 2008, employees shall be included in the CSEA Sunrise Dental Plan and the CSEA Platinum Vision Plan on the same terms and conditions as provided to City employees covered by the CSEA collective bargaining agreement in effect for the period January 1, 2014 through December 31, 2016. This provision is subject to the approval by the CSEA Sunrise Dental Plan and the CSEA Platinum Vision Plan of inclusion of non-bargaining unit City employees in said plans.

#### **Section 12: Retirement**

The City shall continue to participate in the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

#### **Section 13: Severance**

Upon the effective date of separation, retirement or death, the employee or the employee's beneficiary shall receive cash payment for seventy-five percent (75%) of unused sick leave at the employee's current salary, plus the cash value of all accrued but unused vacation leave.

#### **Section 14: Longevity Schedule**

A longevity payment is to be made on the anniversary date of the employee's hiring and annually thereafter in accordance with the following schedule.

Upon Completion of Stated Years of Employment	1-Jan-22	1-Jan-23	1-Jan-24	1-Jan-25	1-Jan-26
5 years of employment	1,825	1,825	2,275	2,425	2,575
10 years of employment	2,475	2,475	2,925	3,075	3,225
15 years of employment	2,825	2,825	3,275	3,425	3,575
18 years of employment	3,175	3,175	3,625	3,775	3,925
20 years of employment	3,300	3,300	3,750	3,900	4,050

Effective January 1, 2024, longevity payment is eliminated for employees holding titles in grades 7-9.

#### **Section 15: Life Insurance**

The City shall provide to each employee a life insurance policy in the amount of two times the employee's annual salary.

#### **Section 16: Deferred Compensation Plan**

The City shall adopt the Deferred Compensation Plan for employees of the State of New York and other participating public jurisdictions open to employees covered by this resolution, pursuant to Section 5 of the State Finance Law. Employees may on one occasion during their employment contribute unused sick or vacation time to the deferred compensation plan at the rate of 75% of its cash value provided that such contribution is consistent with the rules of the plan and applicable to State and Federal statutes and regulations.

#### **Section 17: Salary Increases**

Effective the first day of the first payroll period following January 1<sup>st</sup> of each year (2023, 2024, 2025, 2026), the salary rates and steps of each position shall be paid in accordance with schedule B attached. All employees covered by this Resolution will receive retroactive payments for the full year of 2023.

Salary and step increases are reflected on Schedule B attached hereto.

## **Section 18: Fair Labor Standards Act**

Employees subject to the Fair Labor Standards Act and covered by this Resolution shall receive compensatory time as required by the Fair Labor Standards Act for time worked in excess of 40 hours per week.

## **Section 19: Education**

Subject to prior course approval by the City Manager, the full cost of tuition, books and school, not to exceed the tuition rate per credit hour as established by the State University of New York (New Paltz), incurred by any officer or employee covered by this resolution attending a certified educational institution or course which is related to said officer's or employee's duties shall be paid upon successful completion of said course and the submission of official grade reports to the City Manager. The cost of courses or education unrelated to an officer's or employee's duties or employment by the City shall not be paid by the City.

## **Section 20: Fitness for Duty**

The City of Newburgh and its officers and employees recognize that the public has the absolute right to expect that persons employed by the City in the exercise of their duties will be free from the effects of alcohol and controlled substances. The City, as the employer, has the right to expect its employees to report for duty and to set a positive example for the community. The non-bargaining unit employees, by acceptance of the benefits conferred by this Resolution, recognize and agree that the City Manager has the right to adopt rules, regulations, policies and procedures to implement random testing of employees for the use of alcohol and controlled substance as to all employees who exercise public safety functions, operate City vehicles or equipment, have access to confidential information or information the divulgence of which would adversely affect public security or who exercise a public trust.

## **Section 21: Intent of the Council**

It is the intent of this Council that

- (a) the following are to be classed as Department Heads under this resolution:

City Manager, City Comptroller, Police Commissioner, Police Chief, Commissioner of Public Works, Fire Chief, Director of Planning and Development, Code Compliance Supervisor, Corporation Counsel, Superintendent of Public Works, Superintendent of Water, Recreation Director, City Clerk/Registrar, City Assessor, City Collector, Information Systems Manager, City Engineer and Civil Service Administrator.

- (b) the following are to be classed as Deputies and Assistants under this resolution:

Assistant Corporation Counsel, Assistant City Comptroller, Human Resources Director, Deputy Fire Chief, Deputy Police Chief, Deputy City Clerk/Registrar,

Deputy City Clerk, Deputy Superintendent of Public Works, Deputy Superintendent of Water, Chief of Staff and Crime Analyst.

- (c) the following are to be classed Administrative/Confidential Employees under this resolution:

Business Services Coordinator, Secretary to the Director of Planning and Development, Administrative Assistant to the City Manager, Secretary to the City Manager, Secretary to the Corporation Counsel, Secretary to the Police Chief, Secretary to the Fire Chief, Secretary to the Water Superintendent, Secretary to the Engineer and Secretary to the Superintendent of Public Works, Accountant, Junior Accountant, Grants Administrator and Grants Coordinator.

It is further the intent of this Council to preserve its discretion to enter into agreements for the employment of the City Manager outside the scope of this resolution as authorized by City Charter Section C5.00(A).

## SCHEDULE A

<p><b><u>Grade 1</u></b></p> <p><b><u>Grade 2</u></b>  Deputy City Clerk  Secretary to the Engineer  Secretary to the Fire Chief  Secretary to the Superintendent of Public Works  Secretary to the Director of Planning and Development  Secretary to the Police Chief  Secretary to the Corporation Counsel  Secretary to the Water Superintendent  Administrative Assistant to City Manager</p> <p><b><u>Grade 3</u></b>  Deputy City Clerk/Registrar</p> <p>Business Services Coordinator  Junior Accountant  Grants Coordinator</p> <p><b><u>Grade 4</u></b>  City Clerk/Registrar  Accountant  Grants Administrator</p>	<p><b><u>Grade 5</u></b>  Crime Analyst  City Collector  City Assessor  Information Systems Manager  Human Resources Director  Civil Service Administrator</p> <p><b><u>Grade 6</u></b>  Code Compliance Supervisor  Recreation Director</p> <p><b><u>Grade 7</u></b>  Chief of Staff  Assistant Corporation Counsel  Assistant City Comptroller  Deputy Police Chief  Deputy Fire Chief  Deputy Superintendent of Public Works  Deputy Superintendent of Water</p> <p><b><u>Grade 8</u></b>  Superintendent of Water  Superintendent of Public Works  Director of Planning and Development  City Engineer  Fire Chief  Police Chief</p> <p><b><u>Grade 9</u></b>  Commissioner of Public Works  Police Commissioner  City Comptroller  Corporation Counsel</p> <p>City Manager**</p>
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\*\*The salary for the City Manager position is further subject to terms provided in an employment agreement between the City and the City Manager.

# SCHEDULE B

## City of Newburgh Non-Bargaining Salary Schedule FY2022

Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	\$ 37,765	\$ 40,794	\$ 43,824	\$ 47,679	\$ 50,158	\$ 53,187
2	\$ 48,781	\$ 51,755	\$ 54,564	\$ 57,505	\$ 60,541	\$ 63,657
3	\$ 60,507	\$ 62,715	\$ 63,944	\$ 66,005	\$ 67,952	\$ 70,817
4	\$ 71,190	\$ 73,108	\$ 74,855	\$ 76,688	\$ 78,836	\$ 81,128
5	\$ 80,325	\$ 83,419	\$ 86,512	\$ 89,491	\$ 92,584	\$ 94,946
6	\$ 88,574	\$ 90,379	\$ 92,240	\$ 94,045	\$ 96,020	\$ 98,884
7	\$ 99,529	\$ 101,068	\$ 102,604	\$ 104,113	\$ 105,679	\$ 107,217
7B	\$ 104,362	\$ 105,978	\$ 107,593	\$ 109,206	\$ 109,821	\$ 110,437
8	\$ 113,165	\$ 114,918	\$ 116,672	\$ 118,427	\$ 122,130	\$ 125,834
9	\$ 124,498	\$ 126,325	\$ 128,154	\$ 129,982	\$ 131,811	\$ 132,114

## City of Newburgh Non-Bargaining Salary Schedule FY2023

Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	\$ 38,521	\$ 41,610	\$ 44,700	\$ 48,633	\$ 51,161	\$ 54,250
2	\$ 49,756	\$ 52,790	\$ 55,655	\$ 58,655	\$ 61,752	\$ 64,930
3	\$ 61,717	\$ 63,970	\$ 65,223	\$ 67,325	\$ 69,311	\$ 72,233
4	\$ 72,614	\$ 74,570	\$ 76,353	\$ 78,222	\$ 80,413	\$ 82,751
5	\$ 81,931	\$ 85,088	\$ 88,242	\$ 91,280	\$ 94,436	\$ 96,845
6	\$ 90,345	\$ 92,186	\$ 94,085	\$ 95,926	\$ 97,941	\$ 100,862
7	\$ 101,519	\$ 103,090	\$ 104,656	\$ 106,195	\$ 107,793	\$ 109,361
8	\$ 115,428	\$ 117,217	\$ 119,006	\$ 120,795	\$ 124,573	\$ 128,350
9	\$ 126,988	\$ 128,852	\$ 130,717	\$ 132,582	\$ 134,447	\$ 134,756

\*Effective on the first day of the first payroll period following 1/1/2023

\*NBU members to receive retro for 2023

## City of Newburgh Non-Bargaining Salary Schedule FY2024

Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	\$ 39,291	\$ 42,442	\$ 45,594	\$ 49,605	\$ 52,184	\$ 55,335
2	\$ 50,751	\$ 53,846	\$ 56,769	\$ 59,828	\$ 62,987	\$ 66,228
3	\$ 62,951	\$ 65,249	\$ 66,527	\$ 68,672	\$ 70,698	\$ 73,678
4	\$ 74,066	\$ 76,061	\$ 77,880	\$ 79,786	\$ 82,021	\$ 84,406
5	\$ 83,570	\$ 86,790	\$ 90,007	\$ 93,106	\$ 96,324	\$ 98,782
6	\$ 92,152	\$ 94,030	\$ 95,967	\$ 97,845	\$ 99,899	\$ 102,879
7	\$ 122,248	\$ 124,692	\$ 127,186	\$ 129,730	\$ 132,325	\$ 136,000
8	\$ 148,388	\$ 150,687	\$ 152,987	\$ 155,287	\$ 160,144	\$ 165,000
9	\$ 163,388	\$ 166,656	\$ 169,989	\$ 173,389	\$ 176,857	\$ 180,000

\*Effective on the first day of the first payroll period following 1/1/2024

\*NBU members 7, 8 & 9 No holiday pay or longevity effective 2024

**City of Newburgh**  
**Non-Bargaining Salary Schedule**  
**FY2025**

<b>Grade</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
<b>1</b>	\$ 40,077	\$ 43,291	\$ 46,506	\$ 50,597	\$ 53,228	\$ 56,442
<b>2</b>	\$ 51,766	\$ 54,923	\$ 57,904	\$ 61,024	\$ 64,246	\$ 67,553
<b>3</b>	\$ 64,210	\$ 66,554	\$ 67,858	\$ 70,045	\$ 72,112	\$ 75,151
<b>4</b>	\$ 75,547	\$ 77,582	\$ 79,437	\$ 81,382	\$ 83,661	\$ 86,094
<b>5</b>	\$ 85,241	\$ 88,525	\$ 91,807	\$ 94,968	\$ 98,251	\$ 100,758
<b>6</b>	\$ 93,995	\$ 95,911	\$ 97,886	\$ 99,802	\$ 101,897	\$ 104,937
<b>7</b>	\$ 124,692	\$ 127,186	\$ 129,730	\$ 132,325	\$ 134,971	\$ 138,720
<b>8</b>	\$ 150,614	\$ 152,947	\$ 155,282	\$ 157,617	\$ 162,546	\$ 167,475
<b>9</b>	\$ 165,839	\$ 169,156	\$ 172,539	\$ 175,990	\$ 179,509	\$ 182,700

\*Effective on the first day of the first payroll period following 1/1/2025

\*NBU members 7, 8 & 9 No holiday pay or longevity effective 2024

\* Grades 1-7: 2%, Grades 8-9: 1.5%

**City of Newburgh**  
**Non-Bargaining Salary Schedule**  
**FY2026**

<b>Grade</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>
<b>1</b>	\$ 40,878	\$ 44,157	\$ 47,436	\$ 51,609	\$ 54,293	\$ 57,571
<b>2</b>	\$ 52,802	\$ 56,021	\$ 59,062	\$ 62,245	\$ 65,531	\$ 68,904
<b>3</b>	\$ 65,495	\$ 67,885	\$ 69,215	\$ 71,446	\$ 73,554	\$ 76,654
<b>4</b>	\$ 77,058	\$ 79,134	\$ 81,026	\$ 83,010	\$ 85,335	\$ 87,816
<b>5</b>	\$ 86,946	\$ 90,296	\$ 93,643	\$ 96,868	\$ 100,216	\$ 102,773
<b>6</b>	\$ 95,875	\$ 97,829	\$ 99,844	\$ 101,798	\$ 103,935	\$ 107,036
<b>7</b>	\$ 127,186	\$ 129,730	\$ 132,325	\$ 134,971	\$ 137,671	\$ 141,494
<b>8</b>	\$ 152,873	\$ 155,241	\$ 157,611	\$ 159,981	\$ 164,984	\$ 169,987
<b>9</b>	\$ 168,327	\$ 171,693	\$ 175,127	\$ 178,629	\$ 182,202	\$ 185,441

\*Effective on the first day of the first payroll period following 1/1/2026

\*NBU members 7, 8 & 9 No holiday pay or longevity effective 2024

\* Grades 1-7: 2%, Grades 8-9: 1.5%



Agenda Item 14.

**Resolution No. 242 - 2023 - Temporary Assistant Maintenance Mechanic**

Resolution amending the 2023 Personnel Analysis Book to add one Assistant Maintenance Mechanic position on a temporary basis in the Water Division

*Resolución por la que se modifica el Libro de Análisis de Personal 2023 para añadir una plaza de Mecánico Auxiliar de Mantenimiento con carácter temporal en la División de Aguas*

**Background:**

To amend the 2023 personnel book to add one Assistant Maintenance Mechanic position to the Distribution Division of the Water Department. This position will be paid from F.8340.0101

**Additional Information:**

Adding this position to cover the division for an individual that is out on long term leave.

**ATTACHMENTS:**

Description	Upload Date	Type
Resolution amending 2023 PS Book temporary asst. maintenance mechanic	11/16/2023	Resolution Letter
Assistant Maintenance Mechanic Job Description	11/16/2023	Backup Material

RESOLUTION NO.: \_\_\_\_\_-2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AMENDING THE 2023 PERSONNEL ANALYSIS BOOK  
TO ADD ONE ASSISTANT MAINTENANCE MECHANIC POSITION  
ON A TEMPORARY BASIS IN THE WATER DIVISION**

**WHEREAS**, the Water Superintendent notified the City Manager that due to a long term leave of absence, the Water Division will need an additional individual to perform the duties of “Assistant Maintenance Mechanic”; and

**WHEREAS**, the creation of the additional Assistant Maintenance Mechanic position will be on a temporary basis; and

**WHEREAS**, the City Council has determined that adding one Assistant Maintenance Mechanic position in the Water Division will promote economy and efficiency within the Division; 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 Personnel Analysis Book for the fiscal year 2023 be amended, and that there be and hereby is created one (1) additional position on a temporary basis in the position of “Assistant Maintenance Mechanic ” in the Water Division.

CITY OF NEWBURGH  
DATE ADOPTED: 7.14-80  
DATE AMENDED: 11-10-93  
DATE AMENDED: 11-30-98

### **ASSISTANT MAINTENANCE MECHANIC**

#### **GENERAL STATEMENT OF DUTIES:**

Assists the Water Maintenance Mechanic in performing skilled construction, mechanical and maintenance tasks; does related work as required.

#### **DISTINGUISHING FEATURES OF THE CLASS:**

This is skilled work involving responsibility for efficient performance of a broad class covering many types of recurring mechanical, construction and maintenance tasks found in the water distribution and purification divisions. The work is performed under supervision of the Water Maintenance Mechanic. An Assistant Maintenance Mechanic utilizes the more skilled techniques for a considerable portion of time. The work is performed under varying degrees of supervision depending on the assignment, and may be reviewed by observation, periodic spot checks, in the process and upon completion of the assignment. Availability to work emergencies and repairs to water system and filter plant as required.

#### **EXAMPLES OF WORK:**

Shall assist in the following:

Carpentry, masonry, electrical, plumbing and painting operations; Repairs to windows, doors, walls and floors of buildings; Skilled work of maintenance and repair operations of water distribution and filtration equipment; Installs, operates and repairs water mains, valves and hydrants; Assists in the repair or rebuilding of equipment such as pumps, compressors, drive units and/or other equipment found in the water department; Obtains meter readings from remote units using computerized equipment; Obtains meter readings from inside buildings and meter pits; Installs, seals, repairs, rebuilds and/or replaces water meters, remote units and wiring; Operates motorized equipment used in maintenance, transportation and repair operations; Obtains water samples from distribution and reservoirs for biological, chemical and other applications as they relate to water purification and distribution; Makes taps on water mains for service to consumers; Operates electronic finder to locate water lines and leaks.

#### **REQUIRED KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS:**

Good knowledge of the practices, tools, terminology and safety precautions of the operations found in a water distribution and purification system; Ability to understand and complete oral and written directives; Ability and desire to learn through classroom and field training; Reliability, dependability and positive personal attitude; Ability to act with courtesy and tact at all times in dealing with the public; Ability to work independently; Be available for emergencies; Neat and clean in appearance; Physical condition commensurate to do the work.

**ASSISTANT MAINTENANCE MECHANIC – Continued Page 2**

**MINIMUM QUALIFICATIONS:**

Graduation from high school or possession of a high school equivalency diploma and two years experience in one or more of the mechanical or construction trades, or in water system maintenance, treatment, repair or related field experience. Possession of a valid NYS driver's license is also required.

**SPECIAL REQUIREMENT:**

Employee must earn a NYS Grade D Water System Certificate within one year of appointment date and posses valid certification throughout tenure.

Agenda Item 15.

**Resolutoin No. 243 - 2023 - Ordinance amending Chapter 163 "Fees"**

Ordinance amending Chapter 163 entitled "Fees" of the Code of the City of Newburgh.

*Ordenanza enmendando Capitulo 163 titulado "Tarifas" del Código de la Ciudad de Newburgh.*

**Background:**

Water rate increase: 6%

Sewer rate remains 108% of water.

**ATTACHMENTS:**

Description	Upload Date	Type
Ordinance amending water fees	11/15/2023	Ordinance
water rates proposed 2024 by meter size	11/15/2023	Backup Material
minimum bill w proposed increase - sample	11/15/2023	Backup Material
active meters - current	11/15/2023	Backup Material

ORDINANCE NO.:\_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

AN ORDINANCE AMENDING CHAPTER 163 ENTITLED "FEES" OF THE CODE  
OF THE CITY OF NEWBURGH

BE IT ORDAINED by the City Council of the City of Newburgh that:

SECTION 1. Chapter 163 entitled "Fees" of the Code of the City of Newburgh be and hereby is amended as follows:

§163-1. Applicability.

Notwithstanding any other provision in this Code, the following schedule of fees is hereby established with respect to licenses, permits, registrations, applications, subscriptions and activities required or regulated under the provisions of the Code of the City of Newburgh. Specific requirements and regulations shall be as set forth in the chapter to which reference is made below. The following schedule of fees shall remain in effect until rescinded or amended.

Code

Section

Type of Fee

Amount

Chapter 293, Water

§293-38 Quarterly metered water rates per 1,000 gallons

First 1,000 gallons

Inside City: ~~\$8.35~~ 8.85

Outside City: ~~\$12.52~~ 13.27

Additional usage

Flat rate of ~~\$8.35~~ 8.85 (~~\$12.52~~

13.27 outside City) per 1,000

gallons

Minimum quarterly charge:

Meter

Size

Gallons

(inches)

Allowed

Inside City

Outside City

+5/8

6,000

~~\$50.10~~ 53.10

+5/8

9,000

~~\$112.58~~ 119.43

3/4

14,000

~~\$116.90~~ 123.90

~~\$175.28~~ 185.78

Underlining denotes additions

~~Strikethrough~~ denotes deletions

1	24,000	<del>\$200.40</del> <u>212.40</u>	<del>\$300.48</del> <u>318.48</u>
1 1/2	42,000	<del>\$350.70</del> <u>371.70</u>	<del>\$525.84</del> <u>557.34</u>
2	83,000	<del>\$693.05</del> <u>734.55</u>	<del>\$1,039.16</del> <u>1,101.41</u>
3	120,000	<del>\$1,002.00</del> <u>1,062.00</u>	<del>\$1,502.40</del> <u>1,592.40</u>
4	180,000	<del>\$1,503.00</del> <u>1,593.00</u>	<del>\$2,253.60</del> <u>2,388.60</u>
6	315,000	<del>\$2,630.25</del> <u>2,787.75</u>	<del>\$3,943.80</del> <u>4,180.05</u>
8	675,000	<del>\$5,636.25</del> <u>5,973.75</u>	<del>\$8,451.00</del> <u>8,957.25</u>

A surcharge ~~may~~ shall be added to the above charges for water services in the amount of 14%. This extra charge is made for the purpose of financing the cost of obtaining water from the New York City Aqueduct. Such surcharge shall be effective on October 1, 1981, and shall continue to be made in every quarterly billing period in which any water is taken from the Aqueduct tap.

## SECTION 2. Severability.

The provisions of this Ordinance 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 Ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance 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 Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

## SECTION 3. Codification.

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Ordinance shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Ordinance may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Ordinance" shall be changed to "Chapter", "Section", 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 Ordinance or the provisions of the Code of Ordinances affected thereby.

## SECTION 4. Validity

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance that can be given effect without such invalid provision.

## SECTION 5. This Ordinance shall take effect on January 1, 2024.

Underlining denotes additions  
~~Strikethrough~~ denotes deletions

## WATER RATES BY METER SIZE EFFECTIVE 01/01/2024

METER SIZE	GALLONS (Included Minimum Usage per billing quarter)	Minimum Quarterly Charge INSIDE CITY 2023	Minimum Quarterly Charge Proposed 2024 6% Inside City	Minimum Quarterly Charge OUTSIDE CITY 2023	Minimum Quarterly Charge Proposed 2024 6% Increase Outside
5/8"	6,000	\$ 50.10	\$53.10		
5/8"	9,000 (usage outside city)			\$112.68	\$119.43
3/4"	14,000	\$116.90	123.90	\$175.28	185.78
1"	24,000	\$200.40	212.40	\$300.48	318.48
1 ½"	42,000	\$350.70	371.70	\$525.84	557.34
2"	83,000	\$693.05	734.55	\$1,039.16	1101.41
3"	120,000	\$1,002.00	1062.00	\$1,502.40	1592.40
4"	180,000	\$1,503.00	1593.00	\$2,253.60	2388.60
6"	315,000	\$2,630.25	2787.75	\$3,943.80	4180.05
8"	675,000	\$5,636.25	5973.75	\$8,451.00	8957.25

### Sewer Usage is 108% of Water Amount

Water Facility Fee is \$7.61 per unit. (1,000 gallons)

1.000	=	\$ 7.61
1.750	=	\$13.32
2.500	=	\$19.03
3.250	=	\$24.73

Sewer Facility Fee is \$7.23 per unit (1,000 gallons)

1.000	=	\$ 7.23
1.750	=	\$12.65
2.500	=	\$18.08
3.250	=	\$23.50

Over the minimum usage = \$ 8.35 Water Inside City Limits \$8.85 Water Inside City (per 1,000 gallons)  
= \$12.52 Water Outside City Limits \$13.27 Water Outside (per 1,000 gallons)

Sewer Inside City Rate 108% of \$8.35 = \$9.02 – 108% of \$8.85 = \$9.55 (per 1,000 gallons)

### TOWN BILLS

\$12.52 = WATER OUTSIDE CITY LIMITS PER UNIT \$13.27 (per 1000 gallons)

\$13.52 = SEWER OUTSIDE CITY LIMITS PER UNIT \$14.33 (per 1,000 gallons)





# CITY OF NEWBURGH

83 BROADWAY  
NEWBURGH, NY 12550  
WWW.CITYOFNEWBURGH-NY.GOV

OFFICE HOURS: 8:30 A.M. - 4:00 P.M. MONDAY - FRIDAY  
EXCEPT HOLIDAYS

Collector's Office - (845) 569-7330  
Water Department - (845) 565-3356

ACCOUNT NUMBER		CUSTOMER NAME					BILLING DATE	DUE DATE
							10/02/23	11/03/23
PARCEL #		SERVICE LOCATION					FROM SERVICE TO	AMOUNT DUE
159150		HUMPHRIES PL					07/01/23 - 09/30/23	119.05
METER NUMBER	METER SIZE	PREVIOUS READING	DATE READ	CURRENT READING	DATE READ	CURRENT USAGE IN 1000 GALLON UNITS	DESCRIPTION	AMOUNT
90918351	5/8"	11	06/26	17	09/26	6	PREVIOUS BALANCE	119.05
							PAYMENT RECEIVED 08/17/23	119.05
							WATER	50.10 <b>53.10</b>
							SEWER	54.11 <b>57.30</b>
							SEWER FACILITY	7.23 <b>7.23</b>
							WATER FACILITY	7.61 <b>7.61</b>

CONSUMPTION HISTORY

Usage

Oct Jan Apr Jul Oct

2022 2023

**TOTAL DUE** ➡ **119.05 **125.24****

If payment is not received by 11/03/23, the balance on your account will be 130.95, which includes a 10% penalty.

PLEASE DETACH AND RETURN STUB WITH YOUR PAYMENT. THIS STUB ENSURES THAT YOUR PAYMENT IS PROCESSED ACCURATELY.



CITY OF NEWBURGH  
83 BROADWAY  
NEWBURGH, NY 12550

00028320 000119057



ACCOUNT NUMBER	DUE DATE
028320	11/03/23
BILLING DATE	AMOUNT DUE
10/02/23	119.05
AMOUNT DUE AFTER PENALTY	AMOUNT ENCLOSED
130.95	\$

HUMPHRIES PL

Please Make Check Payable To ➡

CITY OF NEWBURGH WATER AND SEWER  
LB#1787  
PO BOX 95000  
PHILADELPHIA, PA 19195-0001

**ABOUT YOUR BILL**

The Minimum Usage is a fixed amount water usage based on your meter size. The Current Usage and your Current Water amount noted on the statement is based on the actual amount of water you used over and including the Minimum Usage amounts. If an actual reading cannot be obtained, we will bill you the amount of the average of your four (4) previous water bills. If you have any questions or to obtain a bill from an actual reading, you must call the office number on this bill within ten (10) days of receipt of this bill to schedule an appointment to read your meter.

METER SIZE	MINIMUM USAGE	METER SIZE	MINIMUM USAGE	METER SIZE	MINIMUM USAGE
5/8 inch	6 units*	1 1/2 inch	42 units	4 inch	180 units
3/4 inch	14 units	2 inch	83 units	6 inch	315 units
1 inch	24 units	3 inch	120 units	8 inch	675 units

\*6 units inside city customers only. Outside city minimum usage for 5/8" meter is 9 units.

**HOW TO CALCULATE YOUR BILL**

The quantity of water passing through your water meter is measured in units. Each 1,000 gallons of water used equals one (1) unit. Check our website [cityofnewburg-ny.gov](http://cityofnewburg-ny.gov) for our current water, sewer and facility rates or you may call the City of Newburg Water Department at (845)565-3356 Monday through Friday (except holidays) from 8:30 a.m. to 4:00 p.m. Thank you.

**WHEN IS YOUR BILL DUE?**

Your bill is due and payable upon receipt. Accounts not paid by the Due Date on the bill will be charged a late fee of 10%. Any arrears not paid by October 31 will be re-levied and added to your tax bill.

**RETURNED CHECK CHARGE**

All checks returned by the bank will be charged a returned check fee.

This may also cause your account to go into arrears and be subject to a termination notice.

**FINAL NOTICE TO SHUT OFF WATER FOR NON-PAYMENT**

Whenever a customer neglects or refuses to pay a bill rendered for water consumed or commits any violation of Section 293-19 of the City Code, the Superintendent of Water may discontinue service to the property. Service shall not be discontinued until at least 15 day's written notice of the intention to discontinue service has been served on the customer and the property owner, either personally or by taking same in postpaid wrapper to the address of such person.

**THE WATER METER SERVING YOUR ADDRESS**

The City shall furnish all water meters at the City's expense for meters that are two inches or less. Meters over two inches shall be furnished at the owner's expense. In either case, the meter shall remain the property of the City and shall be installed and protected by the property owner at their expense. Normal maintenance on this meter shall be provided by the City. Maintenance, repair or replacement required because of improper use, accident, freezing, vandalism, theft, tampering, breaking the meter seal or removal without authorization of the Superintendent or other extraordinary cause shall be at the property owner's expense. In addition to the actual cost of repair or replacement of the meter, the property owner shall pay the fees set forth in Chapter 163 of the Code of Ordinances.

**OTHER CITY DEPARTMENT PHONE NUMBERS**

Animal Control:	(845) 561-3131	Department of Public Works:	(845) 565-3297
Assessor Office:	(845) 569-7333	Fire Department:	911 or (845) 562-1212
Building and Codes Department:	(845) 569-7400	Police Department:	911 or (845) 561-3131
City Hall:	(845) 569-7300	Recreation Department:	(845) 565-3230
City Clerks Office:	(845) 569-7311	Sewer Plant:	(845) 565-6182
Civil Service:	(845) 569-7340	Tax Collectors Office:	(845) 569-7330
Corporation Counsel:	(845) 569-7335	Water Department Emergency:	
		(Call the water filtration plant 24 hours/day)	(845) 561-6080

IF ANY OF THE FOLLOWING HAS CHANGED, PLEASE INDICATE....

Your Name \_\_\_\_\_ Home Phone \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner's Signature \_\_\_\_\_

MAILING ADDRESS CHANGE ONLY

## Active Meters in System

5/8"	4511
3/4"	880
1"	278
1 1/2"	110
2"	137
3"	37
4"	32
6"	6
Total	5,991

Agenda Item 16.

**Resolution No. 244 - 2023 - Resolution authorizing continued participation in settlement class in the re: aqueous film-forming foams products liability litigation**

Resolution authorizing continued participation in settlement class in the in re: aqueous film-forming foams products liability litigation, mdl no. 2:18-mn-02873 relating to City of Camden, et al. V. E.I. Dupont de Nemours and Company, et al. No. 2:23-cv-03230-rmg in connection with the contamination of Washington Lake and the City of Newburgh water supply

*Resolución por la que se autoriza a seguir participando en la clase de conciliación en referencia: litigios por responsabilidad de productos de espumas formadoras de película, mdl no. 2:18-mn-02873 relativo a la Ciudad de Camden, et al. V. E.I. Dupont de Nemours and Company, et al. No. 2:23-cv-03230-rmg en relación con la contaminación del lago Washington y el suministro de agua de la ciudad de Newburgh*

**ATTACHMENTS:**

Description	Upload Date	Type
A resolution authorizing continued participation in settlement class	11/22/2023	Resolution Letter
COMPARISON OF DUPONT & 3M CLASS ACTION SETTLEMENTS	11/22/2023	Backup Material

RESOLUTION NO.: \_\_\_\_\_ - 2023

OF

NOVEMBER 27, 2023

**A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION IN  
SETTLEMENT CLASS IN THE IN RE: AQUEOUS FILM-FORMING FOAMS  
PRODUCTS LIABILITY LITIGATION, MDL NO. 2:18-mn-02873 RELATING TO  
CITY OF CAMDEN, ET AL. V. E.I. DUPONT DE NEMOURS AND COMPANY, ET AL.  
NO. 2:23-cv-03230-RMG  
IN CONNECTION WITH THE CONTAMINATION OF WASHINGTON LAKE  
AND THE CITY OF NEWBURGH WATER SUPPLY**

**WHEREAS**, by Resolution No. 307-2017 of October 23, 2017, the Council of the City of Newburgh, New York authorized litigation against any and all potentially responsible parties in connection with the contamination of Washington Lake and the City of Newburgh Water Supply; and

**WHEREAS**, a proposed settlement has been reached with defendants The Chemours company, The Chemours Company, FC, LLC, DuPont de Nemours, Inc., Corteva, Inc., and E.I. DuPont de Nemours and Company n/k/a EIDPB, Inc. (the “Settling Defendants”); and

**WHEREAS**, The City of Newburgh is a public water system that draws water from any water source that, on or before June 30, 2023, was tested and otherwise for PFAS and found to contain PFAS at any level, and therefore, is a Phase One Qualifying Settlement Class Member eligible to receive compensation from the Settlement Funds which the Settling Defendants have agreed to pay; and

**WHEREAS**, the City Council of the City of Newburgh has determined that resolving the City’s claims against the Settling Defendants and avoiding the cost and uncertainty of continuing litigation by participating in the proposed settlement as a Settlement Class Member 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 City Manager, Corporation Counsel and the City’s special counsel, Knauf Shaw, LLP, are hereby authorized to resolve the City of Newburgh’s claims against defendants The Chemours company, The Chemours Company, FC, LLC, DuPont de Nemours, Inc., Corteva, Inc., and E.I. DuPont de Nemours and Company n/k/a EIDPB, Inc. and continue to represent the City of Newburgh as a Settlement Class Member as provided in Notice of Proposed Class Action Settlement and Court Approval Hearing in the matter of In Re: Aqueous Film-Forming Foams Products Liability Litigation, MDL No. 2:18-mn-02873 relating to City of Camden, et al. v. E.I. DuPont de Nemours and Company, et al. No. 2:23-cv-03230-RMG; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that City Manager, Corporation Counsel and the City’s special counsel, Knauf Shaw, LLP, are further authorized to execute documents as may be required to effectuate the settlement as herein described.

# COMPARISON OF DUPONT & 3M CLASS ACTION SETTLEMENTS

	DUPONT	3M
Total Settlement Amount to ALL Class Members	\$1,185,000,000	10,500,000,000 to \$12,500,000,000
Possible number of Class Members	Est. >14,000	Est. 12,000
Last Day to Opt Out	December 4, 2023	December 11, 2023
Can the City Opt Back In Before the Final Fairness Hearing?	No	Yes
Date of Final Fairness Hearing	December 14, 2023	February 2, 2024
How Is Payment Being Made	Lump sum	12 payments over time-yearly from 2025-2036
Amount Allocated to Phase One Class Members*	55% (\$671,750,000)	55% (5,755,000,000)

\*City is a Phase One Class Member. Phase One is defined as a Public Water System in the US that draws or collects from any Water Source that was tested for PFAS and contained any PFAS at any level.