



CITY OF NEWBURGH
COUNCIL MEETING AGENDA
SESION GENERAL DEL CONSEJAL

March 11, 2024
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 February 26, 2024 / Aprobacion del Acta de la Reunion General del Consejo del 26 de febrero de 2024
5. City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

Presentations/Presentaciones

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

6. Resolution No. 37 - 2024 - Council Conference Contract
A resolution authorizing the City Manager to Execute an agreement with Mohonk Mountain House for the City Council Workshop

Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo con Mohonk Mountain House para el taller del Concejo Municipal
7. Resolution No. 38 - 2024 - Proposal Ecotec 2024 Off-Site Monitoring Former Provan Ford Superfund Site No. B00127
Resolution authorizing the City Manager to accept a proposal and execute a contract with Eco Tec Environmental Services to perform groundwater sampling activities for the off-site groundwater monitoring wells associated

with the former Provan Ford remedial site (B00127) at a cost not to exceed \$10,000.00

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato con Eco Tec Environmental Services para realizar actividades de muestreo de aguas subterráneas para los pozos de monitoreo de aguas subterráneas fuera del sitio asociados con el antiguo sitio de remediación Provan Ford (B00127) a un costo que no exceda los \$10,000.00

8. Resolution No. 39 - 2024 - Contract with July 4 Ever Fireworks Inc & Rocco Polifrone- Independence Day

Resolution authorizing the City Manager to accept a proposal and execute a contract with July 4 Ever Fireworks, Inc. & Rocco Polifrone for the 2024 City of Newburgh Fourth of July Celebration on Thursday, July 4, 2024 for the amount of \$25,000.00

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato con July 4 Ever Fireworks, Inc. y Rocco Polifrone para la Celebración del 4 de Julio de la Ciudad de Newburgh de 2024 el jueves 4 de julio de 2024 por el monto de \$25,000.00

9. Resolution No. 40 - 2024 - CJS Engineering, PC Spill Prevention Report and 5 year Inspection of the Chemical Bulk Storage Tanks at the Water Treatment Plant

Resolution Authorizing the City Manager to accept a proposal and enter into an agreement with CJS Engineering services, PC for Professional Services in connection with Chemical Bulk Storage Compliance at the Water Treatment Plant at a cost of \$ 8,860.00

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y entrar en un acuerdo con CJS Engineering services, PC para Servicios Profesionales en relación con el Cumplimiento de Almacenamiento Químico a Granel en la Planta de Tratamiento de Agua a un costo de \$8,860.00

10. Resolution No. 41 - 2024 - 97 Renwick Street and 99 Renwick Street - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Aliro Nunez to the premises known as 97 Renwick Street (Section 45, Block 6, Lot 12) and 99 Renwick Street (Section 45, Block 6, Lot 11)

Resolución que autoriza la ejecución de una liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a Aliro Núñez a las instalaciones conocidas como 97 Renwick Street (Sección 45, Bloque 6, Lote 12) y 99 Renwick Street (Sección 45, Bloque 6, Lote 11)

11. Resolution No. 42 - 2024 - License and Access Agreement - Safe Harbors of the Hudson, Inc.

Resolution authorizing the City Manager to execute a license and access agreement with Safe Harbors of the Hudson, Inc. and its contracted agents to allow access to City owned property for environmental evaluation activities related to the Brownfield Opportunity Area Nomination Study of the "Newburgh, NY Hillside"

Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo de licencia y acceso con Safe Harbors of the Hudson, Inc. y sus agentes contratados para permitir el acceso a la propiedad de la Ciudad para actividades de evaluación medioambiental relacionadas con el Estudio de Nominación del Área de Oportunidad Brownfield de la "Ladera de Newburgh, NY"

12. Resolution No. 43 - 2024 - Surplus Live Scan and Other Equipment

Resolution declaring surplus one Live Scan machine, one housing cabinet with lights one Canon EDS 2000D camera, one Crossmatch SCAN500 desktop computer, one Dell monitor and Dell desktop computer, keyboard and mouse and authorizing disposition to the Village of Maybrook Police Department

Resolución que declara excedentes una máquina Live Scan, un armario de alojamiento con luces una cámara Canon EDS 2000D, un ordenador de sobremesa Crossmatch SCAN500, un monitor Dell y un ordenador de sobremesa Dell, teclado y ratón y que autoriza su entrega al Departamento de Policía del Pueblo de Maybrook

13. Resolution No. 44 - 2024 - Axon MSA Amendment No. 1

Resolution authorizing the City Manager to execute Amendment No. 1 to the contract with Axon Enterprise, Inc. for body worn cameras, vehicle cameras and related technology

Resolución que autoriza al Gerente de la Ciudad a ejecutar la Enmienda No. 1 al contrato con Axon Enterprise, Inc. para cámaras corporales, cámaras para vehículos y tecnología relacionada

14. Resolution No. 45 - 2024 - Resolution to Approve a Consent Judgement Involving 47 Johnston LLC

A resolution approving the consent judgement and authorizing the City Manager to sign such consent judgement in connection with the tax certiorari proceedings against the City of Newburgh in the Orange County Supreme Court bearing Orange County Index NOS. EF003483-2020, EF003757-2022 and EF004882-2023 involving Section 30, Block 2, Lot 7, (47 Johnston LLC)

Una resolución que aprueba la sentencia consentida y autoriza al Gerente de la Ciudad a firmar dicha sentencia consentida en relación con el

procedimiento de certiorari de impuestos contra la Ciudad de Newburgh en el Tribunal Supremo del Condado de Orange que lleva el índice del Condado de Orange NOS. EF003483-2020, EF003757-2022 y EF004882-2023 que involucra la Sección 30, Bloque 72 Lote 2, (47 Johnston LLC)

15. Resolution No. 46 - 2024 - Rent Guidelines Board Appointments

A resolution of the City Council of the City of Newburgh superseding resolution No. 8-2024 of January 8, 2024 recommending nine City residents to serve on a Rent Guidelines Board

Una resolución del Concejo Municipal de la Ciudad de Newburgh que reemplaza la resolución No. 8-2024 del 8 de enero de 2024 recomendando a nueve residentes de la Ciudad para servir en una Junta de Pautas de Alquileres

Old Business: / Asuntos Pendientes

16. Resolution No. 29 - 2024 - Purchase of 146 Renwick Street

Resolution to authorize the conveyance of real property known as 146 Renwick Street (Section 45, Block 14, Lot 11) at private sale to Victor Jose Daniel Ortega-Sagastume for the amount of \$140,000.00

Resolución que autoriza la transmisión de bienes raíces conocidos como 146 Renwick Street (Sección 45, Bloque 14, Lote 11) en venta privada a Víctor José Daniel Ortega-Sagastume por el monto de \$140,000.00

New Business: / Nuevos Negocios

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

Adjournment/ Aplazamiento:

RESOLUTION NO.: 37 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AGREEMENT WITH MOHONK MOUNTAIN HOUSE
FOR THE CITY COUNCIL WORKSHOP**

WHEREAS, the City Council of the City of Newburgh is planning a governance and team building workshop; and

WHEREAS, Mohonk Mountain House can provide accommodations, meeting and conference services as forth in the annexed agreement; and

WHEREAS, this Council has reviewed such agreement and finds that the execution of such agreement is in the best interests of the City of Newburgh and its continued development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement with Mohonk Mountain House to provide accommodations, meeting and conference services for a workshop for the City Council of the City of Newburgh.

CONTRACT

DATE: January 19, 2024 – **updated March 4, 2024**
 GROUP NAME: City of Newburgh
 CONTACT: Audra Cox
 ADDRESS: 83 Broadway
 Newburgh, NY 12550

Pursuant to this contract, once accepted, City of Newburgh will hold a meeting at the Mohonk Mountain House (MMH).

MEETING DATES AND GUEST ROOM BLOCK:

Once this contract is accepted, we will remove from our inventory and consider sold to you for your use room nights pursuant to the following arrival and departure pattern:

	Single	Double	Total Rooms	Total People
Fri 4/19/24	10	0	10	10
Sat 4/20/24	10	0	10	10
Sun 4/21/24	Depart			

ROOM RATES

Single Occupancy Rate Per Person	Double Occupancy Rate Per Person
\$903.00	\$536.00

These rates are Full American plan rates, which include three consecutive meals daily, beginning with dinner on the day of arrival through lunch on the day of departure. Credit is not extended for missed meals.

Daily room and board rates quoted above are subject to applicable state and local taxes. At Mohonk Mountain House, there is no expectation of tipping.

Additional daily charges will apply for each additional person (up to four people per room), as follows:

Children Under 4 – Stay Free

Children 4 – 12 years old - \$190.00 per person

Children/Adult – 13 & over - \$270.00 per person

SPECIAL CONCESSIONS:

Overnight Packages include:

Three Meals (dinner, breakfast and lunch)

Two Standard Coffee Breaks

General Session Meeting Room

Standard Audio Visual (LCD, Podium, Microphone, Flipchart, Screen)

High Speed Internet Access (wireless)

Most Recreation Activities

Valet Parking

ROOM RESERVATION PROCEDURES

From the moment this contract is accepted, we will be holding your contracted guest room block for the use of your attendees. MMH has no obligation to provide room nights beyond those contained in the room block.

In order to assign individuals to specific rooms, room reservations will be required. A rooming list is required in order to facilitate your attendees' accommodations, and it must be provided to MMH by 3/19/24. This list should include guest name in alphabetical order, home or business address, email address (if any), check-in and checkout dates, pairings for shared rooms (if applicable) and VIP status. Any additions or revisions to your rooming list after the reservations due date should be sent to the Conference Planner at MMH who will be assigned to your meeting. Any requests for special room arrangements should be indicated on the rooming list. MMH does not confirm reservations to the individual in writing.

On 3/19/24 all room nights which have not been reserved as described above will be deemed to be room nights which your group will not use, and they will become subject to the attrition provisions herein. Such room nights will at that date be returned to MMH's general inventory. Reservation requests from your attendees received after 3/19/24 will be accepted on a space available basis, at the higher of the contract rate or rate available at that time. Should such requests be accepted, such room nights will be credited to your block for purposes of any calculation of attrition.

CHECK-IN / CHECK-OUT

Guest accommodations will be available at 4:00 PM on arrival day and check-out time is 12:00 pm. MMH would appreciate receiving flight arrival times for your attendees, if available.

Requests for early arrivals and late departures must be arranged in advance through the Conference Planning Office; fees for early arrival and late departure may apply.

GUEST ROOM CHARGES

It is our understanding that your guests will sign for room and board, & tax to the master account. In order to be able to access the ancillary services of MMH, each guest will be required

to present a valid credit card upon check-in, on which an amount of sufficient pre-authorization can be obtained to cover the anticipated use of MMH's ancillary services, and we require each guest's home/business address and e-mail address. Should any guest not settle his or her account in full upon departure, the group will be responsible for those charges.

A billing checklist (which identifies who is paying for what) is provided with this contract and will need to be completed.

DAY ATTENDEES

Day attendees are charged a rate of \$195.00 (\$174.80 *tax exempt*) per day, which includes meeting attendance, lunch and tax. The number of day attendees shall be **3**.

A list of the names of day attendees must be received 72 hours prior to arrival, specifying meal and recreation requirements. Day attendee charges may be master billed only.

FOOD & BEVERAGE / MEETING REQUIREMENTS

Though we usually charge for usage of our function space, MMH will provide the general session meeting space you require in accordance with the schedule of events which is described below on a complimentary basis in recognition of the revenue we will derive from the provision of room nights and food and beverage services and ancillary services hereunder. MMH reserves the right to adjust function space at the reservations due date based on attendance at levels lower than contracted. Moreover, if prior to the reservations due date, MMH is informed that you will utilize fewer rooms than you have contracted for, MMH reserves the right to adjust function space. Please ensure that the schedule below includes all space necessary to accommodate set-up and breakdown times, all audio-visual needs, head tables and displays.

SCHEDULE OF EVENTS

Date	Start and End Time	Event	Setup	Agreed	Room Rental
Fri, 04/19/24	4:00 PM - 4:30 PM	Arrival		10	-----
	4:00 PM - 4:30 PM	Hotel Check-In		10	-----
	-----	Dinner		10	Reservation times to be made through your planner
Sat, 04/20/24	8:00 AM - 9:30 AM	Breakfast		10	-----
	8:00 AM – 8:00 AM	Day Attendee Arrival		3	-----
	8:00 AM - 5:00 PM	Meeting		13	Waived
	9:00 AM - 9:30 AM	Coffee Break		13	-----
	12:00 PM - 1:30 PM	Lunch		13	-----
	2:00 PM - 2:30 PM	Coffee Break		13	-----
	5:00 PM - 5:30 PM	Day Attendee Departure		3	-----
	-----	Dinner		10	Reservation times to be made through your planner
Sun, 04/21/24	8:00 AM - 9:30 AM	Breakfast		10	-----
	8:00 AM – 8:00 AM	Day Attendee Arrival		3	-----
	8:00 AM - 5:00 PM	Meeting		13	Waived
	9:00 AM - 9:30 AM	Coffee Break		13	-----
	11:30 AM - 12:00 PM	Hotel Check-Out		13	-----
	12:00 PM - 1:30 PM	Lunch		13	-----
	2:00 PM - 2:30 PM	Coffee Break		13	-----
	5:00 PM - 5:30 PM	Departure		13	-----

Your Conference Planner will assist you and confirm your dinner reservations. Before preparing your final agenda, please be sure that you have received confirmation on your exact dining time.

Should you desire additional food and beverage services and/or meeting space beyond that specified in the schedule of events above, please advise us as soon as possible so that we may attempt to secure such additional space for your use.

MMH reserves the right to make reasonable substitutions in meeting and banquet rooms and/or menu selections. Diagrams and identification of MMH's meeting space to be used for your meeting may not be disseminated by the group without MMH's prior approval. A labor charge may apply to any seated meal functions for less than twenty-five people.

FOOD AND BEVERAGE

No food and/or beverage of any kind will be permitted to be brought into MMH, or any suite used as a hospitality suite, by the group or any of the group's guests, or to be sold and/or served on MMH premises.

All Meal counts guaranteed 72 hours prior to Meal Function

Alcohol may only be consumed in the dining rooms, public lounge or private rooms; private hospitalities may be arranged with a bartender in attendance until 11:00 p.m.; alcoholic beverages may not be removed from hospitality, and brought into public spaces.

ATTIRE:

In keeping with our long-standing tradition, we appreciate you adhering to our resort casual attire requirements in our dining venues. Please Note: Swimwear, ripped, torn, frayed clothing, and hats/caps are not permitted in any of our indoor dining venues. Robes are not permitted in any of our dining venues.

Please check with your Sales Manager or Conference Planner for further details.

DINING ROOM HOURS:

Dining hours are 7:00 - 10:30 a.m. for Lakeview breakfast, 8:00 - 9:30 a.m. for full breakfast, 12:00 to 1:30 p.m. for lunch, and beginning at 6:00 p.m. for dinner. Reservations are required for all meals. Please note that Trail Lunches are available with 24-hour notice.

ROOM BLOCK AND SERVICES COMMITMENT

When you contract for a block of rooms and meeting facilities and for food and beverage services, those room nights, facilities and services are removed from our inventory and considered sold to you, and MMH makes financial plans based upon the revenues it expects to achieve from your full performance of the contract. It is impossible for MMH to know in advance whether or under what circumstances or at what rates it would be able to resell your contracted room nights, services or facilities if you do not use them, either as the result of a cancellation of your meeting or as the result of less than contracted room block usage or less than contracted usage of food and beverage functions ("attrition"). In most instances, when groups do not use their contracted room nights or services, MMH is unable to resell those room nights or services and even when room nights or services are resold, they are generally not resold at the same rates, may be resold to groups which would have utilized MMH at another time, are not resold to groups that have the same needs as the original group, etc. Even when rooms or services may be resold, it is costly to re-market the rooms and facilities, and such efforts divert the attention of our sales staff from selling MMH's rooms and facilities at other times. While your room block has been held out of our inventory, we may have turned away other groups in order to meet our commitment to you.

For all these reasons and others, we agree that in the event of cancellation or attrition, the following charges, which represent a reasonable effort on behalf of MMH to establish its loss prospectively, shall be due as liquidated damages. Because MMH reasonably expects to derive revenue from your meeting above and beyond that revenue derived from the provision of room nights and food and beverage services, and because it is difficult to estimate the actual revenue which may be derived from your meeting, the amounts due as and for liquidated damages are intended to compensate MMH for all of its losses associated with cancellation and/or attrition.

ANTICIPATED ROOM NIGHT AND BANQUET FOOD AND BEVERAGE REVENUE FIGURES

At this time, MMH is holding 20 room nights for your use over the contracted dates, which will generate total room revenues of **\$18,060.00**. Room and board is subject to applicable state and local taxes. (Anticipated Room Revenue is based on number of singles/doubles times daily rate times number of nights.) Contracted banquet food and beverage revenue, including day attendees, is **\$19,108.80**. These figures shall be referred to herein as the “Anticipated Room Night and Banquet Food and Beverage Revenue Figures.” All food and beverage is subject to applicable taxes. All revenue figures are net and not inclusive of taxes or commissions.

ATTRITION

We agree to allow for a 10% (**\$1,910.88**) reduction in the "Anticipated Room Night and Banquet Food and Beverage Revenue Figures," provided that you make a written request for that reduction between now and 30 days prior to your arrival date. After this reduction, the revised “Anticipated Room Night and Banquet Food and Beverage” will be **\$17,197.92**. At the conclusion of your meeting, we will subtract the rooms revenue derived from your meeting (excluding revenue derived from pre and post program stays) and the amount of any permissible attrition you have taken from the Anticipated Room Night Revenue Figure set forth above. Any remaining amount will be posted as a charge to your master account, plus applicable taxes. Additionally, at the conclusion of your meeting, we will subtract the contracted banquet food and beverage revenue derived from your meeting and the amount of any permissible attrition you have taken from the Anticipated Banquet Food and Beverage Revenue Figure set forth above. Any remaining amount will be posted as a charge to your master account, plus applicable taxes. The room and board for any attendee who does not check-in (referred to as a no-show) will be charged to the master account.

CANCELLATION

In the event of a group cancellation, liquidated damages in the following amount will be due, plus applicable taxes:

Number of Days Prior to Arrival which MMH is Notified of Cancellation	Percent of “Anticipated Room Night and Banquet Food and Beverage Revenue Figures”
0 - 90 days	Ninety Percent (\$17,197.92)

All group cancellations must be done in writing.

RECREATION

Our Group Recreation Manager will be contacting you to discuss and confirm your activities. Until you have received a written confirmation from our Group Recreation Manager, your activities are not guaranteed.

Changes in, or cancellations of, planned/customized group recreation events, challenge activities; are subject to the following charges:

Number of Days Prior to Recreation Event on which MMH is Notified of Cancellation or Reduction in participation	Percent of Price for Reserved Events
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0 - 3 days	One Hundred Percent
4-7 days	Fifty Percent
8 days or more	No Charge

Items purchased specifically for your special recreation events are 100% non-refundable.

FORCE MAJEURE

No damages shall be due for a failure of performance occurring due to Acts of God, war, terrorist act, government regulation, riots, disaster, or strikes, any one of which make performance impossible.

BILLING PROCEDURES AND DEPOSIT SCHEDULE

We have established credit for your organization and will agree to extend direct billing privileges. Mohonk maintains a house credit limit of \$50,000.00. Should credit be approved and your total bill exceed the credit limit, the excess is due upon departure. The entire remaining unpaid balance is then due upon receipt of the mailed bill.

If you desire, your Conference Planner will arrange for a time to review your group's bill before your departure. Please note that the bill you receive on your departure day may not reflect all charges due. You may therefore find that an adjustment, in the form of an additional charge posted after your departure, appears on your account. You will receive a final master bill by mail or email, generally within 10 working days of your departure, containing the contact information in the event of questions. Upon receipt of this bill your balance will be due.

Master account charges may be paid in the form of credit card, cash, check or bank transfer. All master account charges not paid within 10 days of the due date will bear interest at the lower of the rate of 1.5% per month, compounded monthly, if permissible by law, or the highest rate permissible by law. Should MMH, in its sole discretion, deem collection action necessary in

regard to outstanding balances hereunder, all costs associated with that collection action, including attorney's fees, shall be posted to the master account.

Individual guest accounts are payable at check-out by cash or credit card, though charges of more than \$20,000.00 may not be applied to a credit card.

The deposits and payments outlined in the table below are due as indicated. The deposits and payments will be applied to your master account in the form of credits.

Transaction Type	Charge Type	Date	Amount
Charge	Initial Deposit	2024-01-29	9030
Balance Due			9030

Form of payment options:

1. Please make your deposit payments by check payable to Smiley Brothers, Inc., and mail to:
Mohonk Mountain House, 1000 Mountain Rest Road, New Paltz, NY 12561, Attention:
Accounting Department, or
2. Credit Card – please submit completed credit card authorization form.
3. ACH or Wire Transfer –Banking information available upon request.

The Federal Tax ID number of Smiley Brothers Inc., which does business as Mohonk Mountain House, is 14-1506387.

If your organization is tax-exempt in the State of New York, we must have the New York State tax exempt certificate (form ST119.1) for charges that will be paid by the tax exempt organization showing the tax exempt number, two weeks prior to the group's arrival. Otherwise, sales tax will be collected on all applicable merchandise and services. Please note that in accordance with New York State tax laws, payment of tax exempt bills must be made by the same organization or individual in whose name the tax exemption certificate is registered in order to be honored.

AUDIO-VISUAL EQUIPMENT

A complete line of audio/visual equipment is available through MMH. Please refer to your conference packet for rates and a list of available items.

OUTSIDE CONTRACTORS

MMH offers all services necessary for a successful meeting. However, if Group finds it necessary to use outside services, any companies, firms, agencies, individuals and groups hired by or on behalf of Group shall be subject to prior written approval of MMH. Upon prior

reasonable notice to MMH from Group, MMH shall cooperate with such contractors and provide them with facilities at the premises to the extent that the use and occupancy of the facilities by the contractor does not interfere with the use and enjoyment of MMH premises by other guests and members of MMH. Group's contracts with its contractors will all specify that contractor and the group will indemnify and hold MMH harmless from any and all damages or liabilities which may arise by such Contractors or through their use. If Group uses outside contractors, any such contractor must provide MMH with evidence of their commercial general liability insurance policy with limits equal to those required of the Group, in the manner required of the Group as noted below. Group bears all responsibility for the payment of any charges incurred at MMH by its contractors.

INSURANCE AND INDEMNIFICATION

Group agrees to carry and maintain and provide evidence of liability and other insurance in amounts sufficient to provide coverage against any claims arising from any activities arising out of or resulting from the obligations which may arise or be incurred pursuant to or associated with this contract, and not less than the following: Commercial General Liability Insurance with bodily injury and property limits of not less than \$1,000,000 with blanket coverage from any one accident and umbrella insurance where applicable, as well as auto liability of similar limits and Worker's Compensation Insurance as required by law.

A certificate of insurance shall be submitted to MMH prior to the meeting, showing that Group's insurance policy names the MMH as an additional insured.

Damage to MMH premises by the Group or appointed contractors will be the Group's responsibility. Group will accept full responsibility for any damages resulting from any action or omission of their individual attendees in conjunction with organized group activities.

MMH is not responsible for any loss or damage no matter how caused, to any samples, displays, equipment, supplies, written material, property, or personal effects brought into MMH, and/or for the loss of these items or other materials left in meeting rooms, conference areas, exhibit areas, etc. Group acknowledges that it will be responsible to provide security for any such items and assumes the responsibility of loss thereof.

MMH reserves the right to approve all outside contractors hired for use by the Group in MMH, and may have a list of approved contractors and vendors. MMH must be notified in advance of any proposed vendor. MMH reserves the right to advance approval of all specifications, including electrical requirements, from all outside contractors, and to charge a fee for outside services brought into MMH. The Group and/or outside contractors must provide proof of worker's compensation insurance for employees who will work on MMH premises and proof of

adequate general liability coverage for the Group and/or outside contractors' activities while on MMH's premises, and must comply with all other similar requirements MMH deems appropriate, in its sole discretion, regarding use of function space, facilities and use of MMH services.

MMH shall indemnify, defend and hold harmless the Group and its officers, directors, partners, agents, members and employees from and against any and all demands, claims, damages to persons or property, losses and liabilities, including reasonable attorney's fees (collectively "Claims") arising out of or caused by MMH's negligence in connection with the provision of services or the use of MMH facilities. MMH shall not have waived or be deemed to have waived, by reason of this paragraph, any defense, which it may have with respect to such claims.

The Group shall indemnify, defend and hold harmless MMH and its officers, directors, partners, agents, members and employees from and against any and all demands, claims, damages to persons or property, losses and liabilities, including reasonable attorney's fees (collectively "Claims") arising out of or caused by the Group's negligence and/or its members', agents', employees', independent contractors' or Exhibitors' negligence in connection with the use of MMH facilities. The Group shall not have waived or be deemed to have waived, by reason of this paragraph, any defense, which it may have with respect to such claims.

MOHONK MOUNTAIN HOUSE POLICIES

Smoking: Smoking is no longer permitted in guest rooms, on balconies, or anywhere else inside the Mountain House. **Please note,** if a guest does smoke in their room, a charge of \$250.00 for cleaning will be assessed.

Printed Materials Disclaimer: MMH may not be held responsible for rates or information sent to meeting attendees unless approved by MMH prior to distribution.

Logo: The Group shall not use the name, trademark or logo or any other proprietary designation of MMH in any advertising or promotional material without the prior written permission of the MMH. Group shall comply with the terms and conditions required by the MMH for such use.

Utilities: All electrical services and utilities including telephone and riggings must be contracted for through MMH's Conference Services Department.

Signage: Signs and banners are not allowed in MMH's public areas. In regard to the group's meeting space, all signs must be professionally printed and their placement and posting be pre-approved by the Conference Planning Department. Nothing shall be posted, nailed, screwed or

otherwise attached to walls, floors, or other parts of the building or furniture. Distribution of gummed stickers or labels is strictly prohibited.

Drayage and Set-Up: We are unable to store display material and/or show merchandise either prior to or after the conclusion of the program. All exhibit materials which may inadvertently be delivered to MMH prior to the move-in will be forwarded to the drayage firm for handling. At the conclusion of your set-up program, all related equipment, crates, etc. must be removed from the premises and returned no later than the last day of the exhibit-show period. All exhibit materials must enter and exit MMH via our loading docks.

AUTHORITY

The persons signing the agreement on behalf of MMH and City of Newburgh each warrant that they are authorized to make agreements and to bind their principals to this agreement.

MISCELLANEOUS PROVISIONS

This contract is made and to be performed in New Paltz, New York, and shall be governed by and construed in accordance with New York law. By executing this agreement, City of Newburgh consents to the exercise of personal jurisdiction over it by the courts of the State of New York. This contract is the entire agreement between the parties, superseding all prior proposals both oral and written, negotiations, representations, commitments and other communications between the parties, and may only be supplemented or changed in writing, signed by a representative of the group and MMH's General Manager. No representative of MMH has been or is authorized to make any representation, which varies from the express terms of this contract, though this contract may be supplemented or amended in writing. Group may not assign any benefits arising under or associated in any way with this contract without prior written consent of MMH. In the event of litigation arising from or associated with this contract, the parties agree that the prevailing party therein shall recover its attorneys' fees and costs incurred therein. Any legal action in connection with this agreement shall be brought or maintained only in the courts of the State of New York, and only in Ulster County.

ACCEPTANCE

This contract shall be deemed accepted only after a representative of the group has signed it and thereafter signed by a representative of MMH. Acceptance may be made by facsimile transmission and this contract may be executed in one or more counterparts, each of which when fully executed, shall be deemed to be an original, and all of which shall be deemed to be the same agreement.

We look forward to working with you and to hosting a memorable meeting.

By City of Newburgh's authorized representative:

Name of Representative: _____

Title: _____

Group Name: City of Newburgh

Date: _____

By Smiley Brothers Inc., d/b/a Mohonk Mountain House's authorized representative:

Nicole Swanander

Sales Manager

January 19, 2024 – **updated March 4, 2024**

RESOLUTION NO.: 38 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT WITH ECO TEC ENVIRONMENTAL SERVICES
TO PERFORM GROUNDWATER SAMPLING ACTIVITIES FOR
THE OFF-SITE GROUNDWATER MONITORING WELLS ASSOCIATED WITH
THE FORMER PROVAN FORD REMEDIAL SITE (B00127)
AT A COST NOT TO EXCEED \$10,000.00**

WHEREAS, the New York State Department of Environmental Conservation approved the Site Management Plan for the Former Provan Ford Site, Site No. B00127, 210 Mill Street (formerly known as 146-172 Mill Street), Section 43, Block 7, Lot 7.1, in June of 2016; and

WHEREAS, provisions in Site Management Plan requires the City of Newburgh to conduct groundwater sampling activities on the off-site groundwater monitoring wells in connection with the Former Provan Ford Site; and

WHEREAS, Eco Tec Environmental Services submitted a proposal to conduct such work at a cost not to exceed \$10,000.00 with funding to be derived from A.1440.0448.0001; and

WHEREAS, this Council has determined that accepting such proposal for such work is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal from Eco Tec Environmental Services to conduct groundwater sampling activities at the off-site monitoring wells in connection with the Former Provan Ford Site at a cost not to exceed \$10,000.00.



ENVIRONMENTAL SERVICES

3 Nancy Court, Suite 4, Wappingers Falls, NY 12590
Tel. (845) 897-0003 Fax (845) 897-0042 www.EcoTecLLC.com

February 15, 2024

Mr. Jason Morris
City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550
Phone: (845) 569-9400 Fax: (845) 569-9700
E-mail: jmorris@cityofnewburgh-ny.gov

Re: Groundwater Sampling at Off-Site Wells for former Provan Site

Dear Mr. Morris,

I am pleased to submit to you our cost estimate for the Groundwater Sampling Activities for the off-site groundwater monitoring wells associated with the former Provan Remedial Site (B00127).

- EcoTec shall perform Groundwater Sampling Activities according the Site Management Plan (SMP) June 2016 and Quality Assurance Project Plan (QAPP) May 2016 for six (6) offsite groundwater monitoring wells.
- The wells will be inspected, groundwater level will be measured and field parameters of pH, conductivity temperature and DO will be measured. All field equipment will be decontaminated between each sampling location. The wells will be purged according the "3-5 volume" method and sampled utilizing a low-flow sampling pump. All groundwater sampling activities shall be documented on the "Sampling Log" in the SMP. Note: All purged groundwater shall be containerized in a 55-gallon drum(s). EcoTec has included analytical characterization of the waste. The waste shall be disposed of as non-hazardous waste water at an approved facility. Should the waste be characterized as hazardous from laboratory analysis, EcoTec shall provide additional cost(s) to dispose of waste as hazardous depending on sampling results. Note: Location of drum(s) staging locations shall be determined prior to sampling activities.
- The groundwater samples will be collected under chain of custody documentation and submitted to a NYSDOH Approved Laboratory for analysis of volatile organic compounds (VOCs) utilizing EPA Method 8260. Per the requirements of the QAPP, 1 duplicate sample shall be collected; field blanks shall be collected on each day of sampling, and 1 trip blank shall be collected during the sampling event.
- EcoTec shall provide the City with a Groundwater Monitoring Wells Sampling Report with Data Verification which will detail the collection methodology, laboratory results and any recommendations.
- EcoTec shall attempt to inspect Sub-slab depressurization system (SSDS) at 183 Mill Street and document its status. If SSDS inspection is satisfactory, the required NYSDEC documents will be completed. Please note- if inspection reveals repairs are required, the City shall be provided an additional estimate for repair cost(s).

Cost Estimates:

Groundwater Sampling Activities: Environmental Technician @ \$950/ day (2-Days) - \$1900

Groundwater Sampling Field Equipment:	\$180/ day (Estimate -2 Days)
Consumables (Tubing, PPE, Decon. Materials):	\$90/ day (Estimate -2 Days)
55-Gallon DOT Steel Drums	\$140/ ea (Estimate – 2 Drums)

Laboratory Analysis	\$179/ sample (7 Samples)
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Sampling Report with Electronic Data Deliverables and Verifications:	\$2100
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Hazardous Waste Characterization Sample:	\$510 (If required based on groundwater sample results)
Non-Haz Disposal Cost	\$915 (2-Drums of Purge Water Included)
Haz-Waste Disposal Cost	\$TBD*

*If waste is characterized as hazardous through laboratory analysis, pricing will be dependent on results. It is assumed that waste will be non-hazardous based upon previous sampling data.

SSDS Inspection and documentation:	\$250
Project Management and Correspondence	\$200

Estimated Project Cost:	\$7939*
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*Final costs will be calculated based on number of samples obtained, disposal costs incurred

Thank you for the opportunity to present you with this proposal and if you would wish to discuss in any detail please feel free to contact me at your convenience.

IN WITNESS WHEREOF,

Client and EcoTec, LLC. have duly executed this Agreement as of the day and year written above written.

Client

EcoTec, LLC

By:

By:



Name:

Name: Evan Stankunas

Title:

Title: Principal

Date:

Date: 2-15-24

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Technical Support

625 Broadway, 11th Floor, Albany, NY 12233-7020

P: (518)402-9543 | F: (518)402-9547

www.dec.ny.gov

Standby Consultant/Contractor Reminder Notice: 1/30/2024

Site Management Periodic Review

Evan Stankunas
Qualified Environmental Professional
EcoTec Environmental Services, LLC
3 Nancy Ct, Suite 4
Wappingers Falls, NY 12590
estankunas@ecotecllc.com

Site Name: Provan/Ford Site
Site No.: B00127
Site Address: 146-172 Mill Street
Newburgh (C), NY 12550

Dear Evan Stankunas:

This letter and attached certification have been mailed to you because you are the listed standby consultant/contractor for a state-funded State Superfund site that is currently in the site management (SM) phase of remediation. This letter is intended to serve as a reminder that sites in active Site Management undergo a periodic review to ensure that the selected remedy continues to be protective and that a report is due. This review and resulting report, referred to as the Periodic Review Report (PRR), will document the implementation and compliance with site specific SM requirements. Section 6.3(b) of DER-10 *Technical Guidance for Site Investigation and Remediation* (http://www.dec.ny.gov/docs/remediation_hudson_pdf/der10.pdf) provides guidance regarding the information that should be included in the PRR. A generic outline is attached as Enclosure 3 "Periodic Review Report (PRR) General Outline".

Please provide a PRR and sign and date the attached certification (Enclosure 1 "Engineering Controls - Standby Consultant/Contractor") by April 13, 2024. The PRR shall encompass the entire reporting period as indicated on the enclosed certification. If there has been a change in standby consultants/contractors during the reporting period, the certification you provide may rely on reports and documentation issued by previous consultants/contractors. In this instance, the DEC understands that data and material included in previous consultants/contractors' reports and documentation was not created by you, but that it has been reviewed and accepted as valid by you, to the best of your knowledge.

Site Management is defined in regulation (6 NYCRR 375-1.2(at)) and in Chapter 6 of DER-10. Depending on when the remedial program for the site was completed, SM may be governed by multiple individual documents (e.g., Operation, Maintenance, and Monitoring Plan; Soil Management Plan; etc.) or one comprehensive Site Management Plan.



A Site Management Plan (SMP) may contain one or all of the following elements, as applicable to the site: a plan to maintain institutional and/or engineering controls ("IC/EC Plan"); a plan for monitoring the performance and effectiveness of the selected remedy ("Monitoring Plan"); and/or a plan for the operation and maintenance of the selected remedy ("O&M Plan").

Additionally, the technical requirements and objectives for SM are stated in the decision document (e.g., Record of Decision).

When you submit the PRR, include the enclosed form (Enclosure 1), signed, certifying that all SM requirements are being met. The Engineering Controls (ECs) portion of the form must be signed by a Qualified Environmental Professional. If you cannot certify that all SM requirements are being met, a Corrective Measures Work Plan will be developed in conjunction with the DEC. This work plan shall include scheduling of activities as well as detailed cost information in a proposed budget. The work plan will be subject to final review and must be approved by the Department before any work included in the Work Plan shall commence. Instructions for completing the enclosed form are included as Enclosure 2 "Certification Instructions."

The certification form and PRR shall be submitted in electronic format unless a hard copy is specified by the DEC project manager. All supporting documentation (e.g., data, reports, etc.) should be submitted in electronic format only. These documents and electronic submissions should be sent to Matthew Hubicki, Project Manager.

New York State Department of Environmental Conservation
Division of Environmental Remediation, BURC
625 Broadway
Albany, NY 12233-7014

Phone number: 518-402-9605. E-mail: matthew.hubicki@dec.ny.gov

Enclosures

cc: Matthew Hubicki, Project Manager / Kerry Maloney, Section Chief



Enclosure 1
Engineering Controls - Standby Consultant/Contractor Certification Form



Site Details		Box 1	
Site No.	B00127		
Site Name Provan/Ford Site			
Site Address: 146-172 Mill Street Zip Code: 12550			
City/Town: Newburgh (C)			
County: Orange			
Site Acreage: 3.1			
Reporting Period: March 14, 2021 to March 14, 2024			
		YES	NO
1. Is the information above correct?		<input type="checkbox"/>	<input type="checkbox"/>
If NO, include handwritten above or on a separate sheet.			
2. To your knowledge has some or all of the site property been sold, subdivided, merged, or undergone a tax map amendment during this Reporting Period?		<input type="checkbox"/>	<input type="checkbox"/>
3. To your knowledge has there been any change of use at the site during this Reporting Period (see 6NYCRR 375-1.11(d))?		<input type="checkbox"/>	<input type="checkbox"/>
4. To your knowledge have any federal, state, and/or local permits (e.g., building, discharge) been issued for or at the property during this Reporting Period?		<input type="checkbox"/>	<input type="checkbox"/>
If you answered YES to questions 2 thru 4, include documentation or evidence that documentation has been previously submitted with this certification form.			
5. To your knowledge is the site currently undergoing development?		<input type="checkbox"/>	<input type="checkbox"/>

Box 2	
	YES NO
6. Is the current site use consistent with the use(s) listed below? Commercial and Industrial	<input type="checkbox"/> <input type="checkbox"/>
7. Are all ICs/ECs in place and functioning as designed?	<input type="checkbox"/> <input type="checkbox"/>
IF THE ANSWER TO EITHER QUESTION 6 OR 7 IS NO, sign and date below and contact the DEC PM regarding the development of a Corrective Measures Work Plan to address these issues.	
_____ Signature of Standby Consultant/Contractor	_____ Date

Description of Institutional ControlsParcelOwnerInstitutional Control**43-3-7.1**

146-172 Mill St. LLC

Ground Water Use Restriction
Landuse Restriction
Site Management Plan

Soil Management Plan
Monitoring Plan
O&M Plan
IC/EC Plan

- The use of groundwater underlying the property is prohibited without treatment rendering it safe for intended use

-Evaluation of vapor intrusion with mitigation as required prior to the construction of new buildings on site

- Land use is limited to commercial or industrial use

- All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP

- Monitoring of the site cover system

- Monitoring of on-site and off-site groundwater

Description of Engineering ControlsParcelEngineering Control**43-3-7.1**

Cover System
Vapor Mitigation

- A one foot thick site cover consisting of 3/4" crushed stone, underlain by a demarcation layer

- Sub-slab Depressurization system in off-site residence

Periodic Review Report (PRR) Certification Statements

1. I certify by checking "YES" below that:

a) the Periodic Review report and all attachments were prepared under the direction of, and reviewed by, the party making the certification, including data and material prepared by previous contractors for the current certifying period, if any;

b) to the best of my knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and the information presented is accurate and complete.

YES NO

☐ ☐

2. If this site has an IC/EC Plan (or equivalent as required in the Decision Document), for each Institutional or Engineering control listed in Boxes 3 and/or 4, I certify by checking "YES" below that all of the following statements are true:

(a) the Institutional Control and/or Engineering Control(s) employed at this site is unchanged since the date that the Control was put in-place, or was last approved by the Department;

(b) nothing has occurred that would impair the ability of such Control, to protect public health and the environment;

(c) nothing has occurred that would constitute a failure to comply with the Site Management Plan, or equivalent if no Site Management Plan exists.

YES NO

☐ ☐

IF THE ANSWER TO QUESTION 2 IS NO, sign and date below and contact the DEC PM regarding the development of a Corrective Measures Work Plan to address these issues.

Signature of Standby Consultant/Contractor

Date

IC/EC CERTIFICATIONS**Qualified Environmental Professional Signature**

I certify that all information in Boxes 2 through 5 are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

I _____ at _____
print name

_____,
(print business address)

am certifying as a Qualified Environmental Professional.

Signature of Qualified Environmental Professional

Stamp
(Required for PE)

Date

Enclosure 2

Certification Instructions

I. Verification of Site Details (Box 1 and Box 2):

Answer the "YES/NO" questions in the Verification of Site Details Section. The Engineering Standby Contractor may include handwritten changes and/or other supporting documentation, as necessary.

II. Certification of Institutional Controls/ Engineering Controls (Boxes 3, 4, and 5)

1. Review the listed IC/ECs, confirming that all existing controls are listed, and that all existing controls are still applicable. If there is a control that is no longer applicable the Engineering Standby Contractor should petition the Department separately to request approval to remove the control.
2. In Box 5, complete certifications for all Plan components, as applicable, by checking the corresponding checkbox.
3. If you cannot certify "YES" for each Control listed in Box 3 & Box 4, sign and date the form in Box 5. Attach supporting documentation that explains why the **Certification** cannot be rendered. The DEC PM should be contacted to begin development of a plan of proposed corrective measures and an associated schedule for completing the corrective measures, including detailed cost information in a proposed budget. Note that this **Certification** form must be submitted even if an IC or EC cannot be certified

If the Department concurs with the explanation, the proposed corrective measures, and the proposed schedule and budget, a letter authorizing the implementation of those corrective measures will be issued by the Department's Project Manager. Once the corrective measures are complete, a revised Periodic Review Report (with a signed IC/EC Certification) must be submitted which covers both the period for which a certification initially could not be provided and the ensuing time period until the correction measure was completed. This revised PRR should be submitted within 45 days after completion of the corrective measures to the Department. If the Department has any questions or concerns regarding the PRR and/or completion of the IC/EC Certification, the Project Manager will contact you.

III. IC/EC Certification by Signature (Box 6):

Where the site has Institutional and Engineering Controls, the certification statement in Box 6 must be completed by a Professional Engineer or Qualified Environmental Professional, as noted on the form.

If you certified "YES" for each Institutional and Engineering Control, please complete and sign the IC/EC Certification page.

IV. Certification Form Modifications

Changes to the Certification Form shall be discussed with the Project Manager prior to submission. Any approved changes must be made on the Certification Form provided by Site Control and supporting documentation or reasoning shall be attached.

Enclosure 3
Periodic Review Report (PRR) General Guidance

- I. Executive Summary: (1/2-page or less)
 - A. Provide a brief summary of site, nature and extent of contamination, and remedial history.
 - B. Effectiveness of the Remedial Program - Provide overall conclusions regarding;
 - 1. progress made during the reporting period toward meeting the remedial objectives for the site
 - 2. the ultimate ability of the remedial program to achieve the remedial objectives for the site.
 - C. Compliance
 - 1. Identify any areas of non-compliance regarding the major elements of the Site Management Plan (SMP, i.e., the Institutional/Engineering Control (IC/EC) Plan, the Monitoring Plan, and the Operation & Maintenance (O&M) Plan).
 - 2. Propose steps to be taken and a schedule to correct any areas of non-compliance.
 - D. Recommendations
 - 1. recommend whether any changes to the SMP are needed
 - 2. recommend any changes to the frequency for submittal of PRRs (increase, decrease)
 - 3. recommend whether the requirements for discontinuing site management have been met.
- II. Site Overview (one page or less)
 - A. Describe the site location, boundaries (figure), significant features, surrounding area, and the nature and extent of contamination prior to site remediation.
 - B. Describe the chronology of the main features of the remedial program for the site, the components of the selected remedy, cleanup goals, site closure criteria, and any significant changes to the selected remedy that have been made since remedy selection.
- III. Evaluate Remedy Performance, Effectiveness, and Protectiveness
Using tables, graphs, charts and bulleted text to the extent practicable, describe the effectiveness of the remedy in achieving the remedial goals for the site. Base findings, recommendations, and conclusions on objective data. Evaluations and should be presented simply and concisely.
- IV. IC/EC Plan Compliance Report (if applicable)
 - A. IC/EC Requirements and Compliance
 - 1. Describe each control, its objective, and how performance of the control is evaluated.
 - 2. Summarize the status of each goal (whether it is fully in place and its effectiveness).
 - 3. Corrective Measures: describe steps proposed to address any deficiencies in ICECs.
 - 4. Conclusions and recommendations for changes.
 - B. IC/EC Certification
The certification must be complete (even if there are IC/EC deficiencies), and certified by the appropriate party as set forth in a Department-approved certification form(s).
- V. Monitoring Plan Compliance Report (if applicable)
 - A. Components of the Monitoring Plan (tabular presentations preferred) - Describe the requirements of the monitoring plan by media (i.e., soil, groundwater, sediment, etc.) and by any remedial technologies being used at the site.
 - B. Summary of Monitoring Completed During Reporting Period - Describe the monitoring tasks actually completed during this PRR reporting period. Tables and/or figures should be used to show all data.
 - C. Comparisons with Remedial Objectives - Compare the results of all monitoring with the remedial objectives for the site. Include trend analyses where possible.
 - D. Monitoring Deficiencies - Describe any ways in which monitoring did not fully comply with the monitoring plan.
 - E. Conclusions and Recommendations for Changes - Provide overall conclusions regarding the monitoring completed and the resulting evaluations regarding remedial effectiveness.
- VI. Operation & Maintenance (O&M) Plan Compliance Report (if applicable)
 - A. Components of O&M Plan - Describe the requirements of the O&M plan including required activities,

frequencies, recordkeeping, etc.

- B. Summary of O&M Completed During Reporting Period - Describe the O&M tasks actually completed during this PRR reporting period.
- C. Evaluation of Remedial Systems - Based upon the results of the O&M activities completed, evaluate the ability of each component of the remedy subject to O&M requirements to perform as designed/expected.
- D. O&M Deficiencies - Identify any deficiencies in complying with the O&M plan during this PRR reporting period.
- E. Conclusions and Recommendations for Improvements - Provide an overall conclusion regarding O&M for the site and identify any suggested improvements requiring changes in the O&M Plan.

VII. Overall PRR Conclusions and Recommendations

- A. Compliance with SMP - For each component of the SMP (i.e., IC/EC, monitoring, O&M), summarize;
 - 1. whether all requirements of each plan were met during the reporting period
 - 2. any requirements not met
 - 3. proposed plans and a schedule for coming into full compliance.
- B. Performance and Effectiveness of the Remedy - Based upon your evaluation of the components of the SMP, form conclusions about the performance of each component and the ability of the remedy to achieve the remedial objectives for the site.
- C. Future PRR Submittals
 - 1. Recommend, with supporting justification, whether the frequency of the submittal of PRRs should be changed (either increased or decreased).
 - 2. If the requirements for site closure have been achieved, contact the Departments Project Manager for the site to determine what, if any, additional documentation is needed to support a decision to discontinue site management.

VIII. Additional Guidance

Additional guidance regarding the preparation and submittal of an acceptable PRR can be obtained from the Departments Project Manager for the site.

RESOLUTION NO.: 39 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT WITH JULY 4 EVER FIREWORKS, INC.**

& ROCCO POLIFRONE

**FOR THE 2024 CITY OF NEWBURGH FOURTH OF JULY CELEBRATION
ON THURSDAY, JULY 4, 2024 FOR THE AMOUNT OF \$25,000.00**

WHEREAS, the City of Newburgh has received a proposal from July 4 Ever Fireworks, Inc. & Rocco Polifrone for fireworks for the 2024 Fourth of July celebration on Thursday, July 4, 2024 at a cost of Twenty-Five Thousand (\$25,000.00) Dollars; and

WHEREAS, funding for the Fourth of July celebration fireworks display shall be derived from the 2024 Budget - A.7550.0400.0001; and

WHEREAS, this Council has determined that accepting the proposal of July 4 Ever Fireworks, Inc. & Rocco Polifrone is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he hereby is authorized to accept a proposal and execute a contract, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, with July 4 Ever Fireworks, Inc. & Rocco Polifrone for a fireworks display for the 2024 City of Newburgh Fourth of July celebration on Thursday, July 4, 2024, at a cost of \$25,000.00.

JULY 4 EVER



FIREWORKS

City of Newburgh

PROPOSAL

JULY 4 EVER FIREWORKS how we started...where we are now!

July 4 Ever Fireworks company has been in the fireworks industry for over 40 wonderful years. We have always been family owned and operated because of our love and passion we have for fireworks.

Our journey started as wholesalers to the industry, we imported fireworks that were used in thousands of displays throughout the country and abroad. At one time we were the largest importers on the East coast with the most talked about facility with our Military bunkers used to house fireworks. We have loyal employees from our office staff to our dedicated trained Pyrotechnicians.

Our company does displays all year long from the hottest days of summer to the coldest days of winter. Our year-round displays have allowed us to keep our steady clients happy and able to do their biggest Fourth of July displays to their New Years Eve display and every special event in between. Our displays have been seen on TV, from New York to Las Vegas, Barges, Lakes, Beaches, Ball stadiums, National Geographic, around the NYC area, Chinese New Year, Towns, Villages, Corporate events, Weddings and many more.

Our number one priority has always been safety. We pride our company on safety and making sure our clients mind is at ease knowing our commitment and dedication is to assure every show is tailored designed for the location and audiences to have the best experience and a spectacular night to remember.

All Permits, licensing, insurance, workers compensation will be promptly done in our office in a timely manner from the initial signing of the contract. We will do all meetings for sight inspections, and Town Hall meetings (if required).

Our commitment is to provide each client a choreographed show designed by a team dedicated to making sure each show is uniquely planned. We use the highest-grade quality pyrotechnics for ALL our displays and guarantee the best display for every budget.

Our team is one of a few who proudly answers all calls anytime day or night, being able to speak to a representative if any questions should arise. Our customer service is exceptional, and we proudly give references should they be requested.

Reputation Is everything:

What you can expect: High impact, rhythm like dancing fireworks especially if choreographed to music. There is a WOW opening, a body which will captivate and keep audiences engaged with special designs, variety of colors and multiple effects, our finale will consist of a barrage of fireworks that will leave audiences applauding for more!

Thank you. We look forward to working with you!

Synopsis of Services

❖ SHOW DATE: July 4th, 2024 / Rain Date July 5th, 2024

❖ PROGRAM BUDGET: \$25,000.00

❖ EFFECT LIST: See Attached

❖ PERSONNEL: NYS Licensed Tech & Assistants

❖ TRANSPORTATION: July 4 Ever Vehicle

❖ PERMITS: As Required by City

❖ INSURANCE As Required by Sponsor

Fireworks Display Synopsis

SHOW DATE: July 4th, 2024

RAIN DATE: July 5th, 2024

BUDGET: \$25,00.00

CLIENT: City of Newburgh

ITEM DESCRIPTION	QUANTITY	NUMBER OF SHOTS
OPENING:		
2"	120	120
3"	30	30
4"	6	6
5"		
6"		
Repeaters	360	360
BODY OF DISPLAY:		
2"		
3"	360	360
4"	180	180
5"	124	124
6"		
Repeaters	960	960
FINALE:		
2"	360	360
3"	150	150
4"	120	120
5"	40	40
6"		
Repeaters	800	800
TOTAL:		3610

July 4 Ever reserves the right to make product substitutions equal to or greater in value to the original quoted product in the event inventory fluctuates between contract execution and show date.

July 4 Ever Effects

X Shape Red/ Green Stars With White
Strobe Mine

X Shape Blue & Gold Strobe Willow Tail

Straight Salute W/ Color Tails

Break (5 Inch)

Double Break (6 Inch)

Mixed Effects

Z Shape Whistling Tail To Brocade With
White Strobe

Straight Whistling To Thunder (Instant)

Straight Whistling To Thunder (Instant)

Straight Brocade Mine To Brocade Crown

Straight Blue Tail To Flower Crown With
Red/ Blue

Z Shape Brocade Tail Spit Brocade

Waterfall With Red/ Green Strobe Pistil

Z Shape Blue Tail To Nishiki Willow W/
Color Pearls

Fan Shape Nishiki Willow W/ Color
Falling Leaves

Z Shape Brocade Crown W/ Color Falling
Leaves

July 4 Ever Effects

Z Shape Gold Horse Tail W/ Blue Pearls

Straight Brocade Break Alternate White

Strobe Color Falling Leaves With B/ R
Tails

Straight Red/ Green/ Blue Tail To Ti-
Gold Palm With Red/ Green/ Blue Dahlia

Straight Brocade Tail To Gold Pine With
Red/Green/Blue

Straight Gold To Brocade W/
Teal/Purple/Orange/Blue Dahlia

Half Red Half Blue With White Strobe
Pistil

Z Shape Brocade Crown W/ Color Falling
Leaves

X Shape Red/Green/Blue Tail To White
Strobe With Green/Purple/Orange Dahlias

X Shape Red/Green/Blue Tail To White
Strobe With Green/Purple/Orange Dahlias

Blue Tail Salute W/ Red Strobe Mine

Fan Shape Brocade Mine To Brocade

Z Shape Brocade Horse Tail W/ White
Strobes

July 4 Ever Effects

Brocade Crown W/ Color Falling Leaves

Multiple Reports

Blue Star Mine & Neon Glittering Tail To
Special White Brocade Crown

Blue Star Mine And Neon Glittering Tail
To Gold Ti Willow

Blue Star Mine And Neon Glittering Tail
to Red, Green Falling Leaves And Blue
Star

Blue Star Mine And Neon Glittering Tail
To Red, Sea Blue Stars W. White Strobe
Blue Tail To Gold Ti Willow & Blue Star
Blue Tail To Silver Nishiki Willow, Blue
Star & Red Strobe

Red Coconut Tail To Silver Plum & Red
Dahlia

Special White Brocade Crown To Red,
Orange Dahlia

Blue Tail To Gold Nishiki Willow

Red Tail To Thunder(Instant)

Red Tail To Brocade Crown(Instant)

Straight Whistling To Thunder

Straight Whistling To Thunder(Instant)

Assorted Nishiki Willow Effect

Assorted Tiger Tails To Huge Break

July 4 Ever Effects

Red/ Green/ Orange Dahlia Special White
Strobe

Pigeon Blood Blue Dahlia

Green/ Blue Dahlia Red Lace

Purple/ Green/ Blue Dahlia Gold Lace

White Strobe Pigeon Blood Dahlia

Red Peony Time Rain Pistil

Time Rain Chrys.

Silver Crackling Willow Green Strobe

Brocade Crown

Special Red/ Green/ Blue Brocade

Red/ Green/ Gold Strobe Brocade To

Laser Willow

Silver Palm White Strobe

Gold Willow To Red

Green Willow White Strobe Pistil

Gold Willow Brocade

Red Strobe Willow Blue Stars

Gold Strobe Willow Color Dahlia

Color Palm

Gold Willow To Color With White Strobe

Red/ Green/ Orange/ Yellow To Silver

Palm

Blue Palm

July 4 Ever Effects

Red Lace Ring

Brocade To Blue Ring

Blue Ring

Gold Splash Ring

Delay Time Rain Ring

Quick Crackle Ring

White Strobe Red Moving Mine To

Purple/ Green/ Blue With White Lace

Color Dahlia White Strobe Mine To

Brocade Green Strobe

Gold Blue Mine To Red/ Green/ Blue

With Quick Crackle

Gold Willow To Color With Silver Strobe

Mine To Gold Willow White Strobe Gold

Willow To Red/ Green Strobe Mine To

White Lace Green Tail

Brocade To Red Mine To Color Palm

With Crackle

Blue To Green Mine To Timerain With

Red/Green/Blue Dahlias

Special White Strobe Blue Mine To Red/

Blue Dahlia White Strobe

Crackling Silver Fish Mine To White

Strobe Red Tail

Silver Crackling Wave With Green Mine

To Red/ Green/ Blue Wave White Strobe

July 4 Ever Effects

Green Palm To Timerain Mine To Red/

Green/ Blue Dahlia White Strobe Red

Palm Crackling+Blue Palm Crackle

Pigeon Blood+Blue To Brocade

Brocade Red Strobe+Green Palm Red

Lace

Brocade+Pigeon Blood

Blue/ Green Dahlia With White Strobe

+Pigeon Blood With White Strobe



JULY 4 EVER FIREWORKS INC & ROCCO POLIFRONE

THIS CONTRACT AND AGREEMENT for the display of Fireworks made and concluded this 22nd day of February, 2024, by and between **JULY 4 EVER FIREWORKS INC & ROCCO POLIFRONE**, of Walden, NY (hereinafter referred to as "July 4 Ever & Rocco Polifrone"),

AND

City of Newburgh

(hereinafter referred to as "Client")

WITNESSETH: For and in consideration of the sum of One Dollar, each to the other in hand paid, receipt of which is hereby acknowledged, and of the terms and conditions hereinafter mentioned, July 4 Ever & Rocco Polifrone and Client do mutually and severally agree to perform their several and respective covenants and to comply with all terms, conditions and payments of this contract:

July 4 Ever & Rocco Polifrone agrees:

1. To furnish and deliver to Client, Fireworks to be exhibited on the following dates set forth and agreed upon at the time of signing this contract and Client agrees to pay July 4 Ever & Rocco Polifrone for the Fireworks as follows:

Display Date: July 4th, 2024

Postponement Date: July 5th, 2024

Contract amount: \$ 25,000.00 ; ~~10% due upon signing the Contract and balance due at Noon three days prior to the scheduled display date; all payments shall be made by Draft, Certified Check or Wire Transfer.~~ Checks shall be made payable to July 4 Ever, unless otherwise authorized in writing; NO CASH shall be paid to any agent or employee of July 4 Ever & Rocco Polifrone without written authority.

2. **JULY 4 EVER & ROCCO POLIFRONE** further agrees to furnish, sufficient trained personnel to present a display.

CLIENT further agrees:

3. To procure and furnish a suitable place to display the said Fireworks; to furnish the necessary police and fire protection; to secure all, Police, Local, and State Permits, and to arrange for any security bonds or insurance as required by law in their community

Permit fee not included in pricing

Duration: 22-25 Minutes (22 Mins recommended for High Intensity)

No 10% signing cost. July 4 Ever will invoice the City after the event. The city will make full payment within 30 days after receipt and approval of the invoice.

There is no cancellation charge if cancellation is done prior to display date, the 15% only applies if we have left the shop and are setting up or set up.

The 50% cancellation charge only applies if the show is canceled in its entirety and not going to be re-booked.

The PARTIES mutually agree:

4. It is agreed and understood by the parties hereto that in the event Fireworks have been taken out and set up before inclement weather and with adequate weather prevailing, such exhibition of fireworks will be carried out in the best possible manner without any deductions from the before named compensations. Should inclement weather prevent firing of said display on the aforementioned Display Date, then it will be understood that program is postponed and will be fired on the aforementioned Postponement Date, and there will be a charge to cover the cost of Postponement of 15%. If there is no alternate date and the program is not fired on the aforementioned Display Date, then it will be understood the program is canceled and there will be a charge to cover the costs of cancellation of 50%.
5. July 4 Ever & Rocco Polifrone reserves the exclusive right to make modifications and substitutions provided that such changes are reasonable and necessary and do not adversely affect price, time of delivery, functional character or display performance. July 4 Ever & Rocco Polifrone reserves the right to use multiple subcontractors in the setup and licensing of the display
6. If the location of the firing site, spectator's location, parking areas or structures is deemed unsuitable or unsafe, in the discretion of July 4 Ever & Rocco Polifrone or its agents or personnel, July 4 Ever & Rocco Polifrone may refuse to fire the display until conditions are corrected. If such conditions are not corrected, July 4 Ever & Rocco Polifrone may cancel the display without further liability to the Client for such cancellation.



7. This contract shall be deemed made in the State of New York and shall be constructed in accordance with the laws of New York. The parties agree and consent to the jurisdiction of New York to determine conflicts regarding the language and payments to be made under this Contract.
8. If Client becomes bankrupt or insolvent, or if a petition in bankruptcy is filed by or against the Client or if a receiver is appointed for the Client, July 4 Ever & Rocco Polifrone may refuse to make further delivery and may terminate this contract without prejudice to the rights of July 4 Ever & Rocco Polifrone . If the Client's financial conditions become unsatisfactory to July 4 Ever & Rocco Polifrone , July 4 Ever & Rocco Polifrone , may require the balance of the purchase price to be deposited in escrow or the Client to provide sufficient proof of its ability to pay the balance of the contract price. Client is not entitled to recover incidental or consequential damages in connection with any breach of this Contract.
9. If Client fails to pay the monies due under this contract, July 4 Ever & Rocco Polifrone is entitled to recover the balance due plus interest at 1-1/2% per month on amounts past due 60 days or more. Further, on balance outstanding of 120 days or more, July 4 Ever & Rocco Polifrone is entitled to recover the balance due, plus accrued interest, plus attorneys fees of 10% of the amount past due, plus court costs.
10. This Contract shall not be construed to create a partnership between the parties or persons mentioned herein.
11. In the event of fire, accident, strikes, delay, flood, act of God or other causes beyond the control of July 4 Ever & Rocco Polifrone , which prevent delivery of said materials, the parties hereto release each other from any and all performance of the covenants herein contained and from damages resulting from the breach thereof.
12. Client agrees to hold harmless July 4 Ever & Rocco Polifrone for any and all actions, claims, and legal fees incurred outside the operations or control of July 4 Ever & Rocco Polifrone . July 4 Ever & Rocco Polifrone agrees to hold harmless client for any and all actions, claims, and legal fees incurred outside the operations of the client.
13. _____

IN WITNESS WHEREOF, we set our hands and seals to the agreement in duplicate the day and year first above-written.

For CLIENT:

For: JULY 4 EVER FIREWORKS INC & ROCCO POLIFRONE

Dated: _____

Dated: _____

Please sign contract where indicated for Client and return all copies for final acceptance to:

**July 4 Ever &
Rocco Polifrone
382 Rock Cut Road
Walden, NY 12586
845/564-0184 FAX 845/566-3715**

July 4 Ever & Rocco
Polifrone
382 Rock Cut Rd, Walden, NY 12586
Tel: 845-564-0184 Fax: 845-566-3715

Communication Sheet

PLEASE COMPLETE THIS FORM AND RETURN IT WITH YOUR SIGNED CONTRACT

CUSTOMER INFORMATION

NAME: City of Newburgh, NY

ADDRESS: 83 Broadway

Newburgh, NY 12550

FIRING SITE INFORMATION

LOCATION: City of Newburgh, NY

ADDRESS: 2 Washington Street

Newburgh, NY 12550

CONTACT: George Garrison
(ONE)

PHONE: 845-656-2967

CONTACT PERSON

NAME: George Garrison

ADDRESS: 88 Pierces Rd

Newburgh, NY 12550

PHONE: 845-656-2967

FAX: _____

CELL: _____

E-MAIL: _____

SHOW INFORMATION

DATE: Thursday July 4, 2024

RAIN DATE: Friday July 5, 2024

TIME: 9:00 p.m.

STORAGE SITE INFO

LOCATION: _____

ADDRESS: _____

SECURITY YES OR NO (CIRCLE

ALTERNATE CONTACT

NAME: Michael Rauchet

ADDRESS: 88 Pierces Rd

Newburgh, NY 12550

PHONE: 845-656-2548

FAX: _____

CELL: _____

E-MAIL: _____

JULY 4 EVER FIREWORKS INC., & ROCCO POLIFRONE

WALDEN, NY 12586
PHONE (845) 564-0184
FAX (845) 566-3715
E-mail: sales@july4ever.net

NO LIMITS



February 22nd, 2024
Robert Van Vlack
RVanVlack@cityofnewburgh-ny.gov
1-845-569-7395

Dear Robert,

Thank you for giving us the opportunity to quote you a price on an exclusive Fireworks Display.

We are confident that the combination of quality, service, and price that we offer is unmatched anywhere. After you've finished your own research, we think you'll agree.

Enclosed is a copy of our proposal, product information, and a company letter. Should you accept our proposal, please sign the contract and send us via facsimile a copy so we may hold the date then you may forward the original by mail. We look forward to serving you.

If, at any time, you have a question, please call me at (845) 564-0184. Thank you once again for inquiring about a Display for your special occasion.

Sincerely,

Anthony Esposito

Anthony Esposito

RESOLUTION NO.: 40 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND ENTER INTO AN AGREEMENT WITH CJS ENGINEERING SERVICES, PC FOR
PROFESSIONAL SERVICES IN CONNECTION WITH
CHEMICAL BULK STORAGE COMPLIANCE AT A COST OF \$8,860.00**

WHEREAS, the New York State Department of Environmental Conservation regulations require periodic inspections of chemical bulk storage tanks located at the Water Treatment Plant; and

WHEREAS, CJS Engineering Services, PC has provided proposal for professional engineering services to conduct the required periodic inspections and related reporting; and

WHEREAS, the cost for these services will be \$8,860.00 and funding shall be derived from the F.8330.0448; and

WHEREAS, the City Council has reviewed the annexed proposal and has determined that performing such work would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be, and he hereby is authorized to accept a proposal and enter into an agreement with CJS Engineering Services, PC for professional engineering services for periodic inspections and reporting related to the chemical bulk storage tanks the Water Treatment Plant at a cost of \$8,860.00.

CJS ENGINEERING, PC

323 Glen Cove Avenue, Box #1

Sea Cliff, NY 11579

516-674-0101 • 516-674-4719 • CScolaro@cjs-inc.com

February 19, 2024

Wayne Vradenburgh
City of Newburgh
493 Little Britain Road
Newburgh, NY 12550

Re: Chemical Bulk Storage
Spill Prevention Report and Inspection Proposal

Dear Wayne:

We are pleased to provide this proposal for engineering inspection services associated with the four (4) registered chemical bulk storage tanks located at the City of Newburgh Water Treatment Plant. These tanks include two 3,000-gallon and two 300-gallon tanks for storage of sodium hypochlorite. The New York State Department of Environmental Conservation (NYSDEC) regulates these tanks under 6 NYCRR Parts 596 through 599, and requires that annual and five-year inspections be performed. This proposal outlines the services offered to meet these requirements. To remain in compliance, the five-year inspection should be completed as soon as possible since the last five-year inspection was performed on January 24, 2019..

PROPOSED SERVICES

The services to be provided are described below:

- 1 **Annual Inspection:** 6NYCRR Part 598.7 (b) requires that all aboveground chemical storage tanks and piping be inspected annually by a licensed engineer or qualified person. This is a visual inspection that includes the following:
 - a. Checking of equipment, structures and foundations for excessive wear or damage.
 - b. Reviewing compliance with Parts 598 and 599 of the NYS DEC regulations.
 - c. Checking for cracks, areas of wear, corrosion, poor maintenance and operating practices, excessive settlement, malfunctioning equipment, safety interlocks, safety trips, and monitoring, warning or gauging equipment that may not be operating properly.
 - d. Checking secondary containment systems for erosion, cracks, evidence of releases, excessive settlement, and structural weaknesses.

February 19, 2024

Wayne Vradenburgh
City of Newburgh

- e. Checking the adequacy of exterior coatings, corrosion protection systems, exterior welds, foundations, spill control equipment, emergency response equipment and fire extinguishing equipment.
- 2 **Five-Year Inspection:** The five-year inspection is focused on the integrity of the tanks and piping and provides an estimate of the life expectancy of each tank. This inspection will be performed in accordance with 6NYCRR Part 598.7 (c), NYDEC DER-16, and current Industry Standards and Practices. The following inspection procedures will be followed:
- a. Complete inspection following an approved inspection checklist.
 - b. Appropriate Non-Destructive testing to determine the tank fitness for continued use, in accordance with industry standards.
 - c. Circumferential measurement of the tanks.
 - d. Liquid penetrant testing of suspected areas of cracking (if applicable);
 - e. External visual inspection with photographs and/or a record of any unacceptable visible defects.
 - f. Examination of exposed piping, joints, and connections for misalignment and tightness.
 - g. Inspection of ancillary equipment.
 - h. Structural inspection of representative section of piping for corrosion, cracking and tightness.
 - i. Tank layout drawings, including nozzles.
 - j. Examine condition and verify capacity of the tank and transfer station emergency containment areas.
 - k. Check prior repairs for compliance to code.
- 3 **CBS – Spill Prevention Report (SPR):** The current SPR will be reviewed, updated, and revised to meet 6NYCRR Part 598.1.
- 4 **Summary Reports & Attachments:** Reports summarizing the results of each inspection, with updated pages for the SPR, and a stamped and sealed Certification Statement, will be provided.

PROPOSED COMPENSATION

CJS proposes to perform the above services for a lump sum fee of \$8,860, as follows:

- Annual inspection: \$2,400.00
- Five-Year inspection: \$6,460.00

All billings will be submitted at the completion of the work and payment is expected within 30 days. The inspection report should be available within 3 to 4 weeks after the inspection.

Thank you for the opportunity to present our Proposal. Should you have any questions or require additional information, please do not hesitate to contact us.

February 19, 2024

Wayne Vradenburgh
City of Newburgh

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

Very truly yours,
CJS ENGINEERING, PC

A handwritten signature in black ink, appearing to read 'CS', with a long horizontal stroke extending to the right.

Charles Scolaro, P.E.
Principal

ACCEPTED BY:	_____
TITLE:	_____
DATE:	_____
P.O. NUMBER:	_____

RESOLUTION NO.: 41-2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO
ALIRO NUNEZ TO THE PREMISES KNOWN AS
97 RENWICK STREET (SECTION 45, BLOCK 6, LOT 12) AND
99 RENWICK STREET (SECTION 45, BLOCK 6, LOT 11)**

WHEREAS, on November 6, 2000, the City of Newburgh conveyed property located at 97 Renwick Street and 99 Renwick Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 45, Block 6, Lots 12 and 11, respectively, to Aliro Nunez; and

WHEREAS, the attorney for the current owners, Sinh A. Thi and Nu Phung, has requested a release of the restrictive covenants contained in the deed from the City of Newburgh in order to facilitate a sale of the property; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5, and 6 of the aforementioned deed.

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

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 97 Renwick Street and 99 Renwick Street, Section 45, Block 6, Lots 12 and 11, respectively, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, and 6 in a deed dated November 6, 2000, from THE CITY OF NEWBURGH to ALIRO NUNEZ, recorded in the Orange County Clerk's Office on November 6, 2000, in Liber 5399, Page 334 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2024

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: _____-2024

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

On the ____ day of March in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 42 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
LICENSE AND ACCESS AGREEMENT WITH SAFE HARBORS OF THE HUDSON, INC.
AND ITS CONTRACTED AGENTS TO ALLOW ACCESS TO CITY OWNED PROPERTY
FOR ENVIRONMENTAL EVALUATION ACTIVITIES RELATED TO THE
BROWNFIELD OPPORTUNITY AREA NOMINATION STUDY
OF THE “NEWBURGH, NY HILLSIDE”**

WHEREAS, the City was awarded a New York State Department of State Brownfield Opportunity Area Nomination Study grant (the “BOA grant”) for an estimated 81-acre hillside area strategically located between Newburgh’s Hudson River waterfront and its downtown commercial corridors of which just over one-third or approximately 36.6 acres is owned by the City of Newburgh (the “City Property”); and

WHEREAS, Safe Harbors was awarded a United States Environmental Protection Agency Brownfield Assessment grant (the “EPA grant”) to identify, inventory, and investigate the environmental conditions of the brownfields property constituting the Hillside; and

WHEREAS, for the purpose of conducting the environmental evaluation activities under the EPA grant on the City Property (the “Project”), the Safe Harbors and its contracted agents require access to the City Property; 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 execute the License and Access Agreement with Safe Harbors of the Hudson, Inc. to allow access to City owned property for the purpose of conducting environmental evaluation activities related to the Brownfield Opportunity Area Nomination Study of The “Newburgh, NY Hillside”.

LICENSE AND ACCESS AGREEMENT

This License and Access Agreement (“Agreement”) is entered into this ____ day of _____, 2024 (the “Execution Date”), by and between the City of Newburgh, New York (the “City” or the “Licensor”), a New York State municipal corporation, having an address of 83 Broadway, Newburgh, New York 12550 and Safe Harbors of the Hudson, Inc., a New York not-for-profit corporation having an address of 111 Broadway, Newburgh, New York 12550 (“Safe Harbors” or the “Licensee”), collectively referred to herein as the “Parties”

WHEREAS, the City was awarded a New York State Department of State Brownfield Opportunity Area Nomination Study grant (the “BOA grant”) for an estimated 81-acre hillside area strategically located between Newburgh’s Hudson River waterfront and its downtown commercial corridors. Much of this hillside area has remained vacant and underutilized for decades, of which just over one-third or approximately 36.6 acres is owned by the City of Newburgh (the “City Property”); and

WHEREAS, Safe Harbors was awarded a United States Environmental Protection Agency Brownfield Assessment grant (the “EPA grant”) to identify, inventory, and investigate the environmental conditions of the brownfields property constituting the Hillside; and

WHEREAS, for the purpose of conducting the environmental evaluation activities under the EPA grant on the City Property (the “Project”), the Licensee contracted with HRP Associates, Inc. (“HRP” or “Contractor”) and requires access to the City Property and the City agrees to provide access to the Licensee and its Contractor to the City Property, subject to the conditions provide below, to allow the Licensee and its Contractor to investigate the environmental conditions of the City Property within the Hillside (the “Project”);

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Right of Access. For the term of this Agreement, Licensor grants to Licensee, in accordance with the conditions and requirements set forth below, a license to enter upon, access, and otherwise use, the City Property solely for the purpose of completing the environmental investigation in connection with the EPA grant (the “Right of Access”). Licensee's Right of Access applies to Licensee, Contractor, and Licensee’s employees, contractors, sub-contractors and consultants as may be necessary to complete the Project. The Right of Access does not constitute a grant of any ownership, leasehold, easement, or other property interest whatsoever in any portion of the City Property.
2. Term. This Agreement shall commence on execution and expire and terminate on the earlier of (a) the completion of the Project by the Licensee or (b) no later than 2 years from the Execution Date, unless modified by the Parties as set forth in Section 11 of this Agreement, or terminated in accordance with Section 12 of this Agreement.

3. The following appendices and attachments, attached hereto, are hereby expressly made a part of this Agreement:

Schedule A – City Property

Schedule B – Contract between Licensee and Contractor

Schedule C – USEPA Grant Contract

4. Activities to be Performed on the City Property. In order to complete the Project, Licensee's activities will include, but will not be limited to, Phase I and Phase II environmental site assessments and related work, involving subsurface investigations, explorations and/or excavations, (collectively, the “Activities”).

5. Conditions of Access.

5.1 Minimum Disturbance. Reasonable wear and tear expected, Licensee and Contractor shall carry out all Activities with all reasonable care and measures to avoid damage to Licensor owned subsurface structure, utility, tank system or component pipe, cable or as well as any other subterranean features located directly on or beneath the City Property. Licensee and Contractor shall carry out all Activities with all reasonable measures to avoid accident, damage or harm to persons or property.

5.2 Hours of Access. Access to City Property by Licensee and Contractor generally will occur between the hours of 8:00 am and 4:00 pm, Monday through Friday unless otherwise authorized in advance by Licensor in writing. Licensee or Contractor will notify the Commissioner of Public Works by electronic mail at least 10 days in advance of anticipated access to the City Property, and include a brief description of the nature of the activities planned to be conducted on the City Property.

5.3 Licensor Access. Licensor reserves the right to be present, to observe, and to monitor, through employees or other agents, any activities performed by Contractor during access to the City Property and all such observers will comply with applicable health and safety requirements. The Licensor may otherwise access the City Property during the length of this Agreement. Licensor shall have the ability to issue a stop work order if any ongoing or proposed work presents a threat to the City's infrastructure. The stop work order may be issued verbally as a work directive in the field from the Licensor to the Contractor, and shall be followed up in writing from the Licensor to the Licensee and Contractor. All work shall cease immediately upon verbal and/or written notification. Licensor agrees to work in good faith to resolve all stop work orders.

5.4 Liability for Environmental Contamination. The Parties recognize that the Activities performed on City Property by the Contractor may result in the discovery, migration and/or release of pollutants and/or the generation of contaminated soils, sediments or liquids. Licensee and Contractor agree to comply with all current environmental regulations related to soil disturbances, contamination notifications to regulatory agencies, containment criteria, disposal criteria, erosion and sediment control, and agree in general to follow all best management practices while operating on the City

Property. Licensors agree to execute all necessary waste generator forms, if necessary, for the proper handling of, and off-site disposal of all materials, if necessary, that may be generated on or from the City Property during the Activities performed by the Contractor. Contractor will notify the Commissioner of Public Works, and Licensors will coordinate with the Contractor for collection and disposal of such material, if any, at an approved off-site location. Licensee and Contractor will have no financial liability regarding the discovery and disposal of these materials.

5.5 Dig Safely NY 811. Licensee agrees to require that Contractor and all subcontractors strictly adhere to the requirements of Dig Safely New York 811 for utility markouts on the City Property. Licensee further represents that they will incur all costs associated with any required private markouts as necessary to locate underground utilities within the excavated area or the construction/material staging area, and shall maintain such utility markouts for the duration of the Activities. Licensee shall require, and provide proof to the Licensors, that all excavation contractors conducting activities on the City Property are Dig Safely New York 811 Certified Excavators.

5.6 Approval of Plans. Licensee and Contractor shall submit work plans to the Commissioner of Public Works for review and prior to the commencement of work. Licensors shall return all comments or approvals, as applicable, to Licensee or Contractor within 10 business days of receipt of plans and specifications.

5.7 Licensee and Contractor will provide Licensors with notice and copies of any notices and/or reports required to be filed with any regulatory agency as a result of the Activities conducted under the EPA grant scope of work and this Agreement. Licensors and Contractor will provide Licensors with copies of any laboratory, analytical reports and any final written report related to the Activities conducted under the EPA grant scope of work and this Agreement.

5.8 Restoration. Upon completion of the Project, Licensee will require Contractor to restore the City Property as near as practicable to its condition immediately prior to the commencement of the Activities. All disturbed areas shall be temporarily restored as soon as possible to avoid erosion and sediment from migrating off-site.

6. Insurance.

6.1 Licensee shall not permit the Contractor or any subcontractor to commence or perform work nor operate machinery under this Agreement until it has obtained all insurance required under this Section 6 and such insurance has been submitted to the Licensors.

6.2 Workers' Compensation and Disability Benefits Insurance – Licensee shall require all contractors and sub-contractors to take out and maintain during the life of this agreement such Workers' Compensation and Disability Benefits Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

6.3 General Liability and Property Damage Insurance – Licensee shall require all contractors and subcontractors to take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage, which may arise from operations under this agreement in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, and property damage in an amount not less than \$2,000,000.00 on account of any one occurrence. Licensee shall furnish the above insurance to the Licensors and shall also name the Licensors as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this Agreement.

6.4 Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and consultants, Licensee and such agents, contractors and consultants shall provide and maintain insurances as required by this Section and include the City of Newburgh as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

7. Compliance with Laws. Licensee shall comply with federal, state and local laws applicable to any activity in which Licensee engages while Licensee is on the City Property.

8. Representations.

8.1 Licensors.

(a) Licensors represent that it has the power and authority to grant the License and Right of Access described in this Agreement. Licensors further represent that it will make every reasonable effort to inform and schedule all contractors, sub-contractors and consultants that may be contracted by the Licensors to perform any future maintenance or Capital infrastructure work on the City Property, so as to avoid or minimize interference with the Project.

(b) Licensors represent and ensure that Licensee will have access to cross over and stage equipment in designated equipment staging areas on the Property for the purposes set forth in this Agreement. If equipment and material staging areas are required, such areas shall be clearly defined on the plans for the Project and such locations shall be given prior written approval by the Licensors before the mobilization of any contractors or sub-contractors to the Property. In no case shall any equipment or material block access to any infrastructure (i.e. manholes, gates, access hatches, valves, etc.) owned or controlled by the Licensors.

8.2 Licensee. Licensee represents that it has the power and authority to enter into this Agreement. Licensee further represents that it has received permission from all applicable

regulatory authorities to complete the Project contemplated in this Agreement. Licensee further represents that it has fully executed access agreements over all other lands as may be necessary to gain access to the City Property, and such access agreements shall be maintained for the duration of this Agreement.

9. Assignment and Delegation. Licensee may not assign its rights or delegate its duties under this Agreement without the prior written consent of Licensor.
10. Indemnity. The Parties recognize that the Licensee and Contractor insurance policies do not cover liability arising from environmental contamination as described in paragraph 5.4 of this Agreement. Licensor agrees to indemnify and hold harmless the Licensee and Contractor from any and all claims, damages, suits, actions, proceedings, losses and expenses, including those claims arising from environmental contamination as set forth in paragraph 5.4 (collectively, referred to as “claims”) which may be incurred or awarded against the Licensee or Contractor arising from the access granted to Licensee, Contractor and its duly designated representatives. Said indemnification includes all costs of defense of any action brought against the Licensee and Contractor. Licensor may agree to retain counsel of its choosing to handle the defense of such action. Before any settlement may be agreed upon by Licensor, it will submit the proposed settlement to the Licensee or Contractor for its concurrence. Licensee agrees to provide all litigation papers to the Licensor. Excepted from this indemnification are claims arising from any intentional tortious or grossly negligent act of the Licensee, Contractor or its duly designated representative or any claim unrelated to the access granted to Licensee, Contractor and its designated representatives. The indemnification obligations contained in this paragraph shall survive this Agreement.
11. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by the mutual agreement of the Parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by the Parties.
12. Termination. Licensor may terminate this Agreement at any time with 10 days’ written notice to Licensee. If Licensor exercises its right to terminate, Licensor agrees that it will hold harmless Licensee for removal of, in a reasonable manner and time, persons or property that were present for purposes of the Project in accordance with this Agreement.
13. General Provisions.
 - 13.1 Waiver. No waiver by either party of any failure to comply with this Agreement shall be deemed a waiver of any other or subsequent failure to so comply.
 - 13.2 Severability. If any provision of this Agreement or its application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or its application to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable as permitted by law.

13.3 Entire Agreement. This Agreement, together with Exhibits, represents the full, complete and entire agreement between the Parties with respect to the subject matter hereof. There are no other understandings, oral or written, related to the subject matter of this Agreement.

13.4 Governing Law. This Agreement and the rights and obligations hereunder shall be construed in accordance with, and be governed by, the laws of the State of New York.

13.5 This Agreement may be executed with original signatures in counterparts, or by facsimile, or by PDF-scanned signatures in counterparts, and will be deemed legally binding as an original signature.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement as of the Execution Date.

WITNESSETH:
LICENSOR

THE CITY OF NEWBURGH

By:

Todd Venning, City Manager & CEO
Per Resolution No.:

SAFE HARBORS OF THE HUDSON, INC.
LICENSEE

By:

Lisa Silverstone, Executive Director

Approved as to form:

MICHELLE KELSON, Corporation Counsel

JANICE GASTON, City Comptroller

Remainder of this page intentionally left blank/Schedules to follow

SCHEDULE A PROPERTY LIST

PARCEL_ADDRESS	S-B-L
148 Broadway	30-3-32
1 River St	46-4-5
3 River St	46-4-4
144 S Water St	37-4-4
94 S Water St	37-3-1.1
1 Broadway	31-4-54
55 Broadway	37-2-4
1 Washington St	40-3-3
83 Broadway	37-1-3
132 Broadway	30-3-24
144 Broadway	30-3-30
Broadway	30-3-29
6 Johnston St	30-3-33
146 Broadway	30-3-31
142 Broadway	30-3-28
10 Johnston St	30-3-34
12 Johnston St	30-3-35
140 Broadway	30-3-27
138 Broadway	30-3-26
136 Broadway	30-3-25
6 Lander St	30-3-23
25 Chambers St	30-4-20.2
14 Lander St	30-3-21
8 Lander St	30-3-20
16 Johnston St	30-3-37
18 Johnston St	30-3-38
151 Liberty St	30-5-21.1
80 Broadway	30-1-13
86 Broadway Rear	30-1-14.1
2 Montgomery St	24-10-1.2
2 Colden St	31-3-3.1
1 Water St	24-7-1
57 Water St	24-8-1
81 Water St	24-3-1.1
110 Grand St	24-11-8
120 Grand St	24-2-17
134 Grand St	19-1-25
140 Montgomery St	12-4-10
137 Smith St	12-4-4.1

146 Montgomery St	12-4-2.1
207 Water St Rear	12-3-4
207 Water St	12-3-2.1
148 Water St	19-7-23.1
115 Front St	19-7-29
117 Water St	19-8-1
63 Front St	19-7-13.1
70 Front St	51-1-3
180 Water St	12-6-5.2
Water St	10-3-36
215 Water St	12-3-1.2
182 Water St	12-6-4
248 Water St	10-4-3
209 Water St	12-3-3



February 12, 2024

Ms. Lisa Silverstone
Safe Harbors of the Hudson
Executive Director
111 Broadway
Newburgh, NY 12550

RE: EPA BROWNFIELD GRANT, SAFE HARBORS OF THE HUDSON, NEWBURGH, NEW YORK (HRP PROPOSAL # 000P2.03;2024001.59)

Dear Ms. Silverstone:

HRP Associates (HRP) is pleased to submit the following proposal to assist Safe Harbors of the Hudson (SHOH) with implementation of the EPA Brownfield Assessment Grant. Based on our understanding of SHOH's needs, the approved brownfield workplan and our experience completing similar projects, HRP will complete the following Scope of Services.

SCOPE OF SERVICES

Safe Harbors of the Hudson was awarded an EPA Assessment Grant to identify, inventory, and investigate brownfields within Newburgh, NY, therefore HRP will complete each of the tasks noted below in accordance with the EPA Cooperative Agreement.

Task 1: Project Management

HRP will assist SHOH in forming a Brownfield Task Force. Once assembled, HRP will attend meetings to formalize plans and the decision-making process, and then at agreed upon project milestones will disseminate information to make informed decisions. In addition, HRP will complete project reporting including preparation of required EPA administrative reports (i.e., quarterly reports, etc.), completion of site approval forms, ACRES database input, project coordination and coordination with EPA and NYSDEC.

Task 2: Site Inventory and Selection

When selecting sites for environmental characterization, it is vital to obtain input from stakeholders, the community members, community groups, and disproportionately impacted populations, as these are the individuals most directly affected by the site's current condition and eventual revitalization. To accomplish this, HRP will work with SHOH to create a Brownfield Assessment Task Force that will guide the brownfield process to reflect the community's needs and wishes. It is important to note that Newburgh received a New York State Department of State (NYS DOS) Brownfield Opportunity Area (BOA) Grant that is obtaining community input to identify priority sites, potential future site use, and methods to achieve the identified site reuse. With this in mind, it is important that SHOH consider either merging with the BOA activities or having a member from the City of Newburgh and the BOA Task Force sit on the Brownfield Assessment

Lisa Silverstone
February 12, 2024
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Task Force. Regardless of the strategy selected, it is important that both Task Forces (EPA and BOA) communicate since they are each striving to achieve the same goals, and the Assessment Grant provides the tools to investigate the sites identified for revitalization.

Once the EPA Brownfield Assessment Task Force is created HRP will collaborate with it to engage the public to identify priority sites and potential future sites. Once the sites are selected, HRP will submit site approval forms to the EPA to obtain permission to complete Phase I ESAs on the selected sites. Once the Phase I ESAs are completed, they will be submitted to the EPA and discussed with the Task Force. If a site has potential for contamination, a Phase II ESA will be recommended to determine if contamination is present.

Task 3: Community Outreach

Community engagement will raise community awareness, identify community concerns, and build support for cleanup efforts that will lead to redevelopment and revitalization. To maximize impact, HRP and our engagement specialist, EDR, will work with SHOH to identify community stakeholders and impacted populations and encourage their participation throughout the process by utilizing multiple outreach methods, such as public meetings (up to 12 sessions), newsletters, publications, websites, and social network posts. The identified community members and selected process will be detailed within a Community Outreach and Involvement Plan that will include the following elements: Contact and Information Repository, Project Goals, Task Force Members, Stakeholders (impacted community members, Community groups, etc.), and Community Involvement Strategies.

Task 4: Phase I Site Assessments

HRP will complete Phase I ESAs (up to 14) of selected sites in accordance with ASTM E1527-21 which will identify Recognized Environmental Conditions (RECs) and Areas of Concern (AOCs). A Phase I ESA report will be prepared that will include all pertinent information, including conclusions and a list and discussion of Recognized Environmental Conditions (RECs) and Areas of Concern (AOCs). Each of the reports will be submitted to the EPA and SHOH for review and discussion and uploaded to the EPA's ACREs website.

Task 5: Phase II Environmental Site Assessment and Quality Assurance Project Plan (QAPP) Preparation

If the Phase I ESA notes any AOCs, HRP will recommend a Phase II ESA (up to 5) in accordance with ASTM to determine if contamination is present and if present, define its degree and extent. Prior to completing a Phase II ESA, HRP will prepare a Quality Assurance Project Plan (QAPP) for review and approval by the EPA. A QAPP is site-specific and outlines goals, a sampling plan, and quality control procedures to ensure any collected data is valid. A Phase II ESA will be completed in accordance with NYSDEC DER-10 protocols and ensure that relevant information to address NYSDEC Brownfield Cleanup Program (BCP) and EPA brownfield needs are collected to offer the SHOH maximum flexibility with regards to site disposition.

When requested, HAZMAT surveys will be conducted in general conformance with the National Emission Standard for Hazardous Air Pollutants (NESHAP), which requires destructive sampling techniques. A report of the findings of the surveys will be prepared that will include tables and



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figures showing all sample locations. The report will also include estimated abatement costs for any hazardous building materials that are identified during the survey.

At the completion of the Phase II Site Investigations, HRP will prepare and deliver reports in accordance with ASTM, NYSDEC and EPA standards. Each of the reports will be submitted to the EPA and SHOH for review and discussion and uploaded to the EPA's ACREs website. The reports will include procedures, data collected, findings and conclusions, as to whether the site has the potential for the presence of contamination, and recommendations for further actions, if required.

Task 6: Remediation/Reuse Planning

If requested, HRP will complete remedial action plans and reuse plans and appropriate clean-up alternatives for selected sites (up to 5). These plans can be leveraged with other grant funds or future EPA Brownfield Clean-Up Grants.

PROJECT BUDGET AND SCHEDULE

HRP proposes to complete the work for the following Lump Sums.

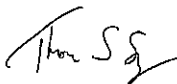
Task 1: Project Management	Included
Task 2: Site Inventory and Selection	\$ 11,000
Task 3: Community Outreach	\$ 14,400
Task 4: Phase I Site Assessments	\$ 57,000
Task 5: Phase II Environmental Site Assessment and Quality Assurance Project Plan (QAPP) Preparation	\$325,136
Task 6: Remediation/Reuse Planning	<u>\$ 60,000</u>
Total	\$467,536

AUTHORIZATION TO PROCEED

If this proposal is acceptable, please sign the enclosed Terms and Conditions and email the executed proposal and Terms and Conditions to tom.seguljic@hrpassociates.com. Please retain a copy of the proposal and written authorization for your records.

If you have any questions or require additional information, please feel free to contact us at (518)-877-7101. We appreciate the opportunity to provide services for SHOH.

Sincerely,
HRP Associates, Inc.



Thomas S. Seguljic, PE, PG
Principal

Attachment



TERMS AND CONDITIONS

CLIENT:	Safe Harbors of the Hudson	DOLLAR VALUE OF PROPOSAL:	\$ 467,536
PROPOSAL DATE:	February 12, 2024	SITE LOCATION:	Newburgh, NY

1. **AGREEMENT AND PARTIES:** HRP Associates, Inc. or, if applicable, its affiliated entity providing services hereunder is referred to herein as HRP. The individual or entity to which our Proposal is addressed is hereby referred to as the Client. The Agreement by and between HRP and the Client consists of the attached or accompanying Proposal (including any scope of services included therewith) (the "Proposal"), any documents that are attached to the Proposal and these Terms and Conditions. The Agreement shall not include any other terms, conditions or documents proposed or attached by the Client unless HRP expressly agrees in writing to accept such terms, conditions or documents.
2. **COMPENSATION:** The costs of basic services to be provided by HRP are specified in the Proposal. HRP will submit invoices to the Client on a monthly basis documenting costs incurred in the previous calendar month including labor charges, laboratory analysis charges, and expenses, as applicable, unless a different billing method is specified in the Proposal. Invoices are due and payable upon receipt. Interest in the amount of 1½% per month or, if lower, the maximum lawful rate, will be charged on any amounts that are unpaid at the end of thirty (30) calendar days of the invoice date. Invoices not paid within sixty (60) calendar days of the invoice date will result in cessation of work until such invoices are paid in full. In the event payment in full is not received within ninety (90) calendar days of the invoice date, the account shall also be subject to collection by our attorney, and any and all reasonable costs of collection, including reasonable attorney's fees, shall be paid by the Client. Further, HRP reserves the right to sell the work product to any interested party in the event the Client is in default of its payment obligations for a period of greater than ninety (90) days. Payment can be made by check to: HRP Associates, Inc., 197 Scott Swamp Road, Farmington, Connecticut 06032, Attention: Accounts Receivable. To arrange payment by credit card (MasterCard or Visa) or electronic funds transfer, contact HRP's Accounts Receivable Department at 860-674-9570. If paying an invoice in an amount equal to or in excess of \$50,000 by credit card, a processing fee of 1% will be added to the amount payable. Reference to HRP's invoice number should be included with the payment.
3. **ADDITIONAL CHARGES:** Costs quoted do not include sales, use and other taxes imposed upon the goods and services provided, which will be added to invoices as applicable. A twenty-five percent (25%) surcharge applies to labor in connection with expert testimony, and such labor will be billed in ½ day increments.
4. **ADDITIONAL SERVICES:** Services provided beyond the scope set forth in the Proposal will be billed on the following basis:
 - a. Direct Labor Costs – A specified rate for each category of HRP's personnel, for the time that they actually spent working on the Client's project and for required travel (portal to portal), as documented and certified by HRP. HRP may revise rates from time to time to account for salary adjustments and increased costs. Required and/or client requested overtime is billed at a factor of 1.5 times the hourly rates charged. Overtime is defined as any hours worked beyond eight (8) hours in one day or forty (40) hours in one work week, or on Saturday, Sunday, or an HRP holiday.
 - b. Expenses – Where applicable, project-related expenses for travel, meals, overnight delivery, priority mail, outside reproduction, courier services, laboratory analysis, subcontracting, material and equipment purchases, and miscellaneous other direct charges are billed at cost plus twenty percent (20%) for handling and administration. HRP will not exceed the contract amount of \$467,536.

If the Proposal sets forth a not-to-exceed cost, HRP will not exceed such cost in performing the proposed scope of services without the Client's consent. Notwithstanding the foregoing, the Client shall be responsible for additional labor costs and expenses incurred by HRP in the event a third party compels HRP to perform any additional work or incur expenses outside of the agreed scope (for example, answering a subpoena). This may include document production, project summaries, depositions, interrogatories, trial testimony, arbitrations, mediations, hearings, meetings, attorneys' fees and any and all such related efforts on behalf of HRP.

5. **HRP'S RESPONSIBILITIES:** HRP shall comply with all Federal, State and local laws, ordinances, rules and regulations, permits, licenses, and requirements applicable to HRP while performing the services described in this Agreement. HRP shall be an independent contractor with respect to the services rendered under this Agreement, and no other relationship shall exist or be deemed to exist between HRP and the Client. In performing services called for in this Agreement, HRP shall exercise that degree of skill and care as is the generally accepted professional standard of other engineers, geologists or professionals undertaking similar services at the same time and in the same geographic area. The preceding sentence sets forth the sole warranty of HRP and is in lieu of any and all other warranties whether express or implied. HRP's work product is also subject to certain limitations which are described in HRP's report(s) provided pursuant to the Proposal, and are incorporated herein by reference. Notwithstanding anything herein or elsewhere to the contrary, the total liability of HRP and its officers, directors, employees, and agents arising out of this Agreement is limited to \$50,000 or the total compensation received by HRP (less amounts paid by HRP to subcontractors) under this Agreement, whichever is greater.

HRP's insurance policies do not cover HRP's defense against claims alleging damage caused by a release of pollutants as a result of HRP's work. Since HRP is normally engaged in efforts to stop/reduce the release of pollutants to the environment and is not the originator of any pollutants, it cannot and does not accept any responsibility for damages that may result from a release or migration of existing pollutants that may be associated with the work performed at or associated with the property owner work site or premises. When work performed by HRP or HRP's subcontractors pursuant to the Proposal involves subsurface (subterranean) investigations, explorations, and/or excavations of any type (below ground surface, paved surfaces, graded surfaces or floors), HRP will contact the appropriate Call Before You Dig organization to obtain utility mark outs as are customarily provided through such services and review plans and information provided by the Property owner. If a private utility mark-out service is necessary to assure utility clearance, the Client agrees to pay for such service in addition to the cost of the Proposal. In any event, HRP will not be responsible for any losses, damages, injuries, or interference to or with any subsurface structure, utility, tank system or system component, pipe, cable, or any other improvements (collectively, "Subsurface Features") if they are not brought to HRP's attention before the commencement of work and/or which are not clearly and accurately physically located on the ground by the Site Owner Client said mark-out service or any other public or private utility, agency, company, or individual. The Client recognizes that disturbances to vegetation, terrain, drainage, paved surfaces and other structures, improvements and equipment will result from the use of exploration or excavation equipment. HRP will use reasonable precautions to minimize such damage, but cost of restoration of such damage is not included in the Proposal and the Client will not hold HRP liable for such disturbances, effects or damages arising from such subsurface investigation, exploration or excavation work performed by HRP or HRP's subcontractors pursuant to this Agreement. If HRP identifies a serious recognized hazard at the worksite, HRP shall make a reasonable effort to notify the Client and the property owner, but such action shall not be construed to impose a duty on HRP to identify and notify the property owner or Client of recognized hazards, unless contracted specifically for such purpose pursuant to the Proposal.

HRP shall maintain the following insurance in force at all times:

Worker's Compensation Insurance, including Employer's Liability, with a limit of at least \$500,000. Comprehensive Liability Insurance with limits of at least \$1,000,000 per occurrence for bodily injury & property damage. Automobile Liability Insurance with minimum limits of: Bodily Injury & Property Damage – Combined single limit \$1,000,000. Combined Contractor's Pollution and Professional Liability with \$5,000,000 per occurrence and \$5,000,000 aggregate, claims made basis.

HRP has made a corporate commitment to respect human rights and will, in the performance of its services and its other activities, diligently endeavor to avoid causing or contributing to adverse human rights impacts.

6. **THE CLIENT'S RESPONSIBILITIES:** The Client is required to appoint an individual who shall be authorized to act on behalf of the Client, with whom HRP can confer, and whose instructions, decisions and consent will be binding on the Client. HRP understands work completed for this contract will be performed on properties not owned by Client, as such, the property owner will obtain all required permits and approvals necessary for performance of the Proposal; provide HRP with access to all available information pertinent to the project including all maps, drawings and records; reveal to HRP all facts that may be relevant to or have a bearing on the work (and HRP shall be entitled to rely on same); assist HRP in obtaining access to all public and private lands and/or records that may be required to perform the work; and promptly notify HRP, at the earliest opportunity, when and if the Client determines portions of the work are not being performed in accordance with this Agreement. HRP further



understands that Investigative Derived Wastes (IDW) will be generated from Phase II Environmental Assessment Activities on said properties, and that the property owner will be responsible for these wastes generated by HRP's activities, including the responsibility to sign manifests, bills of lading, or other shipping documents. Further, the Client shall be responsible for working with the property owner to provide site safety and for providing a workplace free of recognized hazards that could cause injury to an HRP employee or subcontractor and shall also be responsible for identifying whether HRP's scope of services create safety hazards particular to the Client's operations, and taking appropriate action to protect HRP's employees and subcontractors from those hazards. HRP understands an agreement is in place between Client and the property owner(s) that acknowledges the property owner(s) is responsible for wastes generated at not owned by the Client that are the subject of work performed under this contract.

7. **DOCUMENTS:** All reports, boring logs, field notes, laboratory data, calculations, research and other documents and information prepared by HRP or its subcontractors, whether in paper or electronic form, are instruments of service and shall remain the sole property of HRP. Such documents and information are delivered to the Client for the Client's use only and are not to be relied upon by any other party, unless agreed to by HRP in writing.
8. **TERMINATION PROVISIONS:** Either party may terminate this Agreement upon thirty (30) days written notice, provided termination by the Client shall not be effective unless and until the Client has paid HRP for the work performed up to the point of termination. Any termination of this Agreement by a party shall not terminate any provisions that are intended to remain in effect following cessation or completion of the performance of services (including, without limitation, Sections 9 and 11 of this Agreement).
9. **DISPUTE RESOLUTION:** Any controversy, claim or dispute arising under or relating to this Agreement, or the breach thereof, shall be resolved solely and exclusively by final, binding arbitration to be conducted before the American Arbitration Association ("AAA") pursuant to its Commercial Arbitration Rules. The arbitration shall be held in Hartford, Connecticut before a single arbitrator. The parties shall bear their own attorneys' fees, costs and expenses in connection with the arbitration; provided, however, that the arbitrator shall have the authority to award reasonable attorney's fees where the arbitrator finds that the actions, claims or defenses of a party were undertaken without a reasonable basis in fact or law, or were undertaken in bad faith. The parties will share equally in the fees and expenses charged by AAA. Notwithstanding the foregoing, where a party is seeking injunctive or equitable relief rather than monetary damages, nothing herein shall prevent a party from seeking temporary, preliminary or permanent injunctive relief from any court of competent jurisdiction. Any claim brought by the Client against HRP shall be brought no later than one year after the date of substantial completion of HRP's services hereunder or the expiration of the applicable statute of limitations, whichever is earlier.
10. **HAZARD COMMUNICATION:** Part of the services to be provided by HRP may involve the use or storage of certain chemicals such as cleaning/decontamination fluids, sample preservatives, and/or gas chromatograph standards. It is expected that no special precautionary measures will need to be taken to protect the Client's employees from these chemicals during normal operating conditions or unforeseeable emergencies, as relatively small amounts of these chemicals will be present. Safety Data Sheets for such chemicals are available upon request.
11. **INDEMNIFICATION:** The Client does hereby agree to defend, indemnify and save HRP, its officers, directors, employees, agents, subcontractors and affiliates harmless from and against all claims, suits, liabilities, losses, fines, penalties, expenses and attorney's fees (all of the foregoing, collectively, "Claims") that arise out of or are related to this Agreement and the services provided hereunder, including, without limitation, Claims of third parties alleging personal injury or property damage and Claims involving access to the site, Subsurface Features, generation of waste, hazardous materials brought on site, and pre-existing and/or migration of hazardous substances and materials, except to the extent caused by HRP's gross negligence or willful misconduct.

HRP does hereby agree to defend, indemnify and save Safe Harbors on the Hudson, its officers, directors, employees, agents, subcontractors and affiliates harmless from and against all claims, suits, liabilities, losses, fines, penalties, expenses and attorney's fees (all of the foregoing, collectively, "Claims") that arise out of or are related to this Agreement and the services provided hereunder, including, without limitation, Claims of third parties alleging personal injury or property damage and Claims involving access to the site, Subsurface Features, generation of waste, hazardous materials brought on site, and pre-existing and/or migration of hazardous substances and materials, except to the extent caused by Client's gross negligence or willful misconduct.

12. **FORCE MAJEURE:** HRP shall be excused for the period of any delay in the performance of any obligations hereunder, when prevented by doing so by cause or causes beyond HRP's reasonable control, which shall include, without limitation, all labor disputes, civil commotion, war, warlike operation, pandemic, invasion, rebellion, hostilities, military or usurped power, terrorism, government regulations or controls, inability to obtain any material or services or acceptable substitute therefore, or through acts of God.
13. **EMPLOYMENT OF HRP PERSONNEL.** If, during the term of this Agreement or during the six (6) months thereafter, the Client hires an employee of HRP to whom the Client was introduced through the performance of services hereunder, the Client will, within ten (10) days following the hiring date, pay HRP a sum equal to ten percent (10%) of the annual salary payable by the Client to such employee. The Client acknowledges that the payment of such sum to HRP is in consideration of HRP's lost benefit and cost of locating and training a replacement for such employee.
14. **MISCELLANEOUS:** This Agreement contains the complete understanding between HRP and the Client with respect to the work to be performed. These Terms and Conditions shall govern over any inconsistent provisions in the Proposal unless a particular term or condition is specifically revoked or amended in the Proposal. This Agreement may not be changed or modified except in writing, and when signed by both parties. This Agreement shall be interpreted and enforced according to the laws of the State of Connecticut without regard to any choice of law provisions. Any notice permitted or required to be given hereunder shall be sent by certified US mail or reputable overnight courier addressed to HRP or the Client (as applicable) at the address shown on the Proposal. This Agreement may not be assigned by either party without the other's consent. In the event of any litigation, the parties waive trial by jury. In the event any term or provision of this Agreement is deemed invalid, the remaining terms and provisions shall apply. Except to the extent awarded to a third party in a Claim for which the Client is required to indemnify HRP, in no event shall either party be liable to the other for any special, indirect or consequential damages or for loss of revenue or profits, even though the possibility of damages or loss had been disclosed or reasonably could have been foreseen. The person signing this Agreement represents that the execution of this Agreement have been duly authorized by the Client and such person has the authority to sign. The headings of this Agreement are for convenience only and shall not limit or enlarge the meaning of the language of this Agreement. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future. The Proposal is valid for a period of sixty (60) days. This Agreement shall not constitute an offer and shall only be binding on HRP when executed by HRP.

ACCEPTED FOR CLIENT:

Lisa Silverstone
Signature of Authorized Representative

Name: LISA SILVERSTONE

Title: Executive Director

Date: Feb. 14, 2024



Last Revised: 8/26/2021


DocuSigned by: ACCEPTED FOR HRP:

Dan Titus
Signature of Authorized Representative

Name: Dan Titus

Title: CEO

Date: 2/14/2024

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 96239322 MODIFICATION NUMBER: 0 PROGRAM CODE: BF	DATE OF AWARD 05/02/2023	
			TYPE OF ACTION New		MAILING DATE 05/05/2023
			PAYMENT METHOD: Advance		ACH# PEND
			RECIPIENT TYPE: Not for Profit		Send Payment Request to: Contact EPA RTPFC at: rtpfc-grants@epa.gov
RECIPIENT: Safe Harbor of the Hudson, Inc. 111 Broadway Newburgh, NY 12550 EIN: 14-1828476			PAYEE: Safe Harbor of the Hudson, Inc. dba CORNERSTONE RESIDENCE, THE 111 Broadway Newburgh, NY 12550		
PROJECT MANAGER Lisa Silverstone 111 Broadway Newburgh, NY 12550 Email: lsilverstone@safe-harbors.org Phone: 845-784-1103		EPA PROJECT OFFICER Yocasta DeJesus 290 Broadway, LCRD/LRPB New York, NY 10007 Email: dejesus.yocasta@epa.gov Phone: 212-637-4340		EPA GRANT SPECIALIST Janeime Castro Grants and Audit Management Branch, MSD/GAMB 290 Broadway, 27th Floor New York, NY 10007 Email: Castro.Janeime@epa.gov Phone: 212-637-3573	
PROJECT TITLE AND DESCRIPTION Safe Harbor of the Hudson Inc Community-wide Brownfield Assessment Grant See Attachment 1 for project description.					
BUDGET PERIOD 05/01/2023 - 09/30/2025	PROJECT PERIOD 05/01/2023 - 09/30/2025	TOTAL BUDGET PERIOD COST \$500,000.00	TOTAL PROJECT PERIOD COST \$500,000.00		
NOTICE OF AWARD Based on your Application dated 11/23/2021 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$500,000.00. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$500,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE			
ORGANIZATION / ADDRESS U.S. EPA, Region 2 , Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866		ORGANIZATION / ADDRESS U.S. EPA, Region 2, Land, Chemicals and Redevelopment Division R2 - Region 2 290 Broadway New York, NY 10007			
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Donald Pace				DATE 05/02/2023	

Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$15,883
2. Fringe Benefits	\$5,781
3. Travel	\$6,000
4. Equipment	\$0
5. Supplies	\$3,600
6. Contractual	\$468,736
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$500,000
10. Indirect Costs: 0.00 % Base	\$0
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %)	\$500,000
12. Total Approved Assistance Amount	\$500,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$500,000
15. Total EPA Amount Awarded To Date	\$500,000

Attachment 1 - Project Description

This agreement will provide funding to Save Harbor of the Hudson, INC to inventory, characterize, assess and conduct cleanup planning and community involvement related activities as authorized by CERLCA 104(k)(2) at four sites within the City of Newburgh in New York. The remediation planning will be designed to stimulate economic development in a federally designated Opportunity Zone and HUBZone. Brownfields are real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Specifically, this agreement will provide funding to Safe Harbor of the Hudson, INC to inventory, characterize, assess, and conduct cleanup planning and community involvement related activities. Additionally, Safe Harbor of the Hudson, Inc will competitively procure (as needed) and direct a Qualified Environmental Professional to conduct environmental site activities, and will report on interim progress and final accomplishments by completing and submitting relevant portions of the Property Profile Form using EPA's Assessment, Cleanup and Redevelopment Exchange System (ACRES). The goals of the project to be funded by this cooperative agreement are to conduct a Phase I and Phase II Environmental Site Assessment at four sites within the City of Newburgh in New York, the recipient plans to conduct: 14 Phase I site assessments, 4 Phase II, 4 QAPPs, 4 cleanups and reuse planning, 2 draft remedial action plans, conduct 5 BF presentation meetings, minimal 2 local public meetings, 12 quarterly reports as required. Work conducted under this agreement will benefit the residents, business owners, and brownfield in the City of Newburgh in New York.

No subawards are included in this assistance agreement.

Administrative Conditions

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at:

<https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2022-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: <https://www.epa.gov/grants/grant-terms-and-conditions>.

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. Correspondence Condition

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

- Federal Financial Reports (FFRs) (SF-425): rtfpc-grants@epa.gov; Region2_GrantApplicationBox@epa.gov and the Grants Specialist for this agreement.
- MBE/WBE reports (EPA Form 5700-52A): Region2_GrantApplicationBox@epa.gov and the Grants Specialist for this agreement.
- Payment requests (if applicable): Region2_GrantApplicationBox@epa.gov; the Grants Specialist for this agreement and the Project Officer for this agreement.
- Quality Assurance documents, workplan revisions, updated workplan milestone target dates, equipment lists, programmatic reports and deliverables: Project Officer for this agreement.
- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: Region2_GrantApplicationBox@epa.gov; the Grants Specialist for this agreement and the Project Officer for this agreement.

B. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under 2 CFR 200.308 (d)(2). Therefore, if a no cost time extension is necessary to extend the period of availability of funds the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. The written request must include: **a written justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities.** In addition, if there are overdue reports required by the administrative and programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no cost time extension request.

The extension request must be submitted to the EPA-Grants and Audit Management Branch via email to

Region2_GrantApplicationBox@epa.gov and the EPA Grants Specialist. All Federal Financial Reports (SF-425) must be emailed to the RTP-Finance Center at rtpfc-grants@epa.gov; the Grants and Audit Management Branch at Region2_GrantApplicationBox@epa.gov; the EPA Grants Specialist and the EPA Project Officer. All email attachments must be sent in pdf or other acceptable software format (e.g., DocuSign). Any forms requiring signature must be electronically or digitally signed in accordance with EPA's Recipient/Applicant Information Notice (RAIN), [Establishment of Standards for Submission of Administrative and Financial Assistance Agreement Forms/Documents with Electronic or Digital Signatures by Email](#).

Programmatic Conditions

FY22 Assessment Cooperative Agreement

Terms and Conditions

Please note that these Terms and Conditions (T&Cs) apply to Brownfield Assessment Cooperative Agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k).

I. GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions, the term “assessment” includes eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory, characterization, assessment, and planning relating to brownfield sites as described in the EPA-approved workplan.

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the application for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2022 competition for Brownfield Assessment cooperative agreements.
2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that assessment activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations.

3. A term and condition or other legally binding provision shall be included in all subawards entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Part 200.
4. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 276c); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. For additional information on cross-cutting requirements visit <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>.
5. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). Assessment activities generally do not involve construction, alteration, and repair within the meaning of the Davis-Bacon Act. However, the recipient must contact the EPA Project Officer if there are unique circumstances (e.g., removal of an underground storage tank or another structure and restoration of the site) that indicate that the Davis-Bacon Act applies to an activity the CAR intends to carry out with funds provided under this agreement. EPA will provide guidance on Davis-Bacon Act compliance if necessary.

II. SITE ELIGIBILITY REQUIREMENTS

A. Eligible Brownfield Site Determinations

1. All brownfield sites that will be addressed using funds from the cooperative agreement must be located within the target area(s) described in the scope of work for this cooperative agreement (i.e., the EPA-approved workplan). The CAR must provide information to the EPA Project Officer about site-specific work prior to incurring any costs under this cooperative agreement. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in CERCLA § 101(39), and whether the CAR is the potentially responsible party under CERCLA § 107, is exempt from CERCLA liability, and/or has defenses to CERCLA liability. This requirement does not apply to site-specific assessment cooperative agreements where this information has been previously provided and approved in threshold eligibility review of the application, and where sites have already been pre-approved by EPA in the CAR's workplan.
2. If the site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the EPA Project Officer. In its request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for assessing sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.
3. Brownfield Sites Contaminated with Petroleum
 - a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:

- i. the State determines there is “no viable responsible party” for the site;
- ii. the State determines that the person assessing or investigating the site is a person who is not potentially liable for cleaning up the site; and
- iii. the site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State, following contact and discussion with the appropriate state petroleum program official. Please contact the EPA Project Officer for additional information.

b. Documentation must include:

- i. the identity of the State program official contacted;
- ii. the State official's telephone number;
- iii. the date of the contact; and
- iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person assessing or investigating the site is not potentially liable for cleaning up the site.

Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.

c. If the State chooses not to make the determinations described in Section II.A.3. above, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the requisite determinations.

d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. § 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the determinations.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Sufficient Progress

1. This condition supplements the requirements of the Termination and Sufficient Progress Conditions in the General Terms and Conditions.

EPA's Project Officer will assess whether the recipient is making sufficient progress in implementing its cooperative agreement 18 months and 30 months from the date of award. EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR, if directed to do so, must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Award Official or Grants Management Officer. Alternatively, EPA may terminate this agreement under 2 CFR § 200.340 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances.

Sufficient progress at 18 months is indicated when:

- at least 25% of funds have been drawn down and disbursed for eligible activities;

- a solicitation for a Qualified Environmental Professional(s) has been released;
- sites are prioritized or an inventory has been initiated (unless site prioritization or an inventory was completed prior to award);
- community involvement activities have been initiated; and/or
- other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Sufficient progress at 30 months is indicated when:

- at least 45% of funds have been drawn down and disbursed for eligible activities;
- a Qualified Environmental Professional(s) has been procured;
- assessments on at least two sites have been initiated; and/or
- other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

B. Substantial Involvement

1. The EPA Project Officer will be substantially involved in overseeing and monitoring this cooperative agreement. Substantial involvement, includes, but is not limited to:

- a. Close monitoring of the CAR's performance to verify compliance with the EPA-approved workplan and achievement of environmental results.
- b. Participation in periodic telephone conference calls to share ideas, project successes and challenges, etc., with EPA.
- c. Reviewing and commenting on quarterly and annual reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient or subrecipients receiving pass-through awards).
- d. Verifying sites meet applicable site eligibility criteria (including property-specific funding determinations described in Section II.A.2.) and when the CAR awards a subaward for site assessment. The CAR must obtain technical assistance from the EPA Project Officer, or his/her designee, on which sites qualify as a brownfield site and determine whether the statutory prohibitions found in CERCLA § 104(k)(5)(B)(i)-(iv) apply. (Note, the prohibition does not allow a subrecipient to use EPA cooperative agreement funds to assess a site for which the subrecipient is potentially liable under CERCLA § 107.)
- e. Reviewing and approving Quality Assurance Project Plans and related documents or verifying that appropriate Quality Assurance requirements have been met where quality assurance activities are being conducted pursuant to an EPA-approved Quality Assurance Management Plan.

Substantial involvement may also include, depending on the direction of the EPA Project Officer:

- f. Collaboration during the performance of the scope of work including participation in project activities, to the extent permissible under EPA policies. Examples of collaboration include:
 - i. Consultation between EPA staff and the CAR on effective methods of carrying out the scope of work provided the CAR makes the final decision on how to perform authorized activities.
 - ii. Advice from EPA staff on how to access publicly available information on EPA or other federal agency

websites.

iii. With the consent of the CAR, EPA staff may provide technical advice to the CAR's contractors or subrecipients provided the CAR approves any expenditures of funds necessary to follow advice from EPA staff. (The CAR remains accountable for performing contract and subaward management as specified in 2 CFR § 200.318 and 2 CFR § 200.332 as well as the terms of the EPA cooperative agreement.)

iv. EPA staff participation in meetings, webinars, and similar events upon the request of the CAR or in connection with a co-sponsorship agreement.

g. Reviewing proposed procurements in accordance with 2 CFR § 200.325, as well as the substantive terms of proposed contracts or subawards as appropriate.

h. Reviewing the qualifications of key personnel (EPA does not have the authority to select employees or contractors, including consultants, employed by the award CAR).

i. Reviewing all costs incurred by the CAR and/or its contractor(s) if needed to ensure appropriate expenditure of grant funds.

EPA may waive any of the provisions in Section III.B.1., except for property-specific funding determinations. The EPA Project Officer will provide waivers to provisions a. – e. in Section III.B.1 in writing.

2. Effects of EPA's substantial involvement include:

a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any federal statute.

b. The CAR remains responsible for ensuring that all assessments are protective of human health and the environment and comply with all applicable federal and state laws.

c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. CARs, other than state entities, that procure a contractor(s) (including consultants) where the contract will be more than the micro-purchase threshold in 2 CFR § 200.320(a)(1) (\$10,000 for most CARs) must select the contractor(s) in compliance with the fair and open competition requirements in 2 CFR Part 200 and 2 CFR Part 1500. CARs may procure multiple contractors to ensure the appropriate expertise is in place to perform work under the agreement (e.g., expertise to conduct site assessment activities vs. planning activities) and to allow the ability for work be performed concurrently in multiple target areas and/or at sites.

2. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10, if it does not have such a professional on staff to coordinate, direct, and oversee the brownfield site assessment activities at a given site.

3. The CAR is responsible for ensuring that funding received under this cooperative agreement does not exceed the statutory \$200,000 funding limitation for an individual brownfield site. Waiver of this funding limit for a brownfield site must be submitted to the EPA Project Officer and approved prior to the expenditure of funding exceeding \$200,000. In no case may funding for site-specific assessment activities exceed \$350,000 on a site receiving a waiver.

CARs expending funding from a Community-wide Assessment cooperative agreement must include this amount in any total funding expended on the site.

4. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable State Law cybersecurity requirements.

a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer 'no later than 90 days after the date of this award' and work with the designated Regional/ Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

7. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Progress Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly progress reports to the EPA Project Officer within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter).

These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies shall be included in the report. The report shall also include any changes of key personnel concerned with the project.

The CAR shall refer to and utilize the Quarterly Reporting function within the Assessment, Cleanup and Redevelopment Exchange System (ACRES) to submit quarterly reports unless approval is obtained from the EPA Project Officer to use an alternate format for reports.

2. The CAR must submit progress reports on a quarterly basis in ACRES. Quarterly progress reports must include:
 - a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Assessment cooperative agreement and related activities completed with other sources of leveraged funding.
 - b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
 - c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.
 - d. An update on the project schedule and milestones, including an explanation of any discrepancies from the EPA-approved workplan.
 - e. A list of the properties where assessment activities were performed and/or completed during the reporting quarter.
 - f. A budget summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used (if applicable) (i.e., program income received and disbursed during the reporting quarter and during the entire cooperative agreement, and the amount of program income remaining); and total remaining funds. The CAR should include an explanation of any discrepancies in the budget from the EPA-approved workplan, cost overruns or high unit costs, and other pertinent information.

Note: Each property where assessment activities were performed and/or completed must have its corresponding information updated in ACRES (or via the Property Profile Form with prior approval from the EPA Project Officer) prior to submitting the quarterly progress report (see Section III.E. below).
3. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR to assess specific properties under this cooperative agreement.
4. In accordance with 2 CFR § 200.329(e)(1), the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the EPA-approved workplan.

E. Property Profile Submission

1. The CAR must report on interim progress (i.e., assessment started) and any final accomplishments (i.e., assessment completed, clean up required, contaminants, institutional controls, engineering controls) by completing and submitting relevant portions of the Property Profile Form using the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly progress report to the EPA Project Officer. The CAR must utilize ACRES unless approval is obtained from the EPA Project Officer to utilize the hardcopy version of the Property Profile Form.

F. Final Technical Cooperative Agreement Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance* and 2 CFR § 200.344(a), *Closeout*), the CAR agrees to submit to the EPA Project Officer within 120 days after the

expiration or termination of the approved project period a final technical report on the cooperative agreement via email; unless the EPA Project Officer agrees to accept a paper copy of the report. The final technical report shall document project activities over the entire project period and shall include brief information on each of the following areas:

- a. a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA-approved workplan;
- b. reasons why anticipated outputs/outcomes were not met; and
- c. other pertinent information, including when appropriate, analysis and explanation of cost overruns or high unit costs.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess sites; conduct site-specific planning, general brownfield-related planning activities around one or more brownfield sites, and outreach. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

- a. Determining whether assessment activities at a particular site are authorized by CERCLA § 104(k).
- b. Ensuring that an assessment complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).
- c. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.
- d. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.
- e. Using a portion of the cooperative agreement funds to purchase environmental insurance for the characterization or assessment of the site. [Funds shall not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient*.]
- f. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.332 and the "Establishing and Managing Subawards" General Term and Condition; and carrying out community involvement pertaining to the assessment activities.

2. Under CERCLA § 104(k)(5)(E), CARs and subrecipients may use up to 5% of the amount of federal funding for this

cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for the CAR under this agreement is **\$25,000**. The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR paid for by EPA under the cooperative agreement shall not exceed this amount. Subrecipients may use up to 5% of the amount of Federal funds in their subawards for administrative costs. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct or indirect consistently and shall not classify the same types of costs in both categories. The term “administrative costs” does not include:

- a. Investigation and identification of the extent of contamination of a brownfield site;
- b. design and performance of a response action; or
- c. monitoring of a natural resource.

Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

- a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.
 - i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;
 - ii. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR § 200.308;
 - iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;
 - iv. Preparing payment requests and handling payments under 2 CFR § 200.305;
 - v. Financial reporting under 2 CFR § 200.328;
 - vi. Non-federal audits required under 2 CFR Part 200, Subpart F; and
 - vi. Closeout under 2 CFR § 200.344 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.
- b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:
 - a. Cleanup activities;
 - b. Site development activities that are not brownfield site assessment activities (e.g., marketing of property (activities or products created specifically to attract buyers or investors) or construction of a new facility);
 - c. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities

are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfield sites or sites to be assessed. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further cleanup and reuse of the priority brownfield site(s). This nexus must be clearly described in the workplan for the project;

- d. Job training activities unrelated to performing a specific assessment at a site covered by the cooperative agreement;
- e. To pay for a penalty or fine;
- f. To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;
- g. To pay for a response cost at a brownfield site for which the CAR or subaward recipient is potentially liable under CERCLA § 107;
- h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the assessment; and
- i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

2. Cooperative agreement funds shall not be used for any of the following properties:

- a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
- b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
- c. Facilities that are subject to the jurisdiction, custody or control of the United States government except for land held in trust by the United States government for an Indian tribe; or
- d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

V. ASSESSMENT REQUIREMENTS

A. Authorized Assessment Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.
2. If funds from this cooperative agreement are used to prepare an Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, the CAR must include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events (e.g., sea level rise, increased frequency and intensity of flooding, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed of, reduce volume of materials taken to landfills,

and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis.

B. Quality Assurance (QA) Requirements

1. When environmental data are collected as part of the brownfield assessment, the CAR shall comply with 2 CFR § 1500.12 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements. Recipients implementing environmental programs within the scope of the assistance agreement must submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 45 days prior to the initiating of data collection or data compilation. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

The QAPP should be prepared in accordance with [EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans](#). No environmental data collection or data compilation may occur until the QAPP is approved by the EPA Project Officer and Quality Assurance Regional Manager. Additional information on the requirements can be found at the EPA Office of Grants and Debarment website at <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>.

2. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements*, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

C. Community Outreach

1. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.

a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall comply with the *Acknowledgement Requirements for Non-ORD Assistance Agreements* in the General Terms and Conditions of this agreement.

b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with a direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at <https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients>.

2. The CAR agrees to notify the EPA Project Officer of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance

and participation by federal representatives with at least ten (10) working days' notice.

3. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

4. All public awareness activities conducted with EPA funding are subject to the provisions in the General Terms and Conditions on compliance with section 504 of the Americans with Disabilities Act.

D. All Appropriate Inquiry

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's all appropriate inquiries regulation (AAI). The CAR shall utilize the practices in ASTM standard E1527-13 "*Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process*" (or the latest recognized ASTM standard at the time the assessment is performed), or EPA's All Appropriate Inquiries Final Rule (40 CFR Part 312). A suggested outline for an AAI final report is provided in "*All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content*" (Publication Number: EPA 560-F-14-003). This does not preclude the use of cooperative agreement funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable state standards.

2. AAI final reports produced with funding from this agreement must comply with 40 CFR Part 312 and must, at a minimum, include the information below. All AAI reports submitted to the EPA Project Officer as deliverables under this agreement must be accompanied by a completed "*All Appropriate Inquiries: Reporting Requirements Checklist for Assessment Grant Recipients*" (Publication Number: EPA 560-F-17-194) that the EPA Project Officer will provide to the recipient. The checklist is available to CARs on EPA's website at www.epa.gov/brownfields. The completed checklist must include:

a. An **opinion** as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property.

b. An identification of "**significant**" **data gaps** (as defined in 40 CFR § 312.10), if any, in the information collected for the inquiry. Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.

c. **Qualifications and signature** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:

- "We, declare that, to the best of our professional knowledge and belief, we meet the definition of Environmental Professional as defined in 40 CFR § 312.10 of this part."
- "We have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. We have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312."

d. In compliance with 40 CFR § 312.31(b), the environmental professional must include in the final report an **opinion**

regarding additional appropriate investigation, if the environmental professional has such an opinion.

3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR Part 312 (or comparable requirements for those using ASTM Standard 1527-13 or the latest recognized ASTM standard at the time the assessment is performed). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR § 200.339. If a recipient willfully fails to correct the deficiencies EPA may consider other available remedies under 2 CFR § 200.339 and 2 CFR 200.340.

E. Completion of Assessment Activities

1. The CAR shall properly document the completion of all activities described in the EPA- approved workplan. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows assessments are complete.

F. Inclusion of Additional Terms and Conditions

1. In accordance with 2 CFR § 200.334, the CAR shall maintain records pertaining to the cooperative agreement for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records relating to assessments supported with Assessment cooperative agreement funds to authorized representatives of the Federal government as required by 2 CFR § 200.337.
2. The CAR has an ongoing obligation to advise EPA if it assessed any penalties resulting from environmental non-compliance at sites subject to this agreement.

VI. PAYMENT AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: "payment" is EPA's transfer of funds to the CAR; "closeout" refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement.

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR § 200.344. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.
2. The CAR, within 120 days after the expiration or termination of the cooperative agreement, must submit all financial, performance, and other reports required as a condition of the cooperative agreement.
 - a. The CAR must submit the following documentation:
 - i. The Final Technical Cooperative Agreement Report as described in Section III.F. of these Terms and Conditions.
 - ii. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

- b. The CAR must ensure that all appropriate data have been entered into ACRES or all hardcopy Property Profile Forms are submitted to the EPA Project Officer.
- c. As required by 2 CFR § 200.344, the CAR must immediately refund to EPA any balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreements.

RESOLUTION NO. 43-2024

OF

MARCH 11, 2024

**A RESOLUTION DECLARING SURPLUS ONE LIVE SCAN MACHINE,
HOUSING CABINET WITH LIGHTS, ONE CANON EDS 2000D CAMERA,
ONE CROSSMATCH SCAN500 DESKTOP COMPUTER, ONE DELL MONITOR AND
DELL DESKTOP COMPUTER, KEYBOARD AND MOUSE AND AUTHORIZING
DISPOSITION TO THE VILLAGE OF MAYBROOK POLICE DEPARTMENT**

WHEREAS, the City of Newburgh Police Department possesses one 5-year old live scan machine, one 10-year old housing cabinet with lights, one Canon EDS 2000D camera, one Crossmatch SCAN500 desktop computer, and one Dell monitor and Dell desktop computer with keyboard and mouse (the “Equipment”) which are no longer of use to the City; and

WHEREAS, the Police Department have proposed that the Equipment be transferred to the Village of Maybrook Police Department; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to declare the Equipment as surplus and authorize the disposition of same to the Village of Maybrook Police Department;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the one 5-year old live scan machine, one 10-year old housing cabinet with lights, one Canon EDS 2000D camera, one Crossmatch SCAN500 desktop computer, and one Dell monitor and Dell desktop computer with keyboard and mouse are hereby declared to be surplus and of no further use or value to the City of Newburgh; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to execute any required documents and conduct all necessary transactions to dispose of said surplus Equipment to the Village of Maybrook Police Department.

RESOLUTION NO.: 44 - 2024

OF

MARCH 11, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AMENDMENT NO. 1 TO THE CONTRACT WITH AXON ENTERPRISE, INC.
FOR BODY WORN CAMERAS, VEHICLE CAMERAS AND RELATED TECHNOLOGY**

WHEREAS, by Resolution No. 177-2022 of July 11, 2022, the City Council of the City of Newburgh approved a contract with Axon Enterprise, Inc. to provide 46 body worn cameras, along with technology, cloud, and other services that support the upload, download, and transfer of body worn camera footage to the City of Newburgh Police Department; and

WHEREAS, wishes to increase the number of body worn cameras and add vehicle cameras to migrate all police department personnel to the same equipment and technology platform; and

WHEREAS, Axon Enterprise, Inc. has submitted Amendment No. 1 to the master services agreement dated July 13, 2022 to provide additional body worn cameras, vehicle cameras, and other technology support services; and

WHEREAS, this Council has reviewed the attached amendment and has determined that executing same under the terms and conditions set forth therein is in the best interests of the City of Newburgh; and

WHEREAS, funding for such project shall be derived from A.3120.0448; 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 execute Amendment No. 1 to the master services agreement with Axon Enterprise, Inc. to provide additional body worn cameras, vehicle cameras, and other technology support services to the City of Newburgh Police Department.



First Amendment to the Master Services and Purchasing Agreement

This First Amendment ("**Amendment**") is between Axon Enterprise, Inc., a Delaware corporation ("**Axon**"), and the City of Newburgh ("**Agency**"). This Amendment is effective as of the last signature date on this Amendment ("**Effective Date**"). Axon and Agency are each a "**Party**" and collectively "**Parties**".

Axon and Agency are parties to the Master Services and Purchasing Agreement by and between the Parties executed by Agency on 13 July 2022 ("**Agreement**").

The Parties wish to incorporate further changes into the Agreement in order to add Axon Fleet.

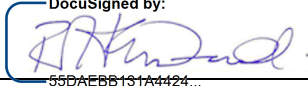
The Parties therefore agree as follows:

1. The attached documents are hereby incorporated into the Agreement:
 - a. Fleet Appendix
 - b. API Appendix
 - c. Quote Q-497222-45330.763CG
 - d. Quote Q-457508-45345.836CG
2. All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

Each representative identified below declares that the representative is authorized to execute this Amendment as of the date of signature.

Axon Enterprise, Inc.

City of Newburgh Police Dept - NY

DocuSigned by:
Signature: 
55DAE6B131A4424...

Signature: _____

Name: Robert E. Driscoll, Jr.

Name: _____

Title: Deputy General Counsel

Title: _____

Date: 2/23/2024 | 3:11 PM MST

Date: _____



First Amendment to the Master Services and Purchasing Agreement

Axon Fleet Appendix

If Axon Fleet is included on the Quote, this Appendix applies.

1. **Agency Responsibilities.**
 - 1.1. Agency must ensure its infrastructure and vehicles adhere to the minimum requirements to operate Axon Fleet 2 or Axon Fleet 3 (collectively, "**Axon Fleet**") as established by Axon during the qualifier call and on-site assessment at Agency and in any technical qualifying questions. If Agency's representations are inaccurate, the Quote is subject to change.
 - 1.2. Agency is responsible for providing a suitable work area for Axon or Axon third-party providers to install Axon Fleet systems into Agency vehicles. Agency is responsible for making available all vehicles for which installation services were purchased, during the agreed upon onsite installation dates. Failure to make vehicles available may require an equitable adjustment in fees or schedule.
2. **Cradlepoint.** If Agency purchases Cradlepoint Enterprise Cloud Manager, Agency will comply with Cradlepoint's end user license agreement. The term of the Cradlepoint license may differ from the Axon Evidence Subscription. If Agency requires Cradlepoint support, Agency will contact Cradlepoint directly.
3. **Third-party Installer.** Axon will not be liable for the failure of Axon Fleet hardware to operate per specifications if such failure results from installation not performed by, or as directed by Axon.
4. **Wireless Offload Server.**
 - 4.1. **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use Wireless Offload Server ("**WOS**"). "Use" means storing, loading, installing, or executing WOS solely for data communication with Axon Devices for the number of licenses purchased. The WOS term begins upon the start of the Axon Evidence Subscription.
 - 4.2. **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of WOS; (b) reverse engineer, disassemble, or decompile WOS, apply any process to derive the source code of WOS, or allow others to do so; (c) access or use WOS to avoid incurring fees or exceeding usage limits; (d) copy WOS in whole or part; (e) use trade secret information contained in WOS; (f) resell, rent, loan or sublicense WOS; (g) access WOS to build a competitive device or service or copy any features, functions or graphics of WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within WOS.
 - 4.3. **Updates.** If Agency purchases WOS maintenance, Axon will make updates and error corrections to WOS ("**WOS Updates**") available electronically via the Internet or media as determined by Axon. Agency is responsible for establishing and maintaining adequate Internet access to receive WOS Updates and maintaining computer equipment necessary for use of WOS. The Quote will detail the maintenance term.
 - 4.4. **WOS Support.** Upon request by Axon, Agency will provide Axon with access to Agency's store and forward servers solely for troubleshooting and maintenance.
5. **Axon Vehicle Software.**
 - 5.1. **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use ViewXL or Dashboard (collectively, "**Axon Vehicle Software**".) "Use" means storing, loading, installing, or executing Axon Vehicle Software solely for data communication with Axon Devices. The Axon Vehicle Software term begins upon the start of the Axon Evidence Subscription.
 - 5.2. **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of Axon Vehicle Software; (b) reverse engineer, disassemble, or decompile Axon Vehicle Software, apply any process to derive the source code of Axon Vehicle Software, or allow others to do so; (c) access or use Axon Vehicle Software to avoid incurring fees or exceeding usage limits; (d) copy Axon Vehicle



First Amendment to the Master Services and Purchasing Agreement

Software in whole or part; (e) use trade secret information contained in Axon Vehicle Software; (f) resell, rent, loan or sublicense Axon Vehicle Software; (g) access Axon Vehicle Software to build a competitive device or service or copy any features, functions or graphics of Axon Vehicle Software; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Axon Vehicle Software.

6. **Acceptance Checklist.** If Axon provides services to Agency pursuant to any statement of work in connection with Axon Fleet, within seven (7) days of the date on which Agency retrieves Agency's vehicle(s) from the Axon installer, said vehicle having been installed and configured with tested and fully and properly operational in-car hardware and software identified above, Agency will receive a Professional Services Acceptance Checklist to submit to Axon indicating acceptance or denial of said deliverables. Agency will have seven (7) days from delivery of the Acceptance Checklist to notify Axon of any issues or non-compliance with this Agreement and/or the Statement of Work, otherwise the Services will be deemed to have been accepted.
7. **Axon Fleet Upgrade.** If Agency has no outstanding payment obligations and has purchased the "Fleet Technology Assurance Plan" (Fleet TAP), Axon will provide Agency with the same or like model of Fleet hardware ("**Axon Fleet Upgrade**") as scheduled on the Quote.
 - 7.1. If Agency would like to change models for the Axon Fleet Upgrade, Agency must pay the difference between the MSRP for the offered Axon Fleet Upgrade and the MSRP for the model desired. The MSRP is the MSRP in effect at the time of the upgrade. Agency is responsible for the removal of previously installed hardware and installation of the Axon Fleet Upgrade.
 - 7.2. Within thirty (30) days of receiving the Axon Fleet Upgrade, Agency must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon, including serial numbers of the destroyed Axon Devices. If Agency does not destroy or return the Axon Devices to Axon, Axon will deactivate the serial numbers for the Axon Devices received by Agency.
8. **Axon Fleet Termination.** Axon may terminate Agency's Fleet subscription for non-payment. Upon any termination:
 - 8.1. Axon Fleet subscription coverage terminates, and no refunds will be given.
 - 8.2. Axon will not and has no obligation to provide the Axon Fleet Upgrade.
 - 8.3. Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Fleet TAP.



First Amendment to the Master Services and Purchasing Agreement

Axon Application Programming Interface Appendix

This Appendix applies if Axon's API Services, or an Evidence.com subscription are included on the Quote.

1. **Definitions.**

- 1.1. **"API Client"** means the software that acts as the interface between Agency's computer and the server, which is already developed or to be developed by Agency.
- 1.2. **"API Interface"** means software implemented by Agency to configure Agency's independent API Client Software to operate in conjunction with the API Service for Agency's authorized Use.
- 1.3. **"Axon Evidence Partner API, API or Axon API"** (collectively **"API Service"**) means Axon's API which provides a programmatic means to access data in Agency's Axon Evidence account or integrate Agency's Axon Evidence account with other systems.
- 1.4. **"Use"** means any operation on Agency's data enabled by the supported API functionality.

2. **Purpose and License.**

- 2.1. Agency may use API Service and data made available through API Service, in connection with an API Client developed by Agency. Axon may monitor Agency's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. Agency agrees to not interfere with such monitoring or obscure from Axon Agency's use of API Service. Agency will not use API Service for commercial use.
- 2.2. Axon grants Agency a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for Agency's Use in connection with Agency's API Client.
- 2.3. Axon reserves the right to set limitations on Agency's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

3. **Configuration.** Agency will work independently to configure Agency's API Client with API Service for Agency's applicable Use. Agency will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. Agency will inform Axon promptly of any updates. Upon Agency's registration, Axon will provide documentation outlining API Service information.

4. **Agency Responsibilities.** When using API Service, Agency and its end users may not:

- 4.1. use API Service in any way other than as expressly permitted under this Agreement;
- 4.2. use in any way that results in, or could result in, any security breach to Axon;
- 4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;
- 4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;
- 4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;
- 4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;
- 4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;
- 4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;
- 4.9. make available to a third-party, any token, key, password or other login credentials to API Service;



First Amendment to the Master Services and Purchasing Agreement

-
- 4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or
 - 4.11. disclose Axon's API manual.
 - 5. **API Content**. All content related to API Service, other than Agency Content or Agency's API Client content, is considered Axon's API Content, including:
 - 5.1. the design, structure and naming of API Service fields in all responses and requests;
 - 5.2. the resources available within API Service for which Agency takes actions on, such as evidence, cases, users, or reports;
 - 5.3. the structure of and relationship of API Service resources; and
 - 5.4. the design of API Service, in any part or as a whole.
 - 6. **Prohibitions on API Content**. Neither Agency nor its end users will use API content returned from the API Interface to:
 - 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
 - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;
 - 6.3. misrepresent the source or ownership; or
 - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
 - 7. **API Updates**. Axon may update or modify the API Service from time to time ("**API Update**"). Agency is required to implement and use the most current version of API Service and to make any applicable changes to Agency's API Client required as a result of such API Update. API Updates may adversely affect how Agency's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for Agency to update API Client to the most current version of API Service. Axon will provide support for one (1) year following the release of an API Update for all depreciated API Service versions.



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-497222-45330.763CG

Issued: 02/08/2024

Quote Expiration: 03/29/2024

Estimated Contract Start Date: 04/15/2024

Account Number: 132800

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
City of Newburgh Police Department 55 GRAND ST NEWBURGH, NY 12550-4611 USA	City of Newburgh Police Dept - NY 83 Broadway 4th Fl Newburgh NY 12550-5617 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Christian Gardner Phone: (480) 502-6209 Email: cgardner@axon.com Fax:	Christopher Lahar Phone: 845-569-7532 Email: clahar@cityofnewburgh-ny.gov Fax:

Quote Summary

Program Length	60 Months
TOTAL COST	\$183,290.40
ESTIMATED TOTAL W/ TAX	\$183,290.40

Discount Summary

Average Savings Per Year	\$8,144.64
TOTAL SAVINGS	\$40,723.20

Payment Summary

Date	Subtotal	Tax	Total
Mar 2024	\$36,658.08	\$0.00	\$36,658.08
Mar 2025	\$36,658.08	\$0.00	\$36,658.08
Mar 2026	\$36,658.08	\$0.00	\$36,658.08
Mar 2027	\$36,658.08	\$0.00	\$36,658.08
Mar 2028	\$36,658.08	\$0.00	\$36,658.08
Total	\$183,290.40	\$0.00	\$183,290.40

Quote Unbundled Price:	\$224,013.60
Quote List Price:	\$183,290.40
Quote Subtotal:	\$183,290.40

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
Fleet3A	Fleet 3 Advanced	12	60	\$311.13	\$254.57	\$254.57	\$183,290.40	\$0.00	\$183,290.40
Total							\$183,290.40	\$0.00	\$183,290.40

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Estimated Delivery Date
Fleet 3 Advanced	11634	AXON FLEET - CRADLEPOINT IBR900-1200M-B-NPS+5YR NETCLOUD	12	03/15/2024
Fleet 3 Advanced	70112	AXON SIGNAL - SIGNAL UNIT	12	03/15/2024
Fleet 3 Advanced	71200	AXON FLEET - AIRGAIN ANT - 5-IN-1 2LTE 2WIFI 1GNSS BL	12	03/15/2024
Fleet 3 Advanced	72034	AXON FLEET 3 - SIM INSERTION - VZW	12	03/15/2024
Fleet 3 Advanced	72036	AXON FLEET 3 - STANDARD 2 CAMERA KIT	12	03/15/2024
Fleet 3 Advanced	72040	AXON FLEET - TAP REFRESH 1 - 2 CAMERA KIT	12	03/15/2029

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	12	04/15/2024	04/14/2029
Fleet 3 Advanced	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	12	04/15/2024	04/14/2029
Fleet 3 Advanced	80402	AXON RESPOND - LICENSE - FLEET 3	12	04/15/2024	04/14/2029
Fleet 3 Advanced	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	24	04/15/2024	04/14/2029

Services

Bundle	Item	Description	QTY
Fleet 3 Advanced	73391	AXON FLEET 3 - DEPLOYMENT (PER VEHICLE)	12

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Fleet 3 Advanced	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	12	03/15/2025	04/14/2029
Fleet 3 Advanced	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	12	03/15/2025	04/14/2029

Payment Details

Mar 2024						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	Fleet3A	Fleet 3 Advanced	12	\$36,658.08	\$0.00	\$36,658.08
Total				\$36,658.08	\$0.00	\$36,658.08

Mar 2025						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	Fleet3A	Fleet 3 Advanced	12	\$36,658.08	\$0.00	\$36,658.08
Total				\$36,658.08	\$0.00	\$36,658.08

Mar 2026						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	Fleet3A	Fleet 3 Advanced	12	\$36,658.08	\$0.00	\$36,658.08
Total				\$36,658.08	\$0.00	\$36,658.08

Mar 2027						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	Fleet3A	Fleet 3 Advanced	12	\$36,658.08	\$0.00	\$36,658.08
Total				\$36,658.08	\$0.00	\$36,658.08

Mar 2028						
Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	Fleet3A	Fleet 3 Advanced	12	\$36,658.08	\$0.00	\$36,658.08
Total				\$36,658.08	\$0.00	\$36,658.08

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and under the Master Services and Purchasing Agreement between the Parties, dated July 13, 2022, as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable.

ACEIP: The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

2/8/2024



FLEET STATEMENT OF WORK BETWEEN AXON ENTERPRISE AND AGENCY

Introduction

This Statement of Work ("SOW") has been made and entered into by and between Axon Enterprise, Inc. ("AXON"), and City of Newburgh Police Dept - NY the ("AGENCY") for the purchase of the Axon Fleet in-car video solution ("FLEET") and its supporting information, services and training. (AXON Technical Project Manager/The AXON installer)

Purpose and Intent

AGENCY states, and AXON understands and agrees, that Agency's purpose and intent for entering into this SOW is for the AGENCY to obtain from AXON deliverables, which used solely in conjunction with AGENCY's existing systems and equipment, which AGENCY specifically agrees to purchase or provide pursuant to the terms of this SOW.

This SOW contains the entire agreement between the parties. There are no promises, agreements, conditions, inducements, warranties or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in the SOW.

Acceptance

Upon completion of the services outlined in this SOW, AGENCY will be provided a professional services acceptance form ("Acceptance Form"). AGENCY will sign the Acceptance Form acknowledging that services have been completed in substantial conformance with this SOW and the Agreement. If AGENCY reasonably believes AXON did not complete the professional services in conformance with this SOW, AGENCY must notify AXON in writing of the specific reasons within seven (7) calendar days from delivery of the Acceptance Form. AXON will remedy the issues to conform with this SOW and re-present the Acceptance Form for signature. If AXON does not receive the signed Acceptance Form or written notification of the reasons for rejection within 7 calendar days of the delivery of the Acceptance Form, AGENCY will be deemed to have accepted the services in accordance to this SOW.

Force Majeure

Neither party hereto shall be liable for delays or failure to perform with respect to this SOW due to causes beyond the party's reasonable control and not avoidable by diligence.

Schedule Change

Each party shall notify the other as soon as possible regarding any changes to agreed upon dates and times of Axon Fleet in-car Solution installation-to be performed pursuant of this Statement of Work.

Axon Fleet Deliverables

Typically, within (30) days of receiving this fully executed SOW, an AXON Technical Project Manager will deliver to AGENCY's primary point of contact via electronic media, controlled documentation, guides, instructions and videos followed by available dates for the initial project review and customer readiness validation. Unless otherwise agreed upon by AXON, AGENCY may print and reproduce said documents for use by its employees only.

Security Clearance and Access

Upon AGENCY's request, AXON will provide the AGENCY a list of AXON employees, agents, installers or representatives which require access to the AGENCY's facilities in order to perform Work pursuant of this Statement of Work. AXON will ensure that each employee, agent or representative has been informed or and consented to a criminal background investigation by AGENCY for the purposes of being allowed access to AGENCY's facilities. AGENCY is responsible for providing AXON with all required instructions and documentation accompanying the security background check's requirements.

Training

AXON will provide training applicable to Axon Evidence, Cradlepoint NetCloud Manager and Axon Fleet application in a train-the-trainer style method unless otherwise agreed upon between the AGENCY and AXON.

Local Computer

AGENCY is responsible for providing a mobile data computer (MDC) with the same software, hardware, and configuration that AGENCY personnel will use with the AXON system being installed. AGENCY is responsible for making certain that any and all security settings (port openings, firewall settings, antivirus software, virtual private network, routing, etc.) are made prior to the installation, configuration and testing of the aforementioned deliverables.

Network

AGENCY is responsible for making certain that any and all network(s) route traffic to appropriate endpoints and AXON is not liable for network breach, data interception, or loss of data due to misconfigured firewall settings or virus infection, except to the extent that such virus or infection is caused, in whole or in part, by defects in the deliverables.

Cradlepoint Router

When applicable, AGENCY must provide AXON Installers with temporary administrative access to Cradlepoint's [NetCloud Manager](#) to the extent necessary to perform Work pursuant of this Statement of Work.

Evidence.com

AGENCY must provide AXON Installers with temporary administrative access to Axon Evidence.com to the extent necessary to perform Work pursuant of this SOW.

Wireless Upload System

If purchased by the AGENCY, on such dates and times mutually agreed upon by the parties, AXON will install and configure into AGENCY's existing network a wireless network infrastructure as identified in the AGENCY's binding quote based on conditions of the sale.

VEHICLE INSTALLATION

Preparedness

On such dates and times mutually agreed upon by the parties, the AGENCY will deliver all vehicles to an AXON Installer less weapons and items of evidence. Vehicle(s) will be deemed 'out of service' to the extent necessary to perform Work pursuant of this SOW.

Existing Mobile Video Camera System Removal

On such dates and times mutually agreed upon by the parties, the AGENCY will deliver all vehicles to an AXON Installer which will remove from said vehicles all components of the existing mobile video camera system unless otherwise agreed upon by the AGENCY.

Major components will be salvaged by the AXON Installer for auction by the AGENCY. Wires and cables are not considered expendable and will not be salvaged. Salvaged components will be placed in a designated area by the AGENCY within close proximity of the vehicle in an accessible work space.

Prior to removing the existing mobile video camera systems, it is both the responsibility of the AGENCY and the AXON Installer to test the vehicle's systems' operation to identify and operate, documenting any existing component or system failures and in detail, identify which components of the existing mobile video camera system will be removed by the AXON Installer.

In-Car Hardware/Software Delivery and Installation

On such dates and times mutually agreed upon by the parties, the AGENCY will deliver all vehicles to an AXON Installer, who will install and configure in each vehicle in accordance with the specifications detailed in the system's installation manual and its relevant addendum(s). Applicable in-car hardware will be installed and configured as defined and validated by the AGENCY during the pre-deployment discovery process.

If a specified vehicle is unavailable on the date and time agreed upon by the parties, AGENCY will provide a similar vehicle for the installation process. Delays due to a vehicle, or substitute vehicle, not being available at agreed upon dates and times may result in additional fees to the AGENCY. If the AXON Installer determines that a vehicle is not properly prepared for installation ("Not Fleet Ready"), such as a battery not being properly charged or properly up-fit for in-service, field operations, the issue shall be reported immediately to the AGENCY for resolution and a date and time for the future installation shall be agreed upon by the parties.

Upon completion of installation and configuration, AXON will systematically test all installed and configured in-car hardware and software to ensure that ALL functions of the hardware and software are fully operational and that any deficiencies are corrected unless otherwise agreed upon by the AGENCY, installation, configuration, test and the correct of any deficiencies will be completed in each vehicle accepted for installation.

Prior to installing the Axon Fleet camera systems, it is both the responsibility of the AGENCY and the AXON Installer to test the vehicle's existing systems' operation to identify, document any existing component or vehicle systems' failures. Prior to any vehicle up-fitting the AXON Installer will introduce the system's components, basic functions, integrations and systems overview along with reference to AXON approved, AGENCY manuals, guides, portals and videos. It is both the responsibility of the AGENCY and the AXON Installer to agree on placement of each components, the antenna(s), integration recording trigger sources and customer preferred power, ground and ignition sources prior to permanent or temporary installation of an Axon Fleet camera solution in each vehicle type. Agreed placement will be documented by the AXON Installer.

AXON welcomes up to 5 persons per system operation training session per day, and unless otherwise agreed upon by the AGENCY, the first vehicle will be used for an installation training demonstration. The second vehicle will be used for an assisted installation training demonstration. The installation training session is customary to any AXON Fleet installation service regardless of who performs the continued Axon Fleet system installations.

The customary training session does not 'certify' a non-AXON Installer, customer-employed Installer or customer 3rd party Installer, since the AXON Fleet products does not offer an Installer certification program. Any work performed by non-AXON Installer, customer-employed Installer or customer 3rd party Installer is not warranted by AXON, and AXON is not liable for any damage to the vehicle and its existing systems and AXON Fleet hardware.



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-457508-45345.836CG

Issued: 02/23/2024

Quote Expiration: 02/28/2024

Estimated Contract Start Date: 04/01/2024

Account Number: 132800

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
City of Newburgh Police Department 55 GRAND ST NEWBURGH, NY 12550-4611 USA	City of Newburgh Police Dept - NY 83 Broadway 4th Fl Newburgh NY 12550-5617 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Christian Gardner Phone: (480) 502-6209 Email: cgardner@axon.com Fax:	Christopher Lahar Phone: 845-569-7532 Email: clahar@cityofnewburgh-ny.gov Fax:

Quote Summary

Program Length	41 Months
TOTAL COST	\$262,168.91
ESTIMATED TOTAL W/ TAX	\$262,168.91

Discount Summary

Average Savings Per Year	\$17,868.24
TOTAL SAVINGS	\$61,049.82

Payment Summary

Date	Subtotal	Tax	Total
Mar 2024	\$31,957.43	\$0.00	\$31,957.43
Aug 2024	\$73,747.91	\$0.00	\$73,747.91
Aug 2025	\$76,697.83	\$0.00	\$76,697.83
Aug 2026	\$79,765.74	\$0.00	\$79,765.74
Total	\$262,168.91	\$0.00	\$262,168.91

Quote Unbundled Price:	\$323,218.73
Quote List Price:	\$262,130.37
Quote Subtotal:	\$262,168.91

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
73352	MBD TAP TRUE UP	1	19		\$23.30	\$23.30	\$442.70	\$0.00	\$442.70
73352	CAM TAP TRUE UP	16	19		\$23.30	\$23.30	\$7,083.20	\$0.00	\$7,083.20
73843	TRUE UP - UNLIMITED EVIDENCE.COM TAP BUNDLE YEAR 1	31	19		\$35.85	\$35.85	\$21,115.65	\$0.00	\$21,115.65
BWCUwTAP	BWC Unlimited with TAP	31	41	\$134.14	\$97.67	\$97.67	\$124,138.57	\$0.00	\$124,138.57
BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	41	\$96.66	\$35.35	\$35.35	\$1,449.35	\$0.00	\$1,449.35
BWCamTAP	Body Worn Camera TAP Bundle	16	41	\$51.76	\$33.13	\$33.13	\$21,733.28	\$0.00	\$21,733.28
A la Carte Hardware									
AB3C	AB3 Camera Bundle	47			\$789.00	\$789.00	\$37,083.00	\$0.00	\$37,083.00
AB3MBD	AB3 Multi Bay Dock Bundle	5			\$1,638.90	\$1,638.90	\$8,194.50	\$0.00	\$8,194.50
A la Carte Software									
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	41		\$26.24	\$26.24	\$17,213.44	\$0.00	\$17,213.44
73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	41		\$10.50	\$10.50	\$20,233.50	\$0.00	\$20,233.50
ProLicense	Pro License Bundle	2	41		\$41.99	\$42.46	\$3,481.72	\$0.00	\$3,481.72
Total							\$262,168.91	\$0.00	\$262,168.91

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Estimated Delivery Date
AB3 Camera Bundle	11509	AXON BODY 3 - BELT CLIP - RAPIDLOCK	52	03/01/2024
AB3 Camera Bundle	11534	AXON BODY - CABLE - USB-C TO USB-A (AB3 OR FLEX 2)	52	03/01/2024
AB3 Camera Bundle	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	47	03/01/2024
AB3 Camera Bundle	73202	AXON BODY 3 - CAMERA - NA10 US BLK RAPIDLOCK	1	03/01/2024
AB3 Multi Bay Dock Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	5	03/01/2024
AB3 Multi Bay Dock Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	5	03/01/2024
AB3 Multi Bay Dock Bundle	74210	AXON BODY 3 - DOCK - EIGHT BAY	5	03/01/2024
Body Worn Camera Multi-Bay Dock TAP Bundle	73689	AXON BODY - TAP REFRESH 1 - DOCK MULTI BAY	1	02/01/2025
Body Worn Camera TAP Bundle	73309	AXON BODY - TAP REFRESH 1 - CAMERA	16	02/01/2025
BWC Unlimited with TAP	73309	AXON BODY - TAP REFRESH 1 - CAMERA	32	02/01/2025
BWC Unlimited with TAP	73689	AXON BODY - TAP REFRESH 1 - DOCK MULTI BAY	4	02/01/2025
Body Worn Camera Multi-Bay Dock TAP Bundle	73688	AXON BODY - TAP REFRESH 2 - DOCK MULTI BAY	1	08/01/2027
Body Worn Camera TAP Bundle	73310	AXON BODY - TAP REFRESH 2 - CAMERA	16	08/01/2027
BWC Unlimited with TAP	73310	AXON BODY - TAP REFRESH 2 - CAMERA	32	08/01/2027
BWC Unlimited with TAP	73688	AXON BODY - TAP REFRESH 2 - DOCK MULTI BAY	4	08/01/2027

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
BWC Unlimited with TAP	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	31	04/01/2024	08/31/2027
BWC Unlimited with TAP	73746	AXON EVIDENCE - ECOM LICENSE - PRO	31	04/01/2024	08/31/2027
Pro License Bundle	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	6	04/01/2024	08/31/2027
Pro License Bundle	73746	AXON EVIDENCE - ECOM LICENSE - PRO	2	04/01/2024	08/31/2027
A la Carte	73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	04/01/2024	08/31/2027
A la Carte	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	04/01/2024	08/31/2027

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
Body Worn Camera Multi-Bay Dock TAP Bundle	80465	AXON BODY - TAP WARRANTY - MULTI BAY DOCK	1	03/01/2025	08/31/2027
Body Worn Camera TAP Bundle	80464	AXON BODY - TAP WARRANTY - CAMERA	16	03/01/2025	08/31/2027
BWC Unlimited with TAP	80464	AXON BODY - TAP WARRANTY - CAMERA	31	03/01/2025	08/31/2027
BWC Unlimited with TAP	80464	AXON BODY - TAP WARRANTY - CAMERA	1	03/01/2025	08/31/2027
BWC Unlimited with TAP	80465	AXON BODY - TAP WARRANTY - MULTI BAY DOCK	4	03/01/2025	08/31/2027

Payment Details

Mar 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	73352	MBD TAP TRUE UP	1	\$53.96	\$0.00	\$53.96
Year 2	73352	CAM TAP TRUE UP	16	\$863.42	\$0.00	\$863.42
Year 2	73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	\$2,466.39	\$0.00	\$2,466.39
Year 2	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	\$2,098.26	\$0.00	\$2,098.26
Year 2	73843	TRUE UP - UNLIMITED EVIDENCE.COM TAP BUNDLE YEAR 1	31	\$2,573.92	\$0.00	\$2,573.92
Year 2	AB3C	AB3 Camera Bundle	47	\$4,520.28	\$0.00	\$4,520.28
Year 2	AB3MBD	AB3 Multi Bay Dock Bundle	5	\$998.88	\$0.00	\$998.88
Year 2	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	\$176.67	\$0.00	\$176.67
Year 2	BWCamTAP	Body Worn Camera TAP Bundle	16	\$2,649.20	\$0.00	\$2,649.20
Year 2	BWCuWTAP	BWC Unlimited with TAP	31	\$15,132.04	\$0.00	\$15,132.04
Year 2	ProLicense	Pro License Bundle	2	\$424.41	\$0.00	\$424.41
Total				\$31,957.43	\$0.00	\$31,957.43

Apr 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Invoice Upon Fulfillment	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	BWCamTAP	Body Worn Camera TAP Bundle	16	\$0.00	\$0.00	\$0.00
Total				\$0.00	\$0.00	\$0.00

Aug 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	73352	MBD TAP TRUE UP	1	\$124.53	\$0.00	\$124.53
Year 3	73352	CAM TAP TRUE UP	16	\$1,992.50	\$0.00	\$1,992.50
Year 3	73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	\$5,691.67	\$0.00	\$5,691.67
Year 3	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	\$4,842.13	\$0.00	\$4,842.13
Year 3	73843	TRUE UP - UNLIMITED EVIDENCE.COM TAP BUNDLE YEAR 1	31	\$5,939.82	\$0.00	\$5,939.82
Year 3	AB3C	AB3 Camera Bundle	47	\$10,431.42	\$0.00	\$10,431.42
Year 3	AB3MBD	AB3 Multi Bay Dock Bundle	5	\$2,305.11	\$0.00	\$2,305.11
Year 3	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	\$407.70	\$0.00	\$407.70
Year 3	BWCamTAP	Body Worn Camera TAP Bundle	16	\$6,113.56	\$0.00	\$6,113.56
Year 3	BWCuWTAP	BWC Unlimited with TAP	31	\$34,920.06	\$0.00	\$34,920.06
Year 3	ProLicense	Pro License Bundle	2	\$979.41	\$0.00	\$979.41
Total				\$73,747.91	\$0.00	\$73,747.91

Aug 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	73352	MBD TAP TRUE UP	1	\$129.51	\$0.00	\$129.51
Year 4	73352	CAM TAP TRUE UP	16	\$2,072.20	\$0.00	\$2,072.20
Year 4	73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	\$5,919.33	\$0.00	\$5,919.33
Year 4	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	\$5,035.81	\$0.00	\$5,035.81
Year 4	73843	TRUE UP - UNLIMITED EVIDENCE.COM TAP BUNDLE YEAR 1	31	\$6,177.41	\$0.00	\$6,177.41
Year 4	AB3C	AB3 Camera Bundle	47	\$10,848.68	\$0.00	\$10,848.68

Aug 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	AB3MBD	AB3 Multi Bay Dock Bundle	5	\$2,397.31	\$0.00	\$2,397.31
Year 4	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	\$424.02	\$0.00	\$424.02
Year 4	BWCamTAP	Body Worn Camera TAP Bundle	16	\$6,358.09	\$0.00	\$6,358.09
Year 4	BWCUwTAP	BWC Unlimited with TAP	31	\$36,316.89	\$0.00	\$36,316.89
Year 4	ProLicense	Pro License Bundle	2	\$1,018.58	\$0.00	\$1,018.58
Total				\$76,697.83	\$0.00	\$76,697.83

Aug 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	73352	MBD TAP TRUE UP	1	\$134.69	\$0.00	\$134.69
Year 5	73352	CAM TAP TRUE UP	16	\$2,155.09	\$0.00	\$2,155.09
Year 5	73478	AXON EVIDENCE - REDACTION ASSISTANT USER LICENSE	47	\$6,156.11	\$0.00	\$6,156.11
Year 5	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	16	\$5,237.24	\$0.00	\$5,237.24
Year 5	73843	TRUE UP - UNLIMITED EVIDENCE.COM TAP BUNDLE YEAR 1	31	\$6,424.50	\$0.00	\$6,424.50
Year 5	AB3C	AB3 Camera Bundle	47	\$11,282.62	\$0.00	\$11,282.62
Year 5	AB3MBD	AB3 Multi Bay Dock Bundle	5	\$2,493.20	\$0.00	\$2,493.20
Year 5	BWCamMBDTAP	Body Worn Camera Multi-Bay Dock TAP Bundle	1	\$440.97	\$0.00	\$440.97
Year 5	BWCamTAP	Body Worn Camera TAP Bundle	16	\$6,612.42	\$0.00	\$6,612.42
Year 5	BWCUwTAP	BWC Unlimited with TAP	31	\$37,769.58	\$0.00	\$37,769.58
Year 5	ProLicense	Pro License Bundle	2	\$1,059.32	\$0.00	\$1,059.32
Total				\$79,765.74	\$0.00	\$79,765.74

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and under the Master Services and Purchasing Agreement between the Parties, dated July 13, 2022, as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Exceptions to Standard Terms and Conditions

This quote is co-termed with quote Q-372355 (executed contract #00078804).

Signature

Date Signed

2/23/2024



RESOLUTION NO.: 45-2024

OF

MARCH 11, 2024

A RESOLUTION APPROVING THE CONSENT JUDGMENT AND AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI PROCEEDINGS AGAINST THE CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NOS. EF003483-2020, EF003757-2022 and EF004882-2023 INVOLVING SECTION 30, BLOCK 2, LOT 7 (47 JOHNSTON LLC)

WHEREAS, 47 Johnston LLC has commenced tax certiorari proceedings against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2020, 2022 and 2023 tax years bearing Orange County Index Nos. EF003483-2020, EF003757-2022 and EF004882-2023; and

WHEREAS, it appears from the recommendation of the City Assessor, Joanne Majewski, and Kelly M. Naughton, Esq. of Naughton & Torre, LLP, Special Counsel for the City of Newburgh in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the City would involve considerable expense with the attendant uncertainty of the outcome, and that settlement of the above matters as more fully set forth below is reasonable and in the best interests of the City; and

WHEREAS, 47 Johnston LLC is willing to settle these proceedings without interest, costs or disbursements in the following manner:

1. That the proceedings brought in connection with the property described on the City of Newburgh tax roll for the 2020 tax year as tax map number 30-2-8 be discontinued with prejudice.
2. That the real property of Petitioner described on the City of Newburgh tax roll for the 2022 tax year as tax map number 30-2-8 be reduced to a market value of \$285,000.00.
3. That the real property of Petitioner described on the City of Newburgh tax roll for the 2023 tax year as tax map number 30-2-8 be reduced to a market value of \$300,000.00.

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above, and the attached Consent Judgment is hereby accepted pursuant to the provisions of the General City Law and other related laws.

BE IT FURTHER RESOLVED, that Todd Venning, City Manager of the City of Newburgh; Joanne Majewski, Assessor of the City of Newburgh; Kelly M. Naughton, Esq. on behalf of Naughton & Torre, LLP, as Special Counsel, be and they hereby are designated as the persons for the City who shall apply for such approval pursuant to the aforesaid laws.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
In the Matter of the Application of
47 JOHNSTON LLC,

Petitioner,

-against-

THE ASSESSOR OF THE CITY OF NEWBURGH,
THE BOARD OF ASSESSMENT REVIEW OF THE
CITY OF NEWBURGH AND THE CITY OF
NEWBURGH,

Respondents.

CONSENT JUDGMENT

**Index Nos. EF003483-2020
EF003757-2022
EF004882-2023**

For a review of assessments of certain property in the
County of Orange
-----X

UPON THE CONSENT attached hereto duly executed by the attorneys for all the parties
and by all the parties, it is

ORDERED, that the real property of Petitioner described on the City of Newburgh
assessment rolls for the 2022-2023 and 2023-2024 tax years as follows:

Tax Map No. 30-2-8

be reduced in assessed value from \$374,400.00 and \$374,000.00 to an assessed value of
\$285,000.00 and \$300,000.00, respectively, prior to the application of any real property tax
exemptions, if any; and it is further,

ORDERED, that the Petitioners' real property taxes on said parcel above described for the
2022-2023 and 2023-2024 School, County and City taxes be adjusted accordingly and that any
overpayment by Petitioner for the 2022-2023 and 2023-2024 tax years be refunded upon the
entering of this Consent Judgment with the Orange County Clerk's Office; and it is further,

ORDERED, that the officer or officers having custody of the aforesaid City of Newburgh assessment rolls shall make or cause to be made upon the proper books and records and upon the assessment roll of said City the entries, changes and corrections necessary to conform such reduced market value; and it is further,

ORDERED, that there shall be audited, allowed and refunded to the Petitioner by the City of Newburgh and/or the County Commissioner of Finance, as the case may be, the amount, if any, paid as City taxes and City Special District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and refunded to the Petitioner by the City of Newburgh, the County of Orange, and/or the County Commissioner of Finance, as appropriate and/or required by statute, the amount, if any, paid as County taxes and County Special District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and refunded to the Petitioner by the Newburgh City School District, the amount, if any, paid as School District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that all tax refunds hereinabove directed to be made by Respondents and/or any of the various taxing authorities be made by check or draft payable to the order of CULLEN and DYKMAN LLP, as attorneys for the Petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law § 475; and it is further,

ORDERED, that the provisions of Real Property Tax Law § 727 shall be applicable to the 2023 assessment years; and it is further,

ORDERED, that in the event that the refunds are made within sixty (60) days after service of the Order with notice of entry, there shall be no interest, otherwise, interest shall be paid in accordance with the applicable statute, and it is further;

ORDERED, that the proceedings brought in connection with the real property described on the City of Newburgh assessment roll for the 2020-2021 tax year as tax map number 30-2-8 be discontinued with prejudice; and it is further

ORDERED, that these proceedings are settled without costs or disbursements to either party as against the other.

Signed: _____, 2024
Goshen, New York

ENTER:

HON.
SUPREME COURT JUSTICE

ON CONSENT:

HON. TODD VENNING
City Manager
Dated: _____

MICHAEL HRANKIWSKYJ, ESQ.
Cullen and Dykman, LLP
Attorneys for the Petitioner
Dated: _____

HON. JOANNE MAJEWSKI
Assessor
Dated: _____

KELLY M. NAUGHTON, ESQ.
Naughton & Torre, LLP
Attorneys for City Respondents
Dated: _____

RESOLUTION NO.: 46 - 2024

OF

MARCH 11, 2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
SUPERSEDING RESOLUTION NO. 8-2024 OF JANUARY 8, 2024
RECOMMENDING NINE CITY RESIDENTS TO SERVE ON
A RENT GUIDELINES BOARD**

WHEREAS, by Resolution No. 264-2023 of December 18, 2023, the City Council of the City of Newburgh declared that a public emergency exists for the entire class of housing accommodations subject to regulation in New York State Unconsolidated Laws §8625; and

WHEREAS, following the declaration of a housing emergency, pursuant to New York State Unconsolidated Laws §8624(a), a rent guidelines board created subsequent to the effective date of the chapter of the laws of two thousand nineteen that amended §8624(a) shall consist of nine members, of which two such members shall be representative of tenants, two shall be representative of owners of property and five shall be public members with at least five years' experience in finance, economics or housing, appointed by the commissioner of housing and community renewal upon recommendations of the local legislative body of each city having a population of less than one million which has determined the existence of an emergency; and

WHEREAS, the City Council of the City of Newburgh solicited applications from City residents interested in serving on a rent guidelines board and after review and due deliberation of the applications received, the City Council has identified nine qualified City residents to recommend to the Commissioner of Housing and Community Renewal for appointment to a rent guidelines board, the same being in the best interests of the City of Newburgh;

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Newburgh hereby supersedes Resolution No. 8-2024 of January 8, 2024 and recommends to the New York State Commissioner of Housing and Community Renewal for appointment to a rent guidelines board, the following qualified City residents:

Tenant Representative:	Bridget McMillan Dino Nguyen
Property Owner Representative:	Dr. Debra R. Lamb Karen Mejia
Public Member:	John Kasinki Valarie E. Larry Martin Ellis L. Simone Washington Elisabeth Balachova

RESOLUTION NO.: 29 - 2024

OF

FEBRUARY 26, 2024

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 146 RENWICK STREET (SECTION 45, BLOCK 14, LOT 11)
AT PRIVATE SALE TO VICTOR JOSE DANIEL ORTEGA-SAGASTUME
FOR THE AMOUNT OF \$140,000.00

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real Property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell 146 Renwick Street, being more accurately described as Section 45, Block 14, Lot 11 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to THE CITY OF NEWBURGH, such sums are to be paid on or before May 31, 2024, being approximately ninety (90) days from the date of this resolution; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
146 Renwick Street	45 - 14 - 11	Victor Jose Daniel Ortega-Sagastume	\$140,000.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions Sale

146 Renwick Street, City of Newburgh

(SBL: 45-14-11)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, the parcel shall be defined by its section, block and lot number on the City of Newburgh Tax Map.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid school taxes for the tax year of **2023-2024**, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year **2023-2024**, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: (i) obtain a Certificate of Occupancy for all buildings on the property; (ii) make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or (iii) demolish any buildings deemed structurally unsound by a New York State-licensed engineer and by the Building Inspector. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for its consideration.
6. The City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.

7. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.**
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
14. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
15. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.

16. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 36 months subsequent to the Closing Deadline date. If such conveyance occurs, purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.
18. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.
19. Notice is given that the property lies within either the East End Historic District or the Colonial Terraces Architectural Design District as designated in the City of Newburgh's current zoning map. This parcel is sold subject to all provision of law applicable thereto. It is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance any additional laws, rules or regulations applicable to those districts.
20. Within ten (10) business days of approval of sale by the City of Newburgh, the purchaser shall tender a non-refundable downpayment in the amount of **\$28,000.00** payable to "City of Newburgh" by money order or guaranteed funds to the "City of Newburgh". At closing, the downpayment amount shall be credited against the purchase price.
21. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.

ACKNOWLEDGED AND AGREED

Date: _____

Victor Jose Daniel Ortega-Sagastume