



CITY OF NEWBURGH  
COUNCIL MEETING AGENDA  
*SESION GENERAL DEL CONSEJAL*  
October 24, 2016  
7:00 PM

Mayor/Alcaldesa

1. Prayer/Rezo
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 of the meeting of October 11, 2016
5. City Manager Update/ Gerente de la Ciudad pone al dia la audiencia de los planes de cada departamento

Presentations/Presentaciones

6. Presentation for the 2017 CDBG Program  
(Ellen Fillo, CDBG Director)

Comments from the public regarding the agenda/Comentarios del público con respecto a la agenda

Comments from the Council regarding the agenda/Comentarios del Consejo con respecto a la agenda

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

7. Resolution No. 275 - 2016 Public Comment Period for FY 2017 CDBG Program

Resolution Opening a 30-Day Public Comment Period and Scheduling a Public Hearing for November 14, 2016 to Receive Public Comment on the City of Newburgh's Proposed Actions with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for Fiscal Year 2017. (Ellen Fillo)

*Una resolución abriendo un Periodo para Comentarios Públicos de 30-Días y Programando una Audiencia Pública para el 14 de Noviembre de 2016 para Recibir Comentarios Públicos sobre las Acciones Propuestas por la Ciudad de Newburgh con respecto al Programa de Becas de Desarrollo a los Bloques de la Comunidad para el Plan Consolidado de Viviendas y Desarrollo Comunitario para el Año Fiscal 2017. (Ellen Fillo)*

8. Ordinance No. 3 - 2016 Parking Restrictions on Castle and North Streets  
Ordinance Amending Chapter 288, "Vehicles and Traffic" Section 288-87  
"Schedule XXIX: Seasonal Alternate-Side Parking" of the Code of Ordinances  
of the City of Newburgh. (Ali Church)

*Un Decreto Enmendando el Capítulo 288, "Vehículos y Tráfico" Sección 288-87 "Schedule XXIX: Estacionamiento de Lado Alternativo de Temporada" del Código de Decretos de la Ciudad de Newburgh. (Ali Church)*

9. Resolution No. 276 - 2016 - Ricoh Copiers  
Resolution Authorizing the City Manager to Execute a Copier Lease  
Agreement Renewal with RICOH USA, Inc. for City Hall and the Department of  
Public Works at a cost of \$1,291.26 per month for a period of 36 months.  
(Katie Mack)

*Una Resolución Autorizando al Gerente de la Ciudad a Ejecutar la Renovación de un Acuerdo de Arrendamiento para Fotocopiadoras con RICOH USA, Inc. Para la Municipalidad y el Departamento de Obras Publicas por la cantidad de \$1,291.26 cada mes por un periodo de 36 meses. (katie Mack)*

10. Resolution No. 277 - 2016 Virtual Towns & Schools Website Redesign  
Resolution Authorizing the City Manager to execute a Contract Addendum with  
Virtual Town Hall Holdings, LLC to Redesign the City of Newburgh Website at  
a cost of \$3,250.00. (Katie Mack)

*Una Resolución Autorizando al Gerente de la Ciudad a ejecutar una Adenda al Contrato con "Virtual Town Hall Holdings, LLC" para Rediseñar el sitio web de la Ciudad de Newburgh a un costo de \$3,250.00 (Katie Mack)*

11. Resolution No. 278 - 2016 - Linstar Equipment Service Agreement  
Resolution Authorizing the City Manager to Execute an Equipment Service  
Agreement with Linstar, Inc. for Surveillance Camera Equipment Located in  
the Prisoner Cells in the Broadway Courthouse at a cost of \$1,860.00 for One  
Year. (Katie Mack)

*Una Resolución Autorizando al Gerente de la Ciudad a Ejecutar un Acuerdo de Servicios de Equipo con Linstar, Inc. Para Equipos de Cámaras de Vigilancia ubicados en las Celdas de Prisioneros en el Juzgado de Broadway a un costo de \$1,860.00 por Un Año. (Katie Mack)*

12. Resolutoin No. 279- 2016 - Requesting an Exemption from County Taxes for City Reservoir and Filter Plant Properties

A Resolution Requesting an Exemption from County Taxes for the City's Reservoir and Filter Plant Properties for the Year 2018. (Katie Mack)

*Una Resolución Solicitando una Excepción de los Impuestos del Condado para la Reserva de la Ciudad y Propiedades de la Planta de Filtros para el año 2018. (Katie Mack)*

13. Resolution No. 280 - 2016 Purchase of 77 William Street

Resolution to Authorize the Conveyance of Real Property known as 77 William Street (Section 39, Block 2, Lot 24) at Private Sale to Bisessar Alvin Moonsear for the amount of \$20,000.00. (Ali Church)

*Una Resolución Autorizando el Traspaso de Bienes Raíces conocidas como la 77 de la Calle William (Sección 39, Bloque 2, Lote 24) en una Venta Privada a Bisessar Alvin Moonsear por la Cantidad de \$20,000.00. (Ali Church)*

14. Resolution No. 281 - 2016 - Purchase of 69 William Street

Resolution to Authorize the Conveyance of Real Property known as 69 William Street (Section 39, Block 2, Lot 25) at Private Sale to Bisessar Alvin Moonesar for the amount of \$4,000.00. (Ali Church)

*Una Resolución Autorizando el Traspaso de Bienes Raíces conocidas como la 69 de la Calle William (Sección 39, Bloque 2, Lote 25) en una Venta Privada a Bisessar Alvin Moonsear por la Cantidad de \$4,000.00. (Ali Church)*

15. Resolution No. 282 - 2016 Purchase of 20 Grove Street

Resolution to Authorize the Conveyance of Real Property known as 20 Grove Street (Section 26, Block 8, Lot 10) at Private Sale to Magaly Aguirre for the amount of \$9,000.00. (Ali Church)

*Una Resolución Autorizando el Traspaso de Bienes Raíces conocidas como la 20 de la Calle Grove (Sección 26, Bloque 8, Lote 10) en una Venta Privada a Magaly Aguirre por la Cantidad de \$9,000.00. (Ali Church)*

16. Resolution No. 283 - 2016 Purchase of 216 Broadway

Resolution to Authorize the Conveyance of Real Property known as 216 Broadway (Section 29, Block 8, Lot 7) at Private Sale to Rafiq Majeed for the amount of \$26,000.00. (Ali Church)

*Una Resolución Autorizando el Traspaso de Bienes Raíces conocidas*

*como la 2016 de Broadway (Sección 29, Bloque 8, Lote 7) en una Venta Privada a Rafiq Majeed por la Cantidad de \$26,000.00. (Ali Church)*

17. Resolution No. 284 - 2016 Liability Insurance Renewal for City-Owned Tax Foreclosed Properties

Resolution Authorizing Approval of a General Liability Insurance Policy for City-Owned Tax Foreclosed Properties for the period of October 27, 2016 to October 26, 2017. (Michelle Kelson)

*Una Resolución Autorizando la Aprobación de una Póliza de Seguro de Obligación General para las Propiedades de la Ciudad las cuales los Impuestos Hipotecarios hayan Caducado durante el periodo de 27 de Octubre de 2016 al 26 de Octubre de 2017. (Michelle Kelson)*

18. Resolution No. 285 - 2016 - Telecommunications Attachment and Rights-of-Way Agreement with ExteNet Systems. Inc.

Resolution Authorizing the City Manager to Execute a Telecommunications Attachment and Rights-of-Way Agreement with ExteNet Systems, Inc. (Michelle Kelson)

*Una Resolución Autorizando al Gerente de la Ciudad a Ejecutar un Acuerdo adjunto de Telecomunicaciones y Derecho de Paso con "ExteNet Systems, Inc. (Michelle Kelson)*

19. Resolution No. 286 - 2016 Implementation of City Wide Curfew for Halloween

A Resolution to Implement a City-wide Curfew for Minors 16 Years of Age and Under on October 30th and 31st from 9:00 p.m. Until 6:00 a.m. (City Council)

*Una Resolución para Implementar un Toque de Queda a través de toda la Ciudad para Niños de 16 Años de Edad y Menores el 30 y 31 de Octubre desde las 9:00 p.m. hasta las 6:00 a.m. (Consejo de la Ciudad)*

20. Resolution No. 287 - 2016 Colby Kennels Contract Renewal

Resolution Authorizing the City Manager to enter into an Agreement with Colby Kennels to provide for Boarding Services for Dogs in the Custody of the City of Newburgh. (Michelle Kelson)

*Una Resolución Autorizando al Gerente de la Ciudad a entrar en un Acuerdo con Colby Kennels para proveer Servicios de Albergue para Perros en Custodia de la Ciudad de Newburgh. (Michelle Kelson)*

21. Resolution No. 288 - 2016

A resolution authorizing the city manager to execute a payment of claim with Werner Frost in the amount of \$3,167.67. (Michelle Kelson)

*Una resolución que autoriza al gerente de la ciudad un pago de reclamación con Werner Frost en la cantidad de 3,167.67 (Michelle Kelson).*

22. Resolution No. 289 -2016

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. 6820-2011, 5810-2012, 5608-2013, 5093-2014, 5028-2015 AND 4433-2016 involving Section 43, Block 1, Lot 1 (BRV SINGH, Inc.)

*Una resolución que aprueba el fallo de consentimiento y la autorización del Gerente de la Ciudad para firmar tal fallo de consentimiento en relación con el procedimiento de certiorari de impuestos contra la ciudad de Newburgh en el Tribunal Supremo del Condado de Orange que llevan Índice Condado de Orange números 6820 a 2011, desde 5.810 hasta 2.012, 5608- 2013, 5093-2014, 5.028 a 2.015 y 4.433 a 2.016 que implica la Sección 43, Bloque 1, Lote 1 (BRV SINGH, Inc.)*

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

Public Comments Regarding General Matters of City Business

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

Adjournment/ Aplazamiento:

RESOLUTION NO.: 275 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION OPENING A 30-DAY PUBLIC COMMENT PERIOD AND  
SCHEDULING A PUBLIC HEARING FOR NOVEMBER 14, 2016  
TO RECEIVE PUBLIC COMMENT ON THE  
CITY OF NEWBURGH'S PROPOSED ACTIONS WITH RESPECT TO  
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE  
CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT  
FOR FISCAL YEAR 2017**

**WHEREAS**, the City of Newburgh has prepared a five-year Consolidated Housing and Community Development Strategy and Plan in accordance with the planning requirements of the Housing and Community Development Act of 1974 and applicable regulations; and

**WHEREAS**, the City is now preparing a one-year Action Plan for FY 2017 in order to implement various elements of the strategies identified in its Consolidated Plan and must satisfy all statutory requirements, including those related to citizen participation;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the time for citizen participation is commenced by opening a 30-day period to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for FY 2017; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that there is scheduled a public hearing to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the Consolidated Plan for Housing and Community Development for FY 2017; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 14th day of November, 2016 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York.

ORDINANCE NO.: <sup>3</sup>\_\_\_\_\_ - 2016

OF

OCTOBER 24, 2016

**AN ORDINANCE AMENDING CHAPTER 288, "VEHICLES AND TRAFFIC"  
SECTION 288-87 "SCHEDULE XXIX: SEASONAL ALTERNATE-SIDE PARKING"  
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

**BE IT ORDAINED**, by the Council of the City of Newburgh, New York that Chapter 288, "Vehicles and Traffic", Section 288-87, "Schedule XXIX: Seasonal Alternate-Side Parking" be and is hereby amended to read as follows:

**Section 1.** Chapter 288, VEHICLES AND TRAFFIC

§ 288-87. Schedule XXIX: Seasonal Alternate-Side Parking.

In accordance with the provisions of §288-35(B), no vehicle shall be parked during the months indicated upon the streets or parts of streets described below:

<b>Name of Street</b>	<b>Side</b>	<b>Months</b>	<b>Location</b>
Campbell Street	North	February, April, June, August, October and December	From Grand Street to Johnston Street
Campbell Street	South	January, March, May, July, September and November	From Grand Street to Johnston Street
<u>Castle Street</u>	<u>North</u>	<u>February, April, June, August, October and December</u>	<u>Entire length</u>
<u>Castle Street</u>	<u>South</u>	<u>January, March, May, July, September and November</u>	<u>Entire length</u>
Grove Street [Added 3-10-2004 by Ord. No. 2-2004]	East	February, April, June, August, October and December	From Broadway to Orchard Street
Grove Street [Added 3-10-2004 by Ord. No. 2-2004]	West	January, March, May, July, September and November	From Broadway to Orchard Street
Hudson View Terrace [Added 5-28-1996 by Ord. No. 7-96]	East	February, April, June, August, October and	Entire length

Underlining denotes additions  
~~Strikethrough~~ denotes deletions

<b>Name of Street</b>	<b>Side</b>	<b>Months</b>	<b>Location</b>
Hudson View Terrace [Added 5-28-1996 by Ord. No. 7-96; amended 4-15-2004 by Ord. No. 4- 2004]	West	December January, March, May, July, September and November	Entire length
<u>North Street</u>	<u>North</u>	<u>February, April, June, August, October and December</u>	<u>From Gidney Avenue to Fullerton Avenue</u>
<u>North Street</u>	<u>South</u>	<u>January, March, May, July, September and November</u>	<u>From Gidney Avenue to Fullerton Avenue</u>
West Street	East	February, April, June, August, October and December	From Broadway to South Street
West Street	West	January, March, May, July, September and November	From Broadway to South Street

**Section 2.** This Ordinance shall take effect on December 1, 2016.

Underlining denotes additions  
~~Strikethrough~~ denotes deletions



RESOLUTION NO.: <sup>276</sup>\_\_\_\_\_ - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A COPIER LEASE AGREEMENT RENEWAL WITH RICOH USA, INC.  
FOR CITY HALL AND THE DEPARTMENT OF PUBLIC WORKS  
AT A COST OF \$1,291.26 PER MONTH FOR A PERIOD OF 36 MONTHS**

**WHEREAS**, the City of Newburgh's City Hall and Department of Public Works are in need of new lease agreements for copiers to perform their statutory duties, assigned tasks and day-to-day operations; and

**WHEREAS**, a review of available equipment and systems has determined that a renewal agreement with RICOH USA, Inc. is the most appropriate and cost-effective alternative; and

**WHEREAS**, the total cost of the copiers and related equipment is \$1,291.26 per month for a period of 36 months; and

**WHEREAS**, such funds are established and shall be derived from Budget Line A.1670.0400—Central Printing and Mailing; and

**WHEREAS**, a copy of said Lease Agreement is attached hereto; and

**WHEREAS**, this Council has reviewed such agreement and has determined that it is in the best interests of the City of Newburgh to enter into such agreement;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute a Lease Agreement with RICOH USA, Inc. in substantially the same form as annexed hereto for copiers and related services according to the terms therein stated at the cost of \$1,291.26 per month for 36 months.

# Image Management

## U.S. Communities Product Schedule

**RICOH**  
Ricoh USA, Inc.  
70 Valley Stream Parkway  
Malvern, PA 19355

**Product Schedule Number:** \_\_\_\_\_  
**Master Lease Agreement Number:** \_\_\_\_\_

This Product Schedule (this "Schedule") is between Ricoh USA, Inc. ("we" or "us") and \_\_\_\_\_, as customer or lessee ("Customer" or "you"). This Schedule constitutes a "Schedule," "Product Schedule," or "Order Agreement," as applicable, under the U.S. Communities Master Lease Agreement (together with any amendments, attachments and addenda thereto, the "Lease Agreement") identified above, between you and \_\_\_\_\_. All terms and conditions of the Lease Agreement are incorporated into this Schedule and made a part hereof. If we are not the lessor under the Lease Agreement, then, solely for purposes of this Schedule, we shall be deemed to be the lessor under the Lease Agreement. It is the intent of the parties that this Schedule be separately enforceable as a complete and independent agreement, independent of all other Schedules to the Lease Agreement.

### CUSTOMER INFORMATION

NEWBURGH, CITY OF				Nicholas Crispino			
Customer (Bill To)				Billing Contact Name			
83 BROADWAY FL 2				83 BROADWAY FL 2			
Product Location Address				Billing Address (if different from location address)			
NEWBURGH		NY	12550-5617	NEWBURGH		NY	12550-5617
City	County	State	Zip	City	County	State	Zip
Billing Contact Telephone Number (845)569-7326				Billing Contact Facsimile Number		Billing Contact E-Mail Address ncrispino@cityofnewburgh-ny.gov	

### PRODUCT/EQUIPMENT DESCRIPTION ("Product")

Qty	Product Description: Make & Model
1	RICOH MP3554SP BRANDING SET
1	RICOH MP2554SP
1	RICOH MPC4504 BRANDING SET
1	RICOH MPC2504 BRANDING SET
1	RICOH MPC2504 BRANDING SET
1	RICOH MPC4504 BRANDING SET
1	

Qty	Product Description: Make & Model

### PAYMENT SCHEDULE

<b>Minimum Term</b> (months)  36	<b>Minimum Payment</b> (Without Tax)  \$ 1,291.26	<b>Minimum Payment Billing Frequency</b> <input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Other: _____	<b>Advance Payment</b> <input type="checkbox"/> 1 <sup>st</sup> Payment <input type="checkbox"/> 1 <sup>st</sup> & Last Payment <input type="checkbox"/> Other: _____								
<b>Guaranteed Minimum Images**</b> <table border="1"><tr><th>Black/White</th><th>Color</th></tr><tr><td>15,500</td><td>0</td></tr></table>		Black/White	Color	15,500	0	<b>Cost of Additional Images*</b> <table border="1"><tr><th>Black/White</th><th>Color</th></tr><tr><td>\$0.0081</td><td>\$0.0515</td></tr></table>		Black/White	Color	\$0.0081	\$0.0515
Black/White	Color										
15,500	0										
Black/White	Color										
\$0.0081	\$0.0515										

\* Based upon Minimum Payment Billing Frequency

° Based upon standard 8 1/2" x 11" paper size. Paper sizes greater than 8 1/2" x 11" may count as more than one image.

Sales Tax Exempt: ☒ YES (Attach Exemption Certificate) Customer Billing Reference Number (P.O. #, etc.) \_\_\_\_\_  
Addendum(s) attached: ☐ YES (check if yes and indicate total number of pages: \_\_\_\_\_)

### TERMS AND CONDITIONS

1. The first Payment will be due on the Effective Date. If the Lease Agreement uses the terms "Lease Payment" and "Commencement Date" rather than "Payment" and "Effective Date," then, for purposes of this Schedule, the term "Payment" shall have the same meaning as "Lease Payment," and the term "Effective Date" shall have the same meaning as "Commencement Date."

2. You, the undersigned Customer, have applied to us to use the above-described Product for lawful commercial (non-consumer) purposes. **THIS IS AN UNCONDITIONAL, NON-CANCELABLE AGREEMENT FOR THE MINIMUM TERM INDICATED ABOVE**, except as otherwise provided in the Lease Agreement, if applicable. If we accept this Schedule, you agree to use the above Product on all the terms hereof, including the terms and conditions on the Lease Agreement. **THIS WILL ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS SCHEDULE AND THE LEASE AGREEMENT AND HAVE RECEIVED A COPY OF THIS SCHEDULE AND THE LEASE AGREEMENT.** You acknowledge and agree that the Ricoh service commitments included on the "*Image Management Commitments*" page attached to this Schedule (collectively, the "Commitments") are separate and independent obligations of Ricoh USA, Inc. ("Rico") governed solely by the terms set forth on such page. If we assign this Schedule in accordance with the Lease Agreement, the Commitments do not represent obligations of any assignee and are not incorporated herein by reference. You agree that Ricoh alone is the party to provide all such services and is directly responsible to you for all of the Commitments. We are or, if we assign this Schedule in accordance with the Lease Agreement, our assignee will be, the party responsible for financing and billing this Schedule, including, but not limited to, the portion of your payments under this Schedule that reflects consideration owing to Ricoh in respect of its performance of the Commitments. Accordingly, you expressly agree that Ricoh is an intended party beneficiary of your payment obligations hereunder, even if this Schedule is assigned by us in accordance with the Lease Agreement.
3. Image Charges/Meters: In return for the Minimum Payment, you are entitled to use the number of Guaranteed Minimum Images as specified in the Payment Schedule of this Schedule. The Meter Reading/Billing Frequency is the period of time (monthly, quarterly, etc.) for which the number of images used will be reconciled. If you use more than the Guaranteed Minimum Images during the selected Meter Reading/Billing Frequency period, you will pay additional charges at the applicable Cost of Additional Images as specified in the Payment Schedule of this Schedule for images, black and white and/or color, which exceed the Guaranteed Minimum Images ("Additional Images"). The charge for Additional Images is calculated by multiplying the number of Additional Images by the applicable Cost of Additional Images. The Meter Reading/Billing Frequency may be different than the Minimum Payment Billing Frequency as specified in the Payment Schedule of this Schedule. You will provide us or our designee with the actual meter reading(s) by submitting meter reads electronically via an automated meter read program, or in any other reasonable manner requested by us or our designee from time to time. If such meter reading is not received within seven (7) days of either the end of the Meter Reading/Billing Frequency period or at our request, we may estimate the number of images used. Adjustments for estimated charges for Additional Images will be made upon receipt of actual meter reading(s). Notwithstanding any adjustment, you will never pay less than the Minimum Payment.
4. Additional Provisions (if any) are: \_\_\_\_\_

THE PERSON SIGNING THIS SCHEDULE ON BEHALF OF THE CUSTOMER REPRESENTS THAT HE/SHE HAS THE AUTHORITY TO DO SO.

<p><b>CUSTOMER</b></p> <p>By: <b>X</b> _____ Authorized Signer Signature</p> <p>Printed Name: _____</p> <p>Title: _____ Date: _____</p>	<p>Accepted by: <b>RICOH USA, INC.</b></p> <p>By: _____ Authorized Signer Signature</p> <p>Printed Name: _____</p> <p>Title: _____ Date: _____</p>
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## RICOH USA, INC.

### IMAGE MANAGEMENT COMMITMENTS

The below service commitments (collectively, the "Service Commitments") are brought to you by Ricoh USA, Inc., an Ohio corporation having its principal place of business at 70 Valley Stream Parkway, Malvern, PA 19355 ("Rico"). The words "you" and "your" refer to you, our customer. You agree that Ricoh alone is the party to provide all of the services set forth below and is fully responsible to you, the customer, for all of the Service Commitments. Ricoh or, if Ricoh assigns the Product Schedule to which this page is attached in accordance with the Lease Agreement (as defined in such Product Schedule), Ricoh's assignee, is the party responsible for financing and billing the Image Management Product Schedule. The Service Commitments are only applicable to the equipment ("Product") described in the Image Management Product Schedule to which these Service Commitments are attached, excluding facsimile machines, single-function and wide-format printers and production units. The Service Commitments are effective on the date the Product is accepted by you and apply during Ricoh's Normal Business Hours (as defined below). They remain in effect for the Minimum Term so long as no ongoing default exists on your part.

### TERM PRICE PROTECTION

The Image Management Minimum Payment and the Cost of Additional Images, as described on the Image Management Product Schedule, will not increase in price during the Minimum Term of the Image Management Product Schedule, unless agreed to in writing and signed by both parties.

### PRODUCT SERVICE AND SUPPLIES

Ricoh will provide full coverage maintenance services, including replacement parts, drums, labor and all service calls, during Normal Business Hours. "Normal Business Hours" are between 8:00 a.m. and 5:00 p.m., Monday to Friday excluding holidays ((i) New Year's Day; (ii) Memorial Day; (iii) 4th of July; (iv) Labor Day; (v) Thanksgiving; (vi) Day after Thanksgiving; and (vii) Christmas Day). Ricoh will also provide the supplies required to produce images on the Product covered under the Image Management Product Schedule (other than non-metered Product and soft-metered Product). The supplies will be provided according to manufacturer's specifications. Ricoh reserves the right to assess a reasonable charge for supply shipments if you request overnight delivery. If Ricoh determines that you have used more supplies than the manufacturer's recommended specifications, you will pay reasonable charges for those excess supplies and/or Ricoh may refuse you additional supply shipments, or as otherwise agreed to by the parties. Optional supply items such as paper and transparencies are not included, unless otherwise agreed to by the parties in writing. Charges are based on standard 8.5x11 images. Ricoh reserves the right to assess additional images charges for non-standard images, including 11x17 images.

### RESPONSE TIME COMMITMENT

Ricoh will provide a one hour (1) phone response to service calls measured from receipt of your call. Ricoh will provide a four (4) business hour response time for all service calls located within a major metropolitan area, and an eight (8) business hour average response time for service calls located fifty (50) miles or greater from a Ricoh service center for the term of the Image Management Product Schedule. Response time is measured in aggregate for all Product covered by the Image Management Product Schedule.

### UPTIME PERFORMANCE COMMITMENT

Ricoh will service the Product to be Operational with a quarterly uptime average of 95% during Normal Business Hours, excluding preventative and interim maintenance time. Downtime will begin at the time you place a service call to Ricoh and will end when the Product is again Operational. You agree to make the Product available to Ricoh for scheduled preventative and interim maintenance. You further agree to give Ricoh advance notice of any critical and specific uptime needs you may have so that Ricoh can schedule with you interim and preventative maintenance in advance of such needs. As used in these Service Commitments, "Operational" means substantial compliance with the manufacturer's specifications and/or performance standards and excludes customary end-user corrective actions.

### IMAGE VOLUME FLEXIBILITY AND PRODUCT ADDITIONS

At any time after the expiration of the initial ninety day period of the original term of the Image Management Product Schedule to which these Service Commitments relate, Ricoh will, upon your request, review your image volume. If the image volume has moved upward or downward in an amount sufficient for you to consider an alternative plan, Ricoh will present pricing options to conform to a new image volume. If you agree that additional product is required to satisfy your increased image volume requirements, Ricoh will include the product in the pricing options. The addition of product and/or increases/decreases to the Guaranteed Minimum Images requires an amendment ("Amendment") to the Image Management Product Schedule that must be agreed to and signed by both parties to the Schedule. The term of the Amendment may not be less than the remaining term of the existing Image Management Product Schedule but may extend the remaining term of the existing Image Management Product Schedule for up to an additional 60 months. Adjustments to the Guaranteed Minimum Images commitment and/or the addition of product may result in a higher or lower minimum payment. Images decreases are limited to 25% of the Guaranteed Minimum Images in effect at the time of Amendment.

### PRODUCT AND PROFESSIONAL SERVICES UPGRADE OPTION

At any time after the expiration of one-half of the original term of the Image Management Product Schedule to which these Service Commitments relate, you may reconfigure the Product by adding, exchanging, or upgrading to an item of Product with additional features or enhanced technology. A new Image Management Product Schedule or Amendment must be agreed to and signed by the parties to the Schedule, for a term not less than the remaining term of the existing Image Management Product Schedule but may, in the case of an Amendment, extend the remaining term of the existing Image Management Product Schedule for up to an additional 60 months. The Cost of Additional Images and the Minimum Payment of the new Image Management Product Schedule will be based on any obligations remaining on the Product, the added product and new image volume commitment. Your Ricoh Account Executive will be pleased to work with you on a Technology Refresh prior to the end of your Image Management Product Schedule or Amendment.

### PERFORMANCE COMMITMENT

Ricoh is committed to performing these Service Commitments and agrees to perform its services in a manner consistent with the applicable manufacturer's specifications. Should a Product or an accessory not be able to be maintained in conformance with manufacturer's specifications, Ricoh shall, at its own expense, replace such Product with another unit of the same product designation as that Product and Ricoh shall bear all installation, transportation, removal and rigging charges in connection with the installation of such replacement unit; provided, however that (a) the replacement unit may be a reconditioned or otherwise used unit rather than a new unit; and (b) if a replacement unit of the same product designation as the unit of Product it replaces is not available, the replacement unit may be a product of substantially similar or greater capabilities. Ricoh shall re-perform any Services not in compliance with this warranty and brought to Ricoh's attention in writing within a reasonable time, but in no event more than 30 days after such Services are performed. If you are dissatisfied with Ricoh's performance, you must send a registered letter outlining your concerns to the address specified below in the "Quality Assurance" section. Please allow 30 days for resolution.

### ACCOUNT MANAGEMENT

Your Ricoh sales professional will, upon your request, be pleased to review your product performance metrics on a quarterly basis and at a mutually convenient date and time. Ricoh will, upon your request, be pleased to annually review your business environment and discuss ways in which Ricoh may improve efficiencies and reduce costs relating to your document management processes.

### QUALITY ASSURANCE

Please send all correspondence relating to the Service Commitments via registered letter to the Quality Assurance Department located at: 3920 Arkwright Road, Macon, GA 31210, Attn: Quality Assurance. The Quality Assurance Department will coordinate resolution of any performance issues concerning the above Service Commitments with your local Ricoh office. To ensure the most timely response please call 1-888-275-4566.

### MISCELLANEOUS

These Service Commitments do not cover repairs resulting from misuse (including without limitation improper voltage or environment or the use of supplies that do not conform to the manufacturer's specifications), subjective matters (such as color reproduction accuracy) or any other factor beyond the reasonable control of Ricoh. Ricoh and you each acknowledge that these Service Commitments represent the entire understanding of the parties with respect to the subject matter hereof and that your sole remedy for any Service Commitments not performed in accordance with the foregoing is as set forth under the section hereof entitled "Performance Commitment". The Service Commitments made herein are service and/or maintenance warranties and are not product warranties. Except as expressly set forth herein, Ricoh makes no warranties, express or implied, including any implied warranties of merchantability, fitness for use, or fitness for a particular purpose. Neither party hereto shall be liable to the other for any consequential, indirect, punitive or special damages. Customer expressly acknowledges and agrees that, in connection with the security or accessibility of information stored in or recoverable from any Product provided or serviced by Ricoh, Customer is solely responsible for ensuring its own compliance with legal requirements or obligations to third parties pertaining to data security, retention and protection. These Service Commitments shall be governed according to the laws of the State where your principal place of business or residence is located without regard to its conflicts of law principles. These Service Commitments are not assignable by the Customer. Unless otherwise stated in your Implementation Schedule, your Product will ONLY be serviced by a "Rico Certified Technician". If any software, system support or related connectivity services are included as part of these Service Commitments as determined by Ricoh, Ricoh shall provide any such services at your location set forth in the Product Schedule as applicable, or on a remote basis. You shall provide Ricoh with such access to your facilities, networks and systems as may be reasonably necessary for Ricoh to perform such services. You acknowledge and agree that, in connection with its performance of its obligations under these Service Commitments, Ricoh may place automated meter reading units on imaging devices, including but not limited to the Product, at your location in order to facilitate the timely and efficient collection of accurate meter read data on a monthly, quarterly or annual basis. Ricoh agrees that such units will be used by Ricoh solely for such purpose. Once transmitted, all meter read data shall become the sole property of Ricoh and will be utilized for billing purposes.

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70 Valley Stream Parkway, Malvern, PA 19355

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Page 1 of 1





Ricoh USA, Inc.  
70 Valley Stream Parkway  
Malvern, PA 19355

## U.S. Communities Master Lease Agreement

Number: \_\_\_\_\_

### CUSTOMER INFORMATION

Full Legal Name NEWBURGH, CITY OF				
Address 83 BROADWAY FL 2				
City NEWBURGH	State NY	Zip 12550-5617	Contact Nicholas Crispino	Telephone Number (845)569-7326
Federal Tax ID Number 14-6002329 <i>(Do Not Insert Social Security Number)</i>	Facsimile Number		E-mail Address ncrispino@cityofnewburgh-ny.gov	

This U.S. Communities Master Lease Agreement ("Lease Agreement") has been written in clear, easy to understand English. When we use the words "you", "your" or "Customer" in this Lease Agreement, we mean you, our customer, as indicated above. When we use the words "we", "us" or "our" in this Lease Agreement, we mean Ricoh USA, Inc. ("Ricoh") or, if we assign this Lease Agreement or any Schedules executed in accordance with this Lease Agreement, pursuant to Section 13 below, the Assignee (as defined below). Our corporate office is located at 70 Valley Stream Parkway, Malvern, Pennsylvania 19355.

1. Agreement. This Lease Agreement is executed pursuant to the contract by and between Ricoh USA, Inc. (successor-in-interest to Ricoh Americas Corporation) and Fairfax County (the "County") on behalf of the U.S. Communities Government Purchasing Alliance and all public agencies, non-profits and higher education entities ("Participating Public Agencies"), having a Contract ID number of 4400003732 and the contract period is from February 11, 2013 to June 30, 2019, with the option to renew for no more than three (3) years (the "Contract Period"), one year at a time, or any combination thereof (the "Contract"). Notwithstanding the foregoing, any Schedule entered into during the Contract Period shall continue in full force and effect for the entire lease term set forth in the Schedule. We agree to lease or rent, as specified in any equipment schedule executed by you and us and incorporating the terms of this Lease Agreement by reference (a "Schedule"), to you, and you agree to lease or rent, as applicable, from us, subject to the terms of this Lease Agreement and such Schedule, the personal and intangible property described in such Schedule. The personal and intangible property described on a Schedule (together with all attachments, replacements, parts, substitutions, additions, repairs, and accessories incorporated in or affixed to the property and any license or subscription rights associated with the property) will be collectively referred to as "Product." The manufacturer of the tangible Product shall be referred to as the "Manufacturer." To the extent the Product includes intangible property or associated services such as periodic software licenses and prepaid data base subscription rights, such intangible property shall be referred to as the "Software."
2. Schedules; Delivery and Acceptance. This Lease Agreement shall consist of the terms and conditions of the Contract and this Lease Agreement and any Schedule issued pursuant thereto. As it pertains to this Lease Agreement, the order of precedence of the component parts of the Lease Agreement shall be as follows: (a) the terms and conditions of this Lease Agreement and Schedule issued pursuant thereto, and (b) the terms and conditions of the Contract. The foregoing order of precedence shall govern the interpretation of this Lease Agreement in cases of conflict or inconsistency therein. Each Schedule that incorporates this Lease Agreement shall be governed by the terms and conditions of this Lease Agreement and the Contract, as well as by the terms and conditions set forth in such individual Schedule. Each Schedule shall constitute a complete agreement separate and distinct from this Lease Agreement and any other Schedule. In the event of a conflict between the terms of this Lease Agreement and any Schedule, the terms of such Schedule shall govern and control, but only with respect to the Product subject to such Schedule. The termination of this Lease Agreement will not affect any Schedule executed prior to the effective date of such termination. When you receive the Product and it is installed, you agree to inspect it to determine it is in good working order. Scheduled Payments (as specified in the applicable Schedule) will begin on or after the Product acceptance date ("Effective Date"). You agree to sign and return to us a delivery and acceptance certificate (which may be done electronically) within five (5) business days after any Product is installed confirming that the Product has been delivered, installed, and is in good condition and accepted for all purposes under the Lease Agreement.
3. Term; Payments.
  - (a) The first scheduled Payment (as specified in the applicable Schedule) ("Payment") will be due on the Effective Date or such later date as we may designate. The remaining Payments will be due on the same day of each subsequent month, unless otherwise specified on the applicable Schedule. To the extent not prohibited by applicable law, if any Payment or other amount payable under any Schedule is not received within ten (10) days of its due date, you will pay to us, in addition to that Payment, a one-time late charge of 5% of the overdue Payment (but in no event greater than the maximum amount allowed by applicable law). To the extent not prohibited by applicable law, you agree to pay \$25.00 for each check returned for insufficient funds or for any other reason.
  - (b) In the event that Customer terminates the Maintenance Agreement (as hereunder defined) between Customer and the Servicer relating to the Product provided hereunder due to a material breach by Servicer of its service obligations, including any Product service levels specified therein, which remained uncured for thirty (30) days following written notice of breach (in the manner expressly permitted by and in accordance with such Maintenance Agreement), Ricoh shall use reasonable efforts to assist Customer in selecting a replacement Servicer. This Section 3(b) shall not alter, restrict, diminish or waive the rights, remedies or benefits that Customer may have against Servicer under the Maintenance Agreement.
  - (c) A Schedule may be terminated in whole or in part by the Customer in accordance with this Section 3(c) whenever the Customer shall determine that such a termination is in the best interest of the Customer. Any such termination shall be effected by delivery to Ricoh, at least thirty (30) working days prior to the effective date of such termination date, of a notice of termination specifying the extent to which performance shall be terminated. In the event of such termination, Customer agrees to return the Product to us in the manner required under Section 14 of this Lease Agreement and to pay to us (as compensation for loss of our bargain and not as a penalty), with respect to such terminated Product, financed Software and any Software Licenses, an amount which shall be equal to the monthly Payment for such Product, financed Software and/or Software License, as applicable, times the number of months remaining in the term of such Schedule (or any renewal of such Schedule) and/or any financing agreement with respect to the financed Software and/or Software License, plus any other amounts then due and payable under this Lease Agreement, Schedule and/or financing agreement with respect to such Product, Software and/or Software License, including, but not limited to, any lease payments and maintenance payments. Ricoh shall supply the Customer with the actual number of Payments remaining and the total amount due, and the Customer shall be relieved of all unpaid amounts for anticipated profit on unperformed services under any Maintenance Agreement (including any amount included in the monthly Payment that is attributable to maintenance, supplies, or any other service cost).
  - (d) You also agree that, except (a) as set forth in Section 18 below entitled "State and Local Government Provisions" and (b) for the best interest of the Customer as set forth in Section 3(c), THIS IS AN UNCONDITIONAL, NON-CANCELABLE AGREEMENT FOR THE MINIMUM TERM INDICATED ON ANY SCHEDULE TO THIS LEASE AGREEMENT. All Payments to us are "net" and unconditional and are not subject to set off, defense, counterclaim or reduction for any reason. You agree that you will remit payments to us in the form of company checks (or personal checks in



the case of sole proprietorships), direct debit or wires only. You also agree that cash and cash equivalents are not acceptable forms of payment for this Lease Agreement or any Schedule and that you will not remit such forms of payment to us. Payment in any other form may delay processing or be returned to you. Furthermore, only you or your authorized agent as approved by us will remit payments to us.

4. **Product Location; Use and Repair.** You will keep and use the Product only at the Product Location shown in the applicable Schedule. You will not move the Product from the location specified in the applicable Schedule or make any alterations, additions or replacements to the Product without our prior written consent, which consent will not be unreasonably withheld. At your own cost and expense, you will keep the Product eligible for any Manufacturer's certification as to maintenance and in compliance with applicable laws and in good condition, except for ordinary wear and tear. You shall engage Ricoh, its subsidiaries or affiliates, or an independent third party (the "Servicer") to provide maintenance and support services pursuant to a separate agreement for such purpose ("Maintenance Agreement"). You may make alterations, additions or replacements (collectively, "Additions") and add Software to the Product provided that such Additions and Software do not impair the value or originally intended function or purpose of the Product and is not subject to any lien or security interest in favor of any other party; provided, further, that you remove such Additions and Software at your own cost and expense at the expiration or termination of the applicable Schedule. All Additions and Software which are not removed at the expiration or termination of the applicable Schedule will become part of the Product and our property at no cost or expense to us. We may inspect the Product upon proper notice to the customer at any reasonable time during normal working hours.
5. **Taxes and Fees.** To the extent not prohibited by applicable law and unless and to the extent you are exempt and provide a valid exemption certificate to us, in addition to the payments under this Lease Agreement, you agree to pay all taxes (other than property taxes), assessments, fees and charges governmentally imposed upon our purchase, ownership, possession, leasing, renting, operation, control or use of the Product. If we are required to pay upfront sales or use tax and you opt to pay such tax over the term of the lease and not as a lump sum at lease inception, then you agree to pay us a "Sales Tax Administrative Fee" equal to 3.5% of the total tax due per year, to be included as part of the Payment. A valid sales and use tax exemption certificate must be provided to us within ninety (90) days of the first invoice to receive a credit/waiver of sales tax.
6. **Warranties.** We transfer to you, without recourse, for the term of each Schedule, any written warranties made by the Manufacturer or Software Supplier (as defined in Section 10 of this Lease Agreement) with respect to the Product leased or rented pursuant to such Schedule. YOU ACKNOWLEDGE THAT YOU HAVE SELECTED THE PRODUCT BASED ON YOUR OWN JUDGMENT AND YOU HEREBY AFFIRMATIVELY DISCLAIM RELIANCE ON ANY ORAL REPRESENTATION CONCERNING THE PRODUCT MADE TO YOU. However, if you enter into a Maintenance Agreement with Servicer with respect to any Product, no provision, clause or paragraph of this Lease Agreement shall alter, restrict, diminish or waive the rights, remedies or benefits that you may have against Servicer under such Maintenance Agreement. WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The only warranties, express or implied, made to you are the warranties (if any) made by the Manufacturer and/or Servicer to you in any documents, other than this Lease Agreement, executed by and between the Manufacturer and/or Servicer and you. YOU AGREE THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY, WE ARE NOT RESPONSIBLE FOR, AND YOU WILL NOT MAKE ANY CLAIM AGAINST US FOR, ANY CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES.
7. **Loss or Damage.** You are responsible for any theft of, destruction of, or damage to the Product (collectively, "Loss") from any cause at all, whether or not insured, from the time of Product acceptance by you until it is delivered to us at the end of the term of the Schedule. You are required to make all Payments even if there is a Loss. You must notify us in writing immediately of any Loss. Then, you shall be responsible to either (a) repair the Product so that it is in good condition and working order, eligible for any Manufacturer's certification, (b) pay us the amounts specified in Section 12 below, or (c) replace the Product with equipment of like age and capacity.
8. **Liability and Insurance.** You agree to maintain insurance, through self-insurance or otherwise, to cover the Product for all types of loss, including, without limitation, theft, in an amount not less than the full replacement value and you will name us as an additional insured and loss payee on your insurance policy. In

addition, you agree to maintain comprehensive public liability insurance, which, upon our request, shall be in an amount acceptable to us and shall name us as an additional insured. Such insurance will provide that we will be given thirty (30) days advance notice of any cancellation. Upon our request, you agree to provide us with evidence of such insurance in a form reasonably satisfactory to us. If you fail to maintain such insurance or to provide us with evidence of such insurance, we may (but are not obligated to) obtain insurance in such amounts and against such risks as we deem necessary to protect our interest in the Product. Such insurance obtained by us will not insure you against any claim, liability or loss related to your interest in the Product and may be cancelled by us at any time. You agree to pay us an additional amount each month to reimburse us for the insurance premium and an administrative fee, on which we or our affiliates may earn a profit. In the event of loss or damage to the Product, you agree to remain responsible for the Payment obligations under this Lease Agreement until the Payment obligations are fully satisfied.

9. **Title; Recording.** We are the owner of and will hold title to the Product (except for any Software). You will keep the Product free of all liens and encumbrances. Except as reflected on any Schedule, you agree that this Lease Agreement is a true lease. However, if any Schedule is deemed to be intended for security, you hereby grant to us a purchase money security interest in the Product covered by the applicable Schedule (including any replacements, substitutions, additions, attachments and proceeds) as security for the payment of the amounts under each Schedule. You authorize us to file a copy of this Lease Agreement and/or any Schedule as a financing statement, and you agree to promptly execute and deliver to us any financing statements covering the Product that we may reasonably require; provided, however, that you hereby authorize us to file any such financing statement without your authentication to the extent permitted by applicable law.
10. **Software or Intangibles.** To the extent that the Product includes Software, you understand and agree that we have no right, title or interest in the Software, and you will comply throughout the term of this Lease Agreement with any license and/or other agreement ("Software License") entered into with the supplier of the Software ("Software Supplier"). You are responsible for entering into any Software License with the Software Supplier no later than the Effective Date; provided, however, if you do not enter into the Software License, then we may choose not to lease such Software to you under this Lease Agreement.
11. **Default.** Each of the following is a "Default" under this Lease Agreement and all Schedules: (a) you fail to pay any Payment or any other amount within thirty (30) days of its due date, (b) any representation or warranty made by you in this Lease Agreement is false or incorrect and/or you do not perform any of your other obligations under this Lease Agreement or any Schedule and/or under any other agreement with us or with any of our affiliates and this failure continues for thirty (30) days after we have notified you of it, (c) a petition is filed by or against you or any guarantor under any bankruptcy or insolvency law or a trustee, receiver or liquidator is appointed for you, any guarantor or any substantial part of your assets, (d) you or any guarantor makes an assignment for the benefit of creditors, (e) any guarantor dies, stops doing business as a going concern or transfers all or substantially all of such guarantor's assets, or (f) you stop doing business as a going concern or transfer all or substantially all of your assets.
12. **Remedies.** If a Default occurs, we may do one or more of the following: (a) we may cancel or terminate this Lease Agreement and/or any or all Schedules; (b) we may require you to immediately pay to us, as compensation for loss of our bargain and not as a penalty, a sum equal to: (i) all past due Payments and all other amounts then due and payable under this Lease Agreement or any Schedule; and (ii) the present value of all unpaid Payments for the remainder of the term of each Schedule plus the present value of our anticipated value of the Product at the end of the initial term of any Schedule (or any renewal of such Schedule), each discounted at a rate equal to 3% per year to the date of default, and we may charge you interest on all amounts due us from the date of default until paid at the rate of 1.5% per month, but in no event more than the maximum rate permitted by applicable law. We agree to apply the net proceeds (as specified below in this Section) of any disposition of the Product to the amounts that you owe us; (c) we may require you to deliver the Product to us as set forth in Section 14; (d) to the extent not prohibited by applicable law, we or our representative may peacefully repossess the Product without a court order (it being agreed that we will provide you with written notice of Default prior to initiating recovery of the Product and will endeavor to contact you telephonically to schedule a convenient time to recover the Product); (e) we may exercise any and all other rights or remedies available to a lender, secured party or lessor under the Uniform Commercial Code ("UCC"), including, without limitation, those set forth in Article 2A of the UCC, and at law or in equity; (f) we may immediately terminate your right to use the Software including the disabling (on-site or by remote communication) of any



Software; (g) we may demand the immediate return and obtain possession of the Software and re-license the Software at a public or private sale; (h) we may cause the Software Supplier to terminate the Software License, support and other services under the Software License, and/or (i) at our option, we may sell, re-release, or otherwise dispose of the Product under such terms and conditions as may be acceptable to us in our discretion. If we take possession of the Product (or any Software, if applicable), we may sell or otherwise dispose of it with or without notice, at a public or private disposition, and to apply the net proceeds (after we have deducted all costs, including reasonable attorneys' fees) to the amounts that you owe us. You agree that, if notice of sale is required by law to be given, ten (10) days notice shall constitute reasonable notice. If applicable, you will remain responsible for any deficiency that is due after we have applied any such net proceeds. To the extent permitted by applicable law, in the event an action is brought to enforce or interpret this Lease Agreement, the prevailing party shall be entitled to reimbursement of all costs including, but not limited to, reasonable attorney fees and court costs incurred.

13. Ownership of Product; Assignment. YOU HAVE NO RIGHT TO SELL, TRANSFER, ENCUMBER, SUBLET OR ASSIGN THE PRODUCT OR THIS LEASE AGREEMENT OR ANY SCHEDULE WITHOUT OUR PRIOR WRITTEN CONSENT (which consent shall not be unreasonably withheld). You agree that we may sell or assign all or a portion of our interests, but not our obligations, in the Product and/or this Lease Agreement or any Schedule without notice to you even if less than all the Payments have been assigned. In the event the remit to address for Payments is changed during the term of this Lease Agreement or any Schedule, then Ricoh or the Assignee will provide notice to you. In that event, the assignee (the "Assignee") will have such rights as we assign to them but none of our obligations (we will keep those obligations) and the rights of the Assignee will not be subject to any claims, defenses or set offs that you may have against us. No assignment to an Assignee will release Ricoh from any obligations Ricoh may have to you hereunder. The Maintenance Agreement you have entered into with a Servicer will remain in full force and effect with Servicer and will not be affected by any such assignment. You acknowledge that the Assignee did not manufacture or design the Product and that you have selected the Manufacturer, Servicer and the Product based on your own judgment.

14. Renewal; Return of Product. UNLESS EITHER PARTY NOTIFIES THE OTHER IN WRITING AT LEAST THIRTY (30) DAYS, BUT NOT MORE THAN ONE HUNDRED TWENTY (120) DAYS, PRIOR TO THE EXPIRATION OF THE MINIMUM TERM OR EXTENSION OF SUCH SCHEDULE, AFTER THE MINIMUM TERM OR ANY EXTENSION OF ANY SCHEDULE TO THIS LEASE AGREEMENT, SUCH SCHEDULE WILL AUTOMATICALLY RENEW ON A MONTH-TO-MONTH BASIS; PROVIDED, HOWEVER, THAT AT ANY TIME DURING ANY MONTH-TO-MONTH RENEWAL, WE HAVE THE RIGHT, UPON THIRTY (30) DAYS NOTICE, TO DEMAND THAT THE PRODUCT BE RETURNED TO US IN ACCORDANCE WITH THE TERMS OF THIS SECTION 14. Notwithstanding the foregoing, nothing herein is intended to provide, nor shall be interpreted as providing, (a) you with a legally enforceable option to extend or renew the terms of this Lease Agreement or any Schedule, or (b) us with a legally enforceable option to compel any such extension or renewal. At the end of or upon termination of each Schedule, you shall immediately make arrangements to have the Product subject to such expired Schedule picked up by us (or our designee), in as good condition as when you received it, except for ordinary wear and tear. Ricoh (or our designee) shall bear shipping charges. You must pay additional monthly Payments at the same rate as then in effect under a Schedule, until (i) you provide notice to us prior to the expiration of the minimum term or extension of any Schedule and (ii) the Product is picked up by us or our designees and is received in good condition and working order by us or our designees. Notwithstanding anything to the contrary set forth in this Lease Agreement, the parties acknowledge and agree that we shall have no obligation to remove, delete, preserve, maintain or otherwise safeguard any information, images or content retained by or resident in any Products leased by you hereunder, whether through a digital storage device, hard drive or other electronic medium ("Data Management Services"). If desired, you may engage Ricoh to perform Data Management Services at then-prevailing contracted rates pursuant to your Maintenance Agreement or other agreement with Ricoh. You acknowledge that you are responsible for ensuring your own compliance with legal requirements in connection with data retention and protection and that we do not provide legal advice or represent that the Products will guarantee compliance with such requirements. The selection, use and design of any Data Management Services, and any decisions arising with respect to the deletion or storage of data, as well as the loss of any data resulting therefrom, shall be your sole and exclusive responsibility.

15. Miscellaneous. It is the intent of the parties that this Lease Agreement and any Schedule shall be deemed and constitute a "finance lease" as defined under and governed by Article 2A of the UCC. ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. YOU AGREE THAT THE TERMS AND CONDITIONS CONTAINED IN THE CONTRACT, THIS LEASE AGREEMENT, AND IN EACH SCHEDULE MAKE UP THE ENTIRE AGREEMENT BETWEEN US REGARDING THE LEASING OR RENTAL OF THE PRODUCT AND SUPERSEDE ALL PRIOR WRITTEN OR ORAL COMMUNICATIONS, UNDERSTANDINGS OR AGREEMENTS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER CONTAINED HEREIN, INCLUDING, WITHOUT LIMITATION, PURCHASE ORDERS. Any purchase order, or other ordering documents, will not modify or affect this Lease Agreement or any Schedule and shall serve only the purpose of identifying the equipment ordered. You authorize us to supply any missing "configure to order" number ("CTO"), other equipment identification numbers (including, without limitation, serial numbers), agreement/schedule identification numbers and/or dates in this Lease Agreement or any Schedule. You acknowledge that you have not been induced to enter into this Lease Agreement by any representation or warranty not expressly set forth in this Lease Agreement. Neither this Lease Agreement nor any Schedule is binding on us until we sign it. ANY CHANGE IN ANY OF THE TERMS AND CONDITIONS OF THIS LEASE AGREEMENT OR ANY SCHEDULE MUST BE IN WRITING AND SIGNED BY BOTH PARTIES. If we delay or fail to enforce any of its rights under this Lease Agreement with respect to any or all Schedules, we will still be able to enforce those rights at a later time. All notices shall be given in writing and sent either (a) by certified mail, return receipt requested, or recognized overnight delivery service, postage prepaid, addressed to the party receiving the notice at the address shown on the front of this Lease Agreement, or (b) by facsimile transmission, with oral confirmation, to the facsimile number shown below such party's signature on this Lease Agreement. Either party may change its address or facsimile number by giving written notice of such change to the other party. Notices shall be effective on the date received. Each of our respective rights and indemnities will survive the termination of this Lease Agreement and each Schedule. If more than one customer has signed this Lease Agreement or any Schedule, each customer agrees that its liability is joint and several. It is the express intent of the parties not to violate any applicable usury laws or to exceed the maximum amount of time price differential or interest, as applicable, permitted to be charged or collected by applicable law, and any such excess payment will be applied to payments in the order of maturity, and any remaining excess will be refunded to you. We make no representation or warranty of any kind, express or implied, with respect to the legal, tax or accounting treatment of this Lease Agreement and any Schedule and you acknowledge that we are an independent contractor and not your fiduciary. You will obtain your own legal, tax and accounting advice related to this Lease Agreement or any Schedule and make your own determination of the proper accounting treatment of this Lease Agreement or any Schedule. We may receive compensation from the Manufacturer or supplier of the Product in order to enable us to reduce the cost of leasing or renting the Product to you under this Lease Agreement or any Schedule below what we otherwise would charge. If we received such compensation, the reduction in the cost of leasing or renting the Product is reflected in the Minimum Payment specified in the applicable Schedule. To the fullest extent permitted by applicable law, you authorize us or our agent to obtain credit reports and make credit inquiries regarding you and your financial condition and to provide your information, including payment history, to our assignee and third parties having an economic interest in this Lease Agreement, any Schedule or the Product.

16. Governing Law; Jurisdiction; Waiver of Trial By Jury and Certain Rights and Remedies Under The Uniform Commercial Code. YOU AGREE THAT THIS LEASE AGREEMENT AND ANY SCHEDULE WILL BE GOVERNED UNDER THE LAW FOR THE STATE WHERE YOUR PRINCIPAL PLACE OF BUSINESS OR RESIDENCE IS LOCATED. YOU ALSO CONSENT TO THE VENUE AND NON-EXCLUSIVE JURISDICTION OF ANY COURT LOCATED IN THE STATE WHERE YOUR PRINCIPAL PLACE OF BUSINESS OR RESIDENCE IS LOCATED TO RESOLVE ANY CONFLICT UNDER THIS LEASE AGREEMENT. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, THE PARTIES TO THIS LEASE AGREEMENT EACH WAIVE THE RIGHT TO TRIAL BY JURY IN THE EVENT OF A LAWSUIT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU WAIVE ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON A CUSTOMER OR LESSEE BY SECTIONS 508-522 OF ARTICLE 2A OF THE UCC THAT YOU MAY HAVE AGAINST US (BUT NOT AGAINST THE



MANUFACTURER OF THE PRODUCT). TO HELP THE GOVERNMENT FIGHT THE FUNDING OF TERRORISM AND MONEY LAUNDERING ACTIVITIES, FEDERAL LAW REQUIRES ALL FINANCIAL INSTITUTIONS TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES EACH PERSON WHO OPENS AN ACCOUNT. WHAT THIS MEANS FOR YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE MAY ASK TO SEE IDENTIFYING DOCUMENTS.

17. Counterparts; Facsimiles. Each Schedule may be executed in counterparts. The counterpart which has our original signature and/or is in our possession or control shall constitute chattel paper as that term is defined in the UCC and shall constitute the original agreement for all purposes, including, without limitation, (a) any hearing, trial or proceeding with respect to such Schedule, and (b) any determination as to which version of such Schedule constitutes the single true original item of chattel paper under the UCC. If you sign and transmit a Schedule to us by facsimile or other electronic transmission, the facsimile or such electronic transmission of such Schedule, upon execution by us (manually or electronically, as applicable), shall be binding upon the parties. You agree that the facsimile or other electronic transmission of a Schedule containing your facsimile or other electronically transmitted signature, which is manually or electronically signed by us, shall constitute the original agreement for all purposes, including, without limitation, those outlined above in this Section. You agree to deliver to us upon our request the counterpart of such Schedule containing your original manual signature.

18. State and Local Government Provisions. If the Customer is a State or political subdivision of a State, as those terms are defined in Section 103 of the Internal Revenue Code, the following additional terms and conditions shall apply:

(a) Essentiality. During the term of this Lease Agreement and any Schedule, the Product will be used solely for the purpose of performing one or more governmental or proprietary functions consistent with the permissible scope of your authority. You represent and warrant that the use of the Product is essential to performing such governmental or proprietary functions.

(b) Non-Appropriation/Non-Substitution. (i) If your governing body fails to appropriate sufficient monies in any fiscal period for rentals and other payments coming due under a Schedule to this Lease Agreement in the next succeeding fiscal period for any equipment which will perform services and functions which in whole or in part are essentially the same services and functions performed by the Product covered by any such Schedule, then a "Non-Appropriation" shall be deemed to have occurred. (ii) If a Non-Appropriation occurs, then: (A) you must give us immediate notice of such Non-Appropriation and provide written notice of such failure by your governing body at least sixty (60) days prior to the end of the then current fiscal year or if Non-Appropriation has not occurred by such date, immediately upon Non-Appropriation, (B) no later than the last day of the fiscal year for which appropriations were made for the rental due under any Schedule to this Lease Agreement (the "Return Date"), you shall make available to us (or our designee) all, but not less than all, of the Product covered by such Schedule to this Lease Agreement, at your sole expense, in accordance with the terms hereof; and (C) any Schedule to this Lease

Agreement shall terminate on the Return Date without penalty or expense to you and you shall not be obligated to pay the rentals beyond such fiscal year, provided that (x) you shall pay any and all rentals and other payments due up through the end of the last day of the fiscal year for which appropriations were made and (y) you shall pay month-to-month rent at the rate set forth in any such Schedule for each month or part thereof that you fail to make available to us (or our designee) the Product as required herein. (iii) Upon any such Non-Appropriation, upon our request, you will provide an opinion of independent counsel or other legally designated authority (who shall be reasonably acceptable to us), in form reasonably acceptable to us, confirming the Non-Appropriation and providing reasonably sufficient proof of such Non-Appropriation.

(c) Funding Intent. You represent and warrant to us that you presently intend to continue this Lease Agreement and any Schedule hereto for the entire term of such Schedule and to pay all rentals relating to such Schedule and to do all things lawfully within your power to obtain and maintain funds from which the rentals and all other payments owing under such Schedule may be made. The parties acknowledge that appropriation for rentals is a governmental function to which you cannot contractually commit yourself in advance and this Lease Agreement shall not constitute such a commitment. To the extent permitted by law, the person or entity in charge of preparing your budget will include in the budget request for each fiscal year during the term of each Schedule, respectively, to this Lease Agreement an amount equal to the rentals (to be used for such rentals) to become due in such fiscal year, and will use all reasonable and lawful means available to secure the appropriation of money for such fiscal year sufficient to pay all rentals coming due during such fiscal year.

(d) Authority and Authorization. (i) You represent and warrant to us that: (A) you are a State or political subdivision of a State, as those terms are defined in Section 103 of the Internal Revenue Code; (B) you have the power and authority to enter into this Lease Agreement and all Schedules to this Lease Agreement; (C) this Lease Agreement and all Schedules to this Lease Agreement have been duly authorized, executed and delivered by you and constitute valid, legal and binding agreement(s) enforceable against you in accordance with their terms; and (D) no further approval, consent or withholding of objections is required from any governmental authority with respect to this Lease Agreement or any Schedule to this Lease Agreement. (ii) If and to the extent required by us, you agree to provide us with an opinion of independent counsel or other legally designated authority (who shall be reasonably acceptable to us) confirming the foregoing and other related matters, in form and substance acceptable to us. (iii) You agree to take all required actions and to file all necessary forms, including IRS Forms 8038-G or 8038-GC, as applicable, to preserve the tax exempt status of this Lease Agreement and all Schedules thereto. (iv) You agree to provide us with any other documents that we may reasonably request in connection with the foregoing and this Lease Agreement.

(e) Assignment. You agree to acknowledge any assignment to the Assignee in writing, if so requested, and, if applicable, to keep a complete and accurate record of all such assignments in a manner that complies with Section 149(a) of the Internal Revenue Code and the regulations promulgated thereunder.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the dates set forth below.

THE PERSON SIGNING THIS LEASE AGREEMENT ON BEHALF OF THE CUSTOMER REPRESENTS THAT HE/SHE HAS THE AUTHORITY TO DO SO.

<p><b>CUSTOMER</b></p> <p>By: <u>X</u></p> <p><i>Authorized Signer Signature</i></p> <p>Printed Name: _____</p> <p>Title: _____ Date: _____</p> <p>Facsimile Number: _____</p>	<p>Accepted by: <b>RICOH USA, INC.</b></p> <p>By: _____</p> <p><i>Authorized Signer Signature</i></p> <p>Printed Name: _____</p> <p>Title: _____ Date: _____</p> <p>Facsimile Number: _____</p>
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RESOLUTION NO.: 277 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
A CONTRACT ADDENDUM WITH VIRTUAL TOWN HALL HOLDINGS, LLC  
TO REDESIGN THE CITY OF NEWBURGH WEBSITE AT A COST OF \$3,250.00**

**WHEREAS**, by Resolution No. 61-2012 of April 23, 2012, the City Council of the City of Newburgh approved an agreement with Virtual Town Hall Holdings, LLC to provide design, development and support services in connection with the City of Newburgh Website; and

**WHEREAS**, the City has received a contract addendum from Virtual Town Hall Holdings, LLC to provide for website redesign and implementation; and

**WHEREAS**, the cost for the redesign and implementation services shall be \$3,250.00 and such funding shall be derived as follows:

A.1680.0491—Website Design	\$1,500.00
A.8684.0441—Printing	\$1,500.00
CDBG funding	\$ 250.00; and

**WHEREAS**, this Council has reviewed such addendum and has determined that entering into the same 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 is hereby authorized to execute a contract addendum with Virtual Town Hall Holdings, LLC to provide for website redesign and implementation in connection with the City of Newburgh Website at a cost of \$3,250.00



## Virtual Towns & Schools - Services Contract Addendum

Agreement between Virtual Town Hall Holdings, LLC of Boxborough, MA ("VTHH") and the City of Newburgh, NY ("Client").

### WITNESSETH:

WHEREAS, VTHH is the current primary website services provider for Client, and

WHEREAS, the Client hereto desires to redesign the look & navigation of its current VTHH website,

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree to amend their current agreement as follows:

1. VTHH will provide a new, custom design for the main website based on the Client's direction and ultimately approved by the Client prior to implementation.
2. Services summary, payment terms, and other elements for this addendum are contained in Exhibit A hereto.

City of Newburgh, NY  
83 Broadway  
Newburgh, NY 12550

Virtual Town Hall Holdings, LLC  
1300 Massachusetts Avenue  
Boxborough, MA 01719

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Millard Rose  
President

\_\_\_\_\_  
Name

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Keeping You Ahead of Rising Expectations

## Exhibit A

### One Time Charges: Design & Development Newburgh, NY

#### Phase 1: Main Website Design (Including "Responsive Design")

- Create Site Homepage Design & Layout; Modify Design until Approved
- Create Subpage Design & Layout

#### Phase 2: Site Implementation

- Identify Global Navigation, Cascading Navigation & Related Links
- Implement Design within VTS Responsive Design Content Management System

#### Phase 3: Content Development

- Re-map All Existing Web Pages as Necessary into New Design

#### Phase 4: User Training

- One (1) On-Line Group Training Session (Approx 1.5 to 2 hrs).  
Note: Small Amount of Training Needed for Existing Users.

#### Phase 5: Website Deployment

- Final Site Review and Link Checking
- DNS Activities

Total "One-Time" Charges for Project:

\$3,000

#### Payment Terms:

- Initial 50% of project costs invoiced upon execution of contract (Due on Receipt)
- Final 50% of project costs invoiced upon Go Live Date of New Design (Due on Receipt)

#### Option:

- "Unique Identity" Custom Sub-sites (\$1,850 1-Time Cost / Sub-Site) If yes, \_\_\_\_ #
  - Does not increase annual costs
  - Does not include content migration from non-VTS platform
    - Content migration from non-VTS quoted upon request.
- Text Messaging (integrated into Urgent News module) If yes, \_\_\_\_ (Initial Here)
  - \$250/year which includes 5,000 text messages/year.
    - Messages over 5,000 at a cost of 2 cents per message.

RESOLUTION NO.: <sup>278</sup>\_\_\_\_\_ - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN EQUIPMENT SERVICE AGREEMENT WITH  
LINSTAR, INC. FOR SURVEILLANCE CAMERA EQUIPMENT  
LOCATED IN THE PRISONER CELLS IN THE BROADWAY COURTHOUSE  
AT A COST OF \$1,860.00 FOR ONE YEAR**

**WHEREAS**, the City of Newburgh has installed surveillance camera equipment to monitor the prisoner cells located in the Broadway Courthouse; and

**WHEREAS**, the surveillance camera equipment requires periodic maintenance service and Linstar, Inc. has been identified as the most appropriate and cost-effective maintenance service provider; and

**WHEREAS**, the total cost of the maintenance agreement will be \$1,860.00 for one year; and

**WHEREAS**, such funds are established and shall be derived from Budget Line A.1680.0448 – Other Services; and

**WHEREAS**, a copy of said Equipment Service Agreement is attached hereto; and

**WHEREAS**, this Council has reviewed such agreement and has determined that it is in the best interests of the City of Newburgh to enter into such agreement;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute an Equipment Service Agreement with Linstar, Inc. in substantially the same form as annexed hereto for maintenance and service according to the terms therein stated at the cost of \$1,860.00 for one year.



## LINSTAR EQUIPMENT SERVICE AGREEMENT

*Between:*

**LINSTAR, Inc.**  
430 Lawrence Bell Drive  
Buffalo, NY 14221-7085

*and*

**City of Newburgh**  
83 Broadway  
Newburgh, NY 12550

LINSTAR, Inc. agrees to provide and the Customer agrees to accept maintenance service on the equipment listed, at the annual charges indicated in the attached equipment list, in accordance with the following terms and conditions:

### 1. TERM OF AGREEMENT

- 1.1 The Agreement is effective from the commencement date and shall continue for an initial minimum term of one (1) year unless otherwise indicated. All Agreements shall be billed for one year in advance.
- 1.2 If any issues arise during the course of the agreement that cannot be resolved due to the manufacturer not supporting the equipment any longer, LINSTAR will refund the unused portion of your agreement.

### 2. MAINTENANCE SERVICE

- 2.1 LINSTAR agrees to provide maintenance service availability Monday through Friday, from 8:00 a.m. to 5:00 p.m., and keep the equipment in good working order while operated in accordance with LINSTAR's published specifications while the equipment is located within LINSTAR's area of responsibility.
- 2.2 Payment of the charges set forth in Attachment One shall entitle the Customer to parts and labor for scheduled preventive maintenance and on-call remedial maintenance as specified in Attachment One, excluding holidays observed by LINSTAR. If the covered equipment under this Agreement includes imprints and/or data recorders, the attached Addendum is made part of this Agreement.
- 2.3 Payment of Basic Maintenance Charge shall begin as specified in Attachment One. If applicable, contracted extension charges or zone charges as specified in Attachment One

will be assessed immediately after equipment installation, for such charges are not included in the equipment warranty allowance.

### 3. CHARGES

All service calls made on equipment not under maintenance contract shall be invoiced immediately at prevailing rates. These rates are subject to change without notice.

- 3.1 Overtime charges: An additional charge for maintenance services rendered outside of the Period of Coverage, M-F 8:00 AM to 5:00 PM, will be made to the Customer at the rates set forth in the established LINSTAR Hourly Maintenance Price List in effect at the time services are performed.
- 3.2 Any maintenance service started during the Period of Coverage and completed within one hour after such period shall be treated as having been performed within such period and no additional charges shall be made.

### 4. TRAVEL EXPENSES

- 4.1 All travel expenses of LINSTAR Authorized Maintenance personnel for maintenance services not covered by the Period of Coverage will be paid by the Customer at the rates set forth in the LINSTAR Maintenance Price List in effect at the time of occurrence.



**5 EQUIPMENT INSTALLATION AND RELOCATION**

5.1 The Customer, at its own expense, agrees to have the installation site prepared in accordance with the installation instructions of LINSTAR, including Customer's PCs meeting minimum specifications for the LINSTAR provided equipment and software, prior to the arrival of equipment and, where necessary, shall provide computer and operator time and prepare necessary diagnostic routines in order to establish functional compatibility. LINSTAR shall install and check out all equipment.

5.2 After the original installation, the Customer must notify LINSTAR in writing at least fourteen days prior to relocation of any equipment covered by this Agreement. The Customer will, at its own expense, furnish labor for packing and unpacking equipment and both labor and equipment needed for moving equipment to the new location. If the new location is at different premises causing LINSTAR to expend increased travel time and cost, Customer agrees to pay reasonable increased monthly maintenance charges.

**6. EXCLUSIONS**

6.1 The agreement does not cover network or PC issues that are that of the customers. This includes software re-installs if a PC or Server is changed or upgraded.

6.2 If a lift is required to facilitate service or repair it will be the responsibility and the cost the customer to service.

6.3 Technician wait time is chargeable if all required parties on the part of the customer or system access system are not available to allow work to commence.

6.4 Service calls are billable if the equipment operating environments are not conducive to equipment operations, such as excessively hot or smoke filled.

6.5 There will be no charge for software upgrades if a software maintenance agreement is purchased, however, the labor associated to install any upgrade is billable at the then travel and maintenance (T & M) rates.

6.6 Maintenance service is contingent upon the proper use of all equipment and does not include: Ribbons, cards, plates, foils, forms,

type wheels, ink rollers, print rollers, rubber platens, print heads, plate frames, stencils, toner, and other like supplies for use with the equipment, including maintenance purposes, are to be provided by the Customer. Repairs resulting from use of supplies from sources other than LINSTAR are excluded and will be subject to prevailing time and materials charges.

6.7 Electrical work external to the equipment or maintenance of accessories, attachments, or devices not furnished by LINSTAR.

6.8 Service caused by supply items that do not meet LINSTAR specifications.

6.9 Repair of damage or increase in service time resulting from: Accident, transportation, neglect, theft, fire or water damage, misuse or other than ordinary use; failure of electrical power, air conditioning, or humidity control; and alterations which include but are not limited to, any changes in LINSTAR design, installation, or removal of LINSTAR features, or any other modification, whenever any of the foregoing are performed by other than LINSTAR representatives.

6.10 Expendable supply items or materials therefore; making specification changes or performing services connected with relocation of equipment, and adding or removing accessories, attachments, or other devices.

6.11 Such service, which is impractical for LINSTAR representatives to render because of alterations in the equipment or their connection by mechanical or electrical means to another machine or device.

6.12 Equipment located in an unsuitable place of installation or an unsafe or hazardous environment, as determined by LINSTAR.

6.13 Problems relating to or caused by software that was not supplied by LINSTAR.

6.14 Routine problems such as changing ribbons, clearing bill jams, and encoding cards.

6.15 Further importing/exporting of software and data is excluded. Additional importing/exporting is



- subject to additional charges. All Customer data must be backed up daily.
- 6.16 Loading of operating system updates or service packs. Customer shall maintain their own software updates and keep their systems up to date.

- 6.17 Migration of data or software from one PC to the next is a billable service call.

## **7. TAXES**

- 7.1 There shall be added to the above charges an amount equal to any municipal, state, and federal taxes, however designated, levied, or based on such charges of this Agreement that may be paid or be payable by LINSTAR. These additional charges shall also include any tax (excluding income tax) not presently deemed applicable, but which is hereinafter held applicable by new law, interpretation of existing law, or otherwise. This paragraph does not apply to tax exempt institutions or agencies.

## **8. PAYMENTS**

- 8.1 All charges set forth in Attachment One of this Agreement, including taxes, shall be billed by system in advance and are payable in full within thirty days after date of invoice.

## **9. LINSTAR PROPERTY**

- 9.1 Maintenance software, test equipment, and similar property used by LINSTAR at the installation site (even if shipped with the equipment) shall remain the exclusive property of LINSTAR and shall be for the sole use of LINSTAR and under the control of LINSTAR.

## **10. ACCESS TO EQUIPMENT**

- 10.1 LINSTAR shall have full and free access to the equipment to provide service thereon.

## **11. MODIFICATIONS**

- 11.1 If persons other than LINSTAR representatives perform maintenance or repair of a unit of equipment, and as a result further repair by LINSTAR is required, such repairs are not included in the charges set forth in this Agreement, and will be made at LINSTAR's applicable time and material rate and terms then in effect. Maintenance by third parties could be the basis for voiding any existing warranties.
- 11.2 This contract may not be modified or terminated orally, and no modification or termination nor any claimed waiver of any of the provisions

hereof shall be binding unless in writing and signed by the party against whom such modification, termination, or waiver is sought to be enforced.

## **12. ENGINEERING CHANGES**

- 12.1 Engineering changes, determined applicable to Customer will be controlled and installed by LINSTAR at no charge on equipment covered by this Agreement. The Customer may, by providing notice subject to written confirmation by LINSTAR, elect to have only mandatory changes, as determined by LINSTAR installed on equipment so designated.

## **13. LIMITATION OF LIABILITY**

- 13.1 In no event shall LINSTAR be liable for special, incidental, consequential or punitive damages. In no event shall LINSTAR'S total liability under this agreement exceed the sum of all amounts paid by customer to LINSTAR under this agreement up to the time the cause of action arose.

- 13.2 LINSTAR shall not be liable for any data lost or damaged during any service provided by LINSTAR, and in the event of any lost or damaged data LINSTAR shall not be liable for damages exceeding the actual amount paid by the customer to LINSTAR for services provided, or in the event of an annual maintenance agreement, the amount paid for the said agreement. In no event, regardless of the form of action, whether in contract or in tort, including negligence, shall LINSTAR be liable for incidental damages, consequential damages, lost data, loss of use of the equipment, or lost profits, resulting from any services performed by LINSTAR notwithstanding the fact that the customer may have been advised of the possibility of such damages.

- 13.3 Other than as set forth above in this paragraph, LINSTAR disclaims all warranties with respect to the equipment (including without limitation warranties as to merchantability and fitness for a particular purpose), either expressed or implied. The above express warranty is in lieu of all obligations or liabilities on the part of LINSTAR for damages, including but not limited to special, incidental, or consequential damages arising out of or in connection with the use or performance of this equipment.

**14. GOVERNING LAW**

14.1 This contract shall be governed by and construed according to the laws of the State of New York.

**15. ASSIGNMENT**

15.1 This agreement is not assignable by Customer without written permission from LINSTAR, such permission not to be unreasonably withheld, and any attempt by Customer to assign any rights, duties, or obligations, which arise under this Agreement without such permission, shall be void.

**16. MISCELLANEOUS**

16.1 This Agreement constitutes the complete and exclusive statement of the agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement, any prior course of dealing, customer, or usage of trade or course performance notwithstanding.

16.2 I agree to restrict my firm from hiring LINSTAR employees. I may hire a LINSTAR employee if I first secure written approval from LINSTAR and compensate LINSTAR a minimum of 1 full year's current salary and benefits and agree to a transition period acceptable to LINSTAR. This does not apply to candidates/employees that qualify for jobs via the civil service process.

16.3 Customer represents that Customer is not relying on any oral or written representations or warranties not contained in this written Agreement. In the event Customer uses Customer's purchase order form in connection with the ordering of the Equipment, such order will be governed by the terms of this Agreement and any provision of such order form that in any manner differs from or is in addition to the provisions of this Agreement shall be of no force or effect. LINSTAR acceptance of such order is expressly made conditional on Customer's assent to the terms of this Agreement. Any acknowledgement by Customer of this Agreement shall be limited to the terms of this Agreement, and any provision in such acknowledgement that in any manner differs from or is in addition to the provisions of this Agreement shall be of no force or effect.

16.4 All drawings, designs and techniques, and improvements (whether patentable or unpatentable) made or conceived by LINSTAR or its agents or employees in the fulfillment of this contract shall be the property of LINSTAR and Customer agrees not to use for its own benefit or disclose to or use for the benefit of any other person any of such property.

Customer acknowledges that it has read this Agreement and understands and agrees to all terms and conditions stated herein.

IN WITNESS WHEREOF, the parties have duly executed this agreement, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Name: Nancy Frodella

Signature: Nancy Frodella

Title: Service Coordinator

Date: July 5, 2016

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

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

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

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







## ATTACHMENT 1

## LINSTAR EQUIPMENT SERVICE AGREEMENT

Licensed by the NYS Department of State # 12000071720

NYS Contract #: PT63106

Between:

LINSTAR, Inc.  
430 Lawrence Bell Drive  
Buffalo, NY 14221-7085

and

City of Newburgh  
83 Broadway  
Newburgh, NY 12550

PO 20686

Contract #: 11369-02Zone ☒ A ☐ B ☐ C

## EQUIPMENT SCHEDULE

QTY	DESCRIPTION	SERIAL #
16	P3215-V Indoor Vandal Resistant Fixed Dome Camera	00408CFCEFDf, 00408CFCEFE0, 00408CFCEFD8, 00408CFCRFD9, 00408CFCEFDA, 00408CFCEFDE, 00408CFCEFDD, 00408CFCEFDC, 00408CFCEFDB, ACCC8E311BC4, ACCC8E311ECD, ACCC8E311ECC, ACCC8E311EA6, ACCC8E311B53, ACCC8E31140C, ACCC8E313259
1	Axis Q6044E Exterior PTZ Camera	ACCC8E1F9B5C
1	Wall Mount	n/a

The customer agrees to pay the following charges for a preventive maintenance trip and on-call remedial maintenance service in accordance with the terms set forth in the Service Agreement between above parties, for the period:  
**July 1, 2016 through June 30, 2017**

<b>Charges for Basic Principal Period of Maintenance</b>	<b>TOTAL: \$ 1,860.00</b>
--	---------------------------

LINSTAR, Inc. Service Request Phone Number: (716) 631-9200

Service Hours are Monday – Friday, 8:00am – 5:00pm.

Holidays observed by LINSTAR, Inc. are: New Years Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving Day, the day following Thanksgiving, the 24<sup>th</sup> of December, and Christmas Day.Accepted by LINSTAR, Inc.:

Name: Nancy Frodella

Signature:

Title: Service Coordinator

Date: July 5, 2016

Accepted by Customer:

Name:

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

Title:

Date:

P.O. #:

OF

OCTOBER 24, 2016

**A RESOLUTION REQUESTING AN EXEMPTION FROM COUNTY  
TAXES FOR THE CITY'S RESERVOIR AND FILTER PLANT  
PROPERTIES FOR THE YEAR 2018**

**BE IT RESOLVED**, by the Council of The City of Newburgh, New York, that the City Manager be and he is hereby authorized and directed to request a real property tax exemption from real property taxes to be levied by the County of Orange on all of the City's reservoir and filter plant properties, and the buildings and improvements thereon, and to be constructed thereon in the Town of Newburgh and the Town of New Windsor, pursuant to the provisions of Section 406, subdivision 3, of the Real Property Tax Law of the State of New York.

The requested exemption would include exemption from all taxation, special ad valorem levies and special assessments through December 31, 2018, so long as the subject premises are used for the aforesaid purposes.

The specific properties involved are as follows:

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
	TOWN OF NEWBURGH	75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44; and

**BE IT FURTHER RESOLVED**, that the City Manager be and he is hereby authorized to execute an Agreement, a copy of which is annexed hereto, with the County of Orange to effectuate such exemption.

AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by and between

THE CITY OF NEWBURGH, a municipal corporation duly organized and existing under the laws of the State of New York and having its principal place of business at City Hall, 83 Broadway, in the City of Newburgh, County of Orange, State of New York; and

THE COUNTY OF ORANGE, a municipal corporation duly organized and existing under the laws of the State of New York and having its principal place of business at the Orange County Government Center, Main Street in the Village of Goshen, County of Orange and State of New York,

WHEREAS, the City of Newburgh is the owner of several parcels of real property located in the Towns of Newburgh and New Windsor, Orange County, New York and designated on the official tax map of said towns as set forth in Schedule "A" annexed hereto and made a part hereof; and

WHEREAS, The City of Newburgh uses said property for the operation of a water filtration plant and reservoirs exclusively; and

WHEREAS, The County of Orange has in the past, imposed taxes against said parcels of real property; and

WHEREAS, Section 406(3) of the Real Property Tax Law of the State of New York in essence, inter alia, provides that real property owned by a municipality with a population of less than 100,000 people, which property is located without its corporate limits and is used as a reservoir or water filtration plant may be wholly or partially exempt from taxation, special ad valorem levies, and special assessments, provided that the governing board of the taxing authorities so agree in writing; and

WHEREAS, the aforesaid relief from County taxes was requested by said municipality by Resolution Number \_\_\_\_\_-2016 of October 24, 2016 of The City of Newburgh, New York; and

WHEREAS, the County of Orange was authorized to enter into this agreement by Resolution Number \_\_\_\_\_ of \_\_\_\_\_, dated \_\_\_\_\_, 201\_\_\_\_, of the Orange County Legislature, it appearing that such agreement would be in the best interests of the citizens of Orange County,

NOW, THEREFORE, in consideration of the premises and pursuant to Real Property Tax Law, Section 406 (3), it is agreed as follows:

1. The County of Orange, by action of the Legislature thereof, shall wholly exempt the parcels of real property, listed in Schedule "A" annexed hereto, together with the buildings and improvements now existing thereon or hereinafter installed, owned by The City of Newburgh and exclusively used as a water filtration plant and reservoir properties, which properties are located in the Town of Newburgh and Town of New Windsor, County of Orange, State of New York, and which properties are designated by section, block and lot in Schedule "A", annexed hereto on the official tax map of said towns, from all taxation, special ad valorem levies, and special assessments levied by Orange County for the County tax year, January 1, 2018 to December 31, 2018 so long as the subject premises are used for the aforesaid purposes.

2. This agreement shall not be self-renewing and shall not be extended to any County tax year after December 31, 2018, unless the Orange County Legislature specifically renews or extends the same before the applicable taxable status date for any such year.

3. The County of Orange expressly reserves its right to impose, levy and collect with respect to the subject premises, any financial obligation not specifically excluded by the provisions of Real Property Tax Law, Section 406 (3).

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

[SEAL]

THE CITY OF NEWBURGH

By: \_\_\_\_\_  
Michael G. Ciaravino,  
City Manager  
Pursuant to Res. No.: \_\_\_\_\_ -2016

[SEAL]

THE COUNTY OF ORANGE

By: \_\_\_\_\_  
Stefan ("Steven") M. Neuhaus,  
County Executive

APPROVED AS TO FORM:

\_\_\_\_\_  
MICHELLE KELSON  
Corporation Counsel

\_\_\_\_\_  
KATHRYN MACK  
City Comptroller

**SCHEDULE "A"**

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
	TOWN OF NEWBURGH	75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44

RESOLUTION NO.: <sup>280</sup>\_\_\_\_\_ - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 77 WILLIAM STREET (SECTION 39, BLOCK 2, LOT 24) AT PRIVATE  
SALE TO BISESSAR ALVIN MOONESAR FOR THE AMOUNT OF \$20,000.00**

**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 77 William Street, being more accurately described as Section 39, Block 2, Lot 24 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 purchaser 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 January 23, 2017, being 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>
77 William Street	39 – 2 – 24	Bisessar Alvin Moonesar	\$20,000.00

**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

## 77 William Street, City of Newburgh (39-2-24)

### 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, parcel shall be defined as a section, block and lot number.
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 2016-2017, 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 2016-2017, 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: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. 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 their consideration.
6. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
7. Notice is hereby given that the property is vacant and unoccupied. The parcel is being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the property and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
8. 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.

9. 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 successful purchaser following the closing of sale.
10. 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.
11. 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 on or before January 23, 2017. *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.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. 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. 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 their consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. 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 has closed and the deed has been recorded. 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, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording 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 and provided to the City Corporation Counsel by the purchaser at least ten (10) days in advance of closing title and approved by the City's Engineer.
17. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.

18. 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 24 months subsequent to the auction date. If such conveyance occurs, the 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 at auction 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.

RESOLUTION NO.: 281 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 69 WILLIAM STREET (SECTION 39, BLOCK 2, LOT 25) AT PRIVATE  
SALE TO BISESSAR ALVIN MOONESAR FOR THE AMOUNT OF \$4,000.00**

**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 69 William Street, being more accurately described as Section 39, Block 2, Lot 25 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 purchaser 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 January 23, 2017, being 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>
69 William Street	39 – 2 – 25	Bisessar Alvin Moonesar	\$4,000.00

**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

### 69 William Street, City of Newburgh (39-2-25)

#### 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, parcel shall be defined as a section, block and lot number.
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 2016-2017, 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 2016-2017, 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: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. 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 their consideration.
6. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
7. Notice is hereby given that the property is vacant and unoccupied. The parcel is being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the property and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
8. 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.

9. 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 successful purchaser following the closing of sale.
10. 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.
11. 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 on or before January 23, 2017. *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.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. 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. 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 their consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. 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 has closed and the deed has been recorded. 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, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording 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 and provided to the City Corporation Counsel by the purchaser at least ten (10) days in advance of closing title and approved by the City's Engineer.
17. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.

18. 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 24 months subsequent to the auction date. If such conveyance occurs, the 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 at auction 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.

**RESOLUTION NO.: 282 - 2016**

**OF**

**OCTOBER 24, 2016**

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 20 GROVE STREET (SECTION 26, BLOCK 8, LOT 10)  
AT PRIVATE SALE TO MAGALY AGUIRRE FOR THE AMOUNT OF \$9,000.00**

**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 20 Grove Street, being more accurately described as Section 26, Block 8, Lot 10 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 purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser 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 January 23, 2017, being 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>
20 Grove Street	26 – 8 – 10	Magaly Aguirre	\$9,000.00

**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

### 20 Grove Street, City of Newburgh (26-8-10)

#### STANDARD TERMS:

1. City of Newburgh acquired title to these properties 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, parcel shall be defined as a section, block and lot number.
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 2016-2017, 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 2016-2017, 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 except that where the water meter reading nets a usage to the purchaser of less than 6 units for the quarterly bill, the purchaser shall be responsible for a minimum water and sewer bill of 6 units.
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: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. 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 their consideration.
6. Notice is hereby given that the property is occupied. This parcel is being sold subject to the City's Rental License Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the property and remit the rental license fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
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 successful 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 on or before January 23, 2017. *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.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. 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. 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 their consideration.
11. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. 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.
12. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. 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.
13. 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, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
14. 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.
15. 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 and 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.

16. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.
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 24 months subsequent to the auction date. If such conveyance occurs, the 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 at auction 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.

RESOLUTION NO.: 283 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 216 BROADWAY (SECTION 29, BLOCK 8, LOT 7) AT PRIVATE SALE  
TO RAFIQ MAJEED FOR THE AMOUNT OF \$26,000.00**

**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 216 Broadway, being more accurately described as Section 29, Block 8, Lot 7, 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 purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser 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 January 23, 2017, 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>
216 Broadway	29 – 8 – 7	Rafiq Majeed	\$26,000.00

**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

## 216 Broadway, City of Newburgh (29-8-7)

### STANDARD TERMS:

1. City of Newburgh acquired title to these properties 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, parcel shall be defined as a section, block and lot number.
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 property is sold subject to unpaid school taxes for the tax year of 2016-2017, 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 2016-2017, 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: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. 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 their consideration.
6. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same
7. Notice is hereby given that the properties are vacant and unoccupied. These parcels are being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the properties and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.

8. 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.
9. 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 successful purchaser following the closing of sale.
10. 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.
11. 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 on or before January 23, 2017. *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.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. 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. 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 their consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. 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 has closed and the deed has been recorded. 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, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording 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 and 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. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.
18. 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 24 months subsequent to the auction date. If such conveyance occurs, the 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 at auction 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.

RESOLUTION NO.: 284 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING APPROVAL OF A GENERAL LIABILITY  
INSURANCE POLICY FOR CITY-OWNED TAX FORECLOSED PROPERTIES FOR  
THE PERIOD OF OCTOBER 27, 2016 TO OCTOBER 26, 2017**

**WHEREAS**, the City of Newburgh has maintained general liability insurance coverage for City-owned tax-foreclosed properties since 2010; and

**WHEREAS**, Arthur J. Gallagher of New York, Inc. has recommended a renewal of liability insurance coverage for Fiscal Year 2016-2017;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York hereby approves the insurance coverage for the term beginning October 27, 2016 through October 26, 2017 with all liability insurance to be provided by Nautilus Insurance Company; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized and directed to execute agreements with Arthur J. Gallagher of New York, Inc. to provide for insurance coverage for the City-owned tax foreclosed properties for the period of October 27, 2016 to October 26, 2017.



RESOLUTION NO.: 285 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
TELECOMMUNICATIONS ATTACHMENT AND RIGHTS-OF-WAY AGREEMENT  
WITH EXTENET SYSTEMS, INC.**

WHEREAS, on December 2, 2005, the New York State Department of Public Service granted ExteNet System, Inc.'s application for a Certificate of Public Convenience and Necessity to operate in the State of New York as a facilities-based provider and reseller of telephone service to operate as a Competitive Local Exchange Carrier with authority to operate throughout the State of New York to provide telecommunications services; and

WHEREAS, the City of Newburgh is required by federal and State statutes, regulations and orders to grant all telecommunications service providers access to and occupancy of the public rights-of-way within the City on a non-discriminatory basis for the purpose of installing facilities to provide telecommunications services; and

WHEREAS, ExteNet System, Inc. has requested access to and occupancy of the City's rights-of-way for the purpose of installing small cell infrastructure on existing utility poles and light poles, including utility poles and light poles owned by the City, within the jurisdictional boundaries of the City; and

WHEREAS, the City is authorized by State statutes, regulations and orders to recover just and reasonable costs for administering telecommunications providers' access to the public rights-of-way within City's jurisdictional boundaries and requires an agreement between ExteNet Systems, Inc., and the City; and

WHEREAS, this Council has reviewed a Telecommunications Attachment and Rights-of-Way Agreement with ExteNet Systems, Inc. and finds that entering into such Agreement is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that this action constitutes a "Type II", as the quoted term is defined in the State Environmental Quality Review Act Regulations and that no further review for SEQRA purposes is required; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute the attached Telecommunications Attachment and Rights-of-Way Agreement, in substantially the same form as attached hereto and made part hereof with other provisions as Corporation Counsel may require, with ExteNet Systems, Inc. for the installation of small cell infrastructure on utility poles and light poles located within the jurisdictional boundaries of the City of Newburgh.

**TELECOMMUNICATIONS ATTACHMENT AND  
RIGHTS-OF-WAY AGREEMENT**

**between**

**The CITY of ~~of~~ NEWBURGH, NY**  
**and**

**EXTENET SYSTEMS, Inc.**

## **TELECOMMUNICATIONS ATTACHMENT AND RIGHTS-OF-WAY AGREEMENT**

The CITY of NEWBURGH, NY ("CITY"), a municipal corporation organized and existing under the laws of New York, and EXTENET SYSTEMS, INC., a corporation, organized and existing under the laws of Delaware ("ExteNet"), hereby enter into this Telecommunications Attachment and Rights-of-Way Agreement ("Agreement") effective as of \_\_\_\_\_, 2016, (the "Effective Date").

**WHEREAS** the State of New York Department of Public Service on December 2, 2005, granted ExteNet's application for a Certificate of Public Convenience and Necessity to operate in the State of New York as a facilities-based provider and reseller of telephone service to operate as a Competitive Local Exchange Carrier with authority to operate throughout the State of New York to provide telecommunications services; and

**WHEREAS** CITY is required by federal and State statutes, regulations and orders to grant all telecommunications service providers access to and occupancy of the public rights-of-way in CITY on a non-discriminatory basis for the purpose of installing facilities to provide telecommunications services; and

**WHEREAS** the jurisdictional boundaries of CITY include public rights-of-way and facilities that are used by, and useful to, telecommunications providers; and

**WHEREAS** CITY is authorized by State statutes, regulations and orders to recover just and reasonable costs for administering telecommunications providers' access to the public rights-of-way within CITY's jurisdictional boundaries.

**NOW THEREFORE**, in consideration of the promises and mutual covenants herein contained the CITY and ExteNet, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

### **1. Definitions**

Except as the context may otherwise require, each capitalized word or phrase in this Agreement shall have the meaning specified herein. All other terms in this Agreement shall be interpreted in accord with common usage in the telecommunications industry. Without limiting the generality of the foregoing, for purposes of this Agreement, the terms listed below are defined as follows:

- 1.1. "Attachment" means the placement, attachment or installation of one or more items of Equipment on, over, under or within any CITY ROW or to any CITY Facility.
- 1.2. "Commission" or "PUC" means the State of New York Public Service Commission.

- 1.3. "Equipment" means any and all radios, amplifiers, optical converters, multiplexers, antennae, cables, wires, conduits, innerducts, pedestals, boxes, cabinets, primary and auxiliary power supplies, power meters, support structures, mounting hardware, and all related or ancillary devices which may be owned by Licensee or Licensee's customers which shall be installed, maintained, operated or used by ExteNet to provide Service.
- 1.4. "ExteNet" shall mean ExteNet Systems, Inc., organized under the laws of the State of Delaware and to which the Commission has issued a certificate to operate as a provider of telecommunications services.
- 1.5. "Fee" means any one-time or recurring amount to be paid by ExteNet pursuant to this Agreement. Without limiting the generality of the foregoing, "Attachment Fees" means Fees paid in consideration of Attachments to Facilities, and "ROW Fees" means Fees paid to cover the reasonable costs for CITY to administer access to its ROW.
- 1.6. "Facility" or "Facilities" means any CITY-owned or leased structure upon or within which it is technically feasible to place Equipment, including, but not limited to any CITY -owned light poles or fixtures, traffic signal poles, or conduit in CITY Rights-of-Way.
- 1.7. "Node Poles" means those utility poles or Facilities to which ExteNet proposes to attach items of Equipment, other than wires and fiber optic cabling.
- 1.8. "Pole Placement" means the placement of a new wooden, metal or concrete pole or other vertical structure in CITY ROW when necessary or useful for ExteNet's provision of Service. "Pole Placement" does not include replacement of existing Utility Infrastructure poles.
- 1.9. "Restore" means returning a CITY- Facility or ROW to the condition it was in prior to Attachment, excepting reasonable wear and tear.
- 1.10. "Rights-of-Way" or "ROW" means the public ways and other areas now or hereafter existing that are owned by or otherwise subject to the jurisdiction and control of CITY , including without limitation, all space in, upon, above, along, across, under, and over any or all of the following: highways, streets, roads, lanes, courts, ways, alleys, boulevards, paths, curbs, sidewalks, bridges, overpasses, underpasses, tunnels, parks, parkways, waterways, easements, conduit, vaults, access manholes and "handholes".
- 1.11. "Service" means the transport, transmission and reception of signals carrying voice and data communications, including but not limited to format and/or protocol conversion and point-to-point transport of signals over fiber optic cables and other wireline connections as ExteNet provides as authorized by the [PUC/PSC] or Federal Communications Commission.

1.12. "State" means the State of New York.

1.13. "Utility Infrastructure" means existing poles and/or conduits owned or controlled by public or private utility companies, other than CITY-owned utility companies that are located in the ROW.

## **2. Grant of Access and Occupancy Rights**

2.1 Attachment to Third-Party Property. Subject to obtaining an existing utility easement or other suitable form of written permission of the owner(s) of the affected property, CITY hereby authorizes and permits ExteNet to enter upon the ROW and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace Equipment in or on Utility Infrastructure or other structures lawfully owned and operated by public utility companies or other property owners and located within or outside the Rights-of-Way. Upon request by CITY, ExteNet shall furnish to the City documentation in a form reasonably acceptable to the City of such permission from the individual utility or property owner. City shall provide a response to ExteNet within thirty days of submission of a completed application to access the ROW. A denial of an application for the Attachment of Equipment to Utility Infrastructure or other third-party poles or structures shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties if ExteNet's Equipment proposed for use is not materially different in size, shape and color of telecommunications or electrical equipment then existing in the ROW. The reason for any denial shall be provided in writing with the denial.

2.2 Approval of Equipment Design, Configurations and Attachments. ExteNet will submit to CITY an application with a proposed design for any Equipment that ExteNet proposes to use in CITY- Rights-of-Way. Such application shall include a map or annotated aerial photograph identifying which Utility infrastructure or Facilities ExteNet seeks to use for Attachments.

2.3

2.3.1 Change in Equipment. If ExteNet proposes an Attachment or installation of Equipment that differs in a material way from existing Equipment, then ExteNet shall first obtain the written approval for the use and installation of the Equipment from an authorized representative of CITY.

2.4 Equipment Attachment to Facilities. CITY- hereby grants to ExteNet the nonexclusive right, privilege, and license to enter and occupy CITY-'s Rights-of-Way. Such right to enter and occupy shall be for purposes of, and/or in connection with, Attachments of Equipment, and shall be subject to applicable rules, regulations or statutes setting forth non-discriminatory and reasonable controls as to the time, place and manner in which CITY-'s Rights-of-Way are

accessed and occupied in order to protect the health, safety and welfare of the public.

2.5 Pole Placements. In the event that an ExteNet application for Attachment is deemed impractical or denied by CITY due to lack of existing Facilities, the parties agree that either ExteNet shall be granted the right for Pole Placement in the Rights-of-Way or CITY shall place a Facility for Attachment of ExteNet's Equipment. City shall provide a response to ExteNet within thirty days of submission of a completed application. The reason for any denial shall be provided in writing with the denial. A denial of an application for Pole Placement shall not be based upon the size, quantity, shape, color, weight, configuration, or other physical properties of ExteNet's Equipment if the Equipment proposed conforms to Equipment which is already existing.

2.5.1 If the parties agree that Pole Placement is to be effected by ExteNet, ExteNet shall bear the entire cost and expense of all placement, installation, construction, and maintenance for Pole Placement.

2.6 Structural Integrity of Facility. If ExteNet selects a Facility that is structurally inadequate to accommodate Equipment, ExteNet may at its sole cost and expense replace the Facility with one that is acceptable to and approved by the City and dedicate such Facility to the CITY, provided that ExteNet shall be entitled to a credit against the Attachment Fees otherwise payable with respect to such Facility that is equal to the out-of-pocket cost of such replacement Facility paid by or for the account of ExteNet.

2.7 Assignment of Cost. Except as otherwise provided in this Agreement, ExteNet shall bear the entire cost and expense of all placement, installation, construction, maintenance, and operation of Equipment and/or Attachments and Pole Placements by ExteNet in the Rights-of-Way, and shall hold CITY harmless from any such costs or expense.

2.8 Power for Equipment and Facilities. ExteNet will be solely responsible for establishing electrical power services for all of its Equipment and for the payment of all electrical utility charges to the applicable utility company. Notwithstanding this provision, CITY and ExteNet may mutually agree that ExteNet may power its Equipment Attachments to Facilities from a power source available at or associated with the relevant CITY Facilities.

2.9 Additional Future Attachments. ExteNet may apply to CITY to expand its initial Network installation through the same process as specified in this Section 2.

### **3. Term**

Unless otherwise agreed, the term of this Agreement shall commence on the Effective

Date and continue thereafter for an initial period of ten (10) years (the "Initial Term"). ExteNet shall have the right to extend this Agreement for up to two renewal terms of five (5) years. The Agreement shall renew unless ExteNet gives CITY written notice of its election not to renew this Agreement not less than 180 days prior to the expiration of the Initial Term or a Renewal Term.

#### **4. Fees**

- 4.1.ROW Fees. ExteNet shall pay ROW Fees to cover CITY's reasonable cost of administering ExteNet's access to and occupancy of CITY's ROW for new Pole Placement and for installation of ExteNet Equipment within, over or under CITY's ROW, including Attachments to facilities owned by third parties. Such ROW Fees shall be computed on the basis of the rates set forth in Exhibit A attached and shall be based only on the number of Node Poles in use by ExteNet within the geographic boundaries of CITY during the relevant period. Subject to Section 5.3, ExteNet may remove any Equipment or Attachments in the ROW at any time and the corresponding ROW Fees shall cease upon removal.
- 4.2.Attachment Fees. ExteNet shall pay Attachment Fees to CITY for each CITY-owned or leased Facility to which ExteNet makes an Attachment. Such Attachment Fees shall be computed on the basis of the rates set forth in Exhibit A attached. Notwithstanding the foregoing, ExteNet shall not be liable for payment of any Attachment Fee if for any reason CITY's Facility is or subsequently becomes unusable for Attachments, or ExteNet withdraws its application for Attachment to such Facility before completing such Attachment or putting the Equipment into productive service. Subject to Section 5.3, ExteNet may remove any Attachment at any time and the corresponding Attachment Fees shall cease upon removal.
- 4.3.Other Fees and Compensation. The foregoing Fees are in addition to and not in lieu of any other non-discriminatory administrative fees and charges, imposed by CITY in connection with the issuance of construction permits, provision of copies of records, etc.
- 4.4.Payment Terms. All Fees payable pursuant to this Section 4 shall be paid annually in advance no later than January 31<sup>st</sup> of each year, and shall be based on the total Fees due for all Equipment, Attachments, and/or Node Poles occupying City ROW and/or Facilities as of December 31<sup>st</sup> of the previous year. Initial Fees for all new Equipment, Attachments, and/or Node Poles placed on City ROW and/or Facilities shall be paid in advance and due within 30 days of the date on which construction of the Equipment, Attachments, and/or Node Poles is completed (the "Commencement Date"). There shall be no proration of Fees.
- 4.5.Changes to Laws and Regulations Affecting Fee Rates. ExteNet and CITY acknowledge and agree that, in order to expedite the development and construction of ExteNet's DAS Network for the benefit of residents and visitors in

CITY the rates set forth in Exhibit A have been negotiated by the parties without complete information concerning their reasonableness relative to the costs to be incurred by CITY or the rates being charged to others for similar access, use and attachments in the same or contiguous market areas, and without regulatory review. Therefore, during the term of this Agreement if: (a) lower rates are established or charged to ExteNet's competitors as a result of any ordinance or regulation subsequently adopted by CITY or by the State or any federal agency having jurisdiction over such determinations; or (b) a court or regulatory agency makes a final, non-appealable determination that the rates set forth in Exhibit A or any portion thereof or any rates for similar access, use or attachments in the same or contiguous market areas that are equal to or lower than such rates are not reasonable or legal, then the parties shall negotiate in good faith to reduce the rates set forth in Exhibit A accordingly. Further if by the State or any federal agency having jurisdiction over such determinations; or (b) a court or regulatory agency makes a final, non-appealable determination that the terms and conditions of access to the ROW or rights of attachment to Facilities is materially different from or in addition to the rights set forth herein, the Parties will negotiate in good faith to amend the Agreement to reflect such determinations.

## **5. Construction**

- 5.1. CITY Approval. Prior to commencing construction, ExteNet shall identify to City Manager those portions of CITY's Rights-of-Way that ExteNet needs to access and/or occupy, and CITY's Facilities, if any, upon which ExteNet seeks to make Attachments. Further, ExteNet shall provide a map or annotated aerial photograph identifying which Facilities ExteNet seeks to use for Attachments. The City will identify those Facilities to which ExteNet can attach its Equipment. CITY shall have ~~thirty~~ forty-five (3045) days to review and approve ExteNet's construction plans, which approval shall not be unreasonably withheld, conditioned or delayed. CITY shall notify ExteNet in writing of its approval or disapproval of ExteNet's proposed construction plans and Attachments. In the event that CITY personnel fail to deliver to ExteNet written notice of approval or disapproval of such plans and Attachments within ~~thirty~~ forty-five (3045) days, such plans and Attachments shall be deemed approved by CITY.
- 5.2. Avoidance of Interference. ExteNet agrees that the placement, installation, construction, maintenance, operation and removal of Equipment installed in CITY Rights-of-Way and its Attachments to CITY Facilities or Utility Infrastructure shall be carried out in such locations and in such manner so as not to unreasonably interfere with water, gas, sewer pipe, traffic signal, street light and other utilities and conduits already existing.
- 5.3. Permits. ExteNet further agrees to obtain all necessary excavation or encroachment permits setting forth time, place and manner restrictions necessary to protect the health, safety and welfare of the public, prior to commencing construction required for Equipment Attachment or Pole Placement in CITY's



Rights of Way or Facilities. CITY agrees to cooperate in expediting the issuance of such permits as reasonably requested by ExteNet in order to meet the reasonable requirements of ExteNet's customers and the telecommunications services needs of end users served by them.

- 5.4. Street Furniture Cabinets. If a portion of ExteNet's Equipment, not including antennas, cannot be accommodated on CITY's Facilities, the parties agree that ExteNet may place such equipment in above-ground street furniture and equipment cabinets located in the Rights-of-Way, subject to the review, and approval of the CITY Planning Director, or in his/her discretion, Planning Board (a) of equipment size, design and location as part of the City's management of its rights of way. In no instance shall the installation of any of ExteNet's Equipment in street furniture or equipment cabinets block pedestrian walkways in the ROW or result in violation of the Americans with Disabilities Act. If ExteNet cannot obtain necessary permits, approvals or other authorizations to place street furniture or equipment cabinets in the Rights-of-Way, parties agree that ExteNet may place Equipment in below-ground vaults, and that CITY shall authorize such vaults expeditiously pursuant to applicable City Code zoning and undergrounding provisions. In such instance, ExteNet will be responsible for all costs associated with such below-ground vaults, including without limitation relocation costs of any public improvements or public utilities facilities.
- 5.5. Compliance with Law. When placing, installing, constructing, maintaining, operating, removing or relocating Equipment or Pole Placement in CITY Rights-of-Way, or making Attachments to CITY Facilities, ExteNet shall comply with all applicable federal and State statutes, regulations and orders, including but not limited to the [state Commission or legislative construction standards], National Electric Code (NEC) and/or National Electric Safety Code (NESC)]. ExteNet shall also comply with all CITY technical specifications and requirements that are reasonable and non-discriminatory with respect to their impact on telecommunications services and ExteNet as a provider thereof, and all applicable national, State and local building, electrical and safety codes.
- 5.6. Restoration. If the placement, installation, construction, maintenance, operation, removal or relocation of Equipment or poles by ExteNet disturbs or alters CITY Rights-of-Way or Facilities, ExteNet, at its own expense shall restore such CITY Rights-of-Way or CITY Facilities to their original condition, normal wear and tear excepted.

## **6. Maintenance**

- 6.1. Proper Maintenance. ExteNet shall maintain its Equipment and poles located in CITY Rights-of-Way and its Attachments in such condition that they shall not constitute a danger to the health, safety and welfare of the public.

- 6.2. Right of Entry. ExteNet may enter upon CITY Rights-of-Way and CITY Facilities to maintain or repair Equipment or poles from time to time without prior approval of CITY .
- 6.3. Removal or Replacement of Equipment. ExteNet may remove or replace any items of Equipment as reasonably required in connection with the ongoing provision of Services without prior approval of CITY, so long as any replacement Equipment is substantially the same as that which has been removed with regard to size, weight and physical configuration. Removal of Equipment from any Rights of Way or Attachment shall not constitute termination of this Agreement.
- 6.4. Permits. In the event maintenance or repair activities will disturb or block pedestrian or vehicular traffic in CITY Rights-of-Way, ExteNet shall obtain all permits required by CITY prior to commencing such maintenance or repair.

## **7. Relocation of Equipment**

- 7.1. Notice. CITY may request relocation of ExteNet's Equipment by delivering written notice to ExteNet identifying the need for such relocation and alternative CITY Rights-of-Way and/or CITY Facilities to which ExteNet may relocate its Equipment.
- 7.2. Timeframe. After receiving notice, ExteNet shall relocate its Equipment to alternative CITY Rights-of-Way and CITY Facilities identified by CITY as soon as practicable, but in no event sooner than one-hundred and eighty (180) days after receipt of such notice. ExteNet and CITY may mutually agree to relocation of Equipment in less than 180 days to respond to emergencies or other similar extraordinary circumstances.
- 7.3. Cost of Relocation. In the event relocation of Equipment is necessitated by construction, repair, maintenance, relocation or elimination of any CITY Rights-of-Way or CITY and CITY fails or refuses to provide ExteNet access to and use of reasonably comparable alternative locations in the ROW or alternative Facilities for such relocation CITY, the cost and expense of such relocation shall be borne by CITY (or such other party as CITY may designate), and ExteNet shall not be required to relocate such Equipment until adequate assurance of payment or reimbursement is delivered to ExteNet or suitable alternative ROW access or Facilities are identified, engineered and approved by CITY to support said relocation activities. Similarly, in the event relocation of Equipment is necessitated by the needs of another party (other than CITY), the cost and expense of such relocation shall be borne by such other party, and ExteNet shall not be required to relocate such Equipment until adequate assurance of payment or reimbursement is delivered to ExteNet by such other party. Notwithstanding any other provision hereof, in the event that CITY or the State enacts an ordinance, law or regulation requiring that all aerial (e.g., pole-mounted) wires and cables in some or all of the geographic area of the CITY be relocated to underground

installations in the ROW, ExteNet shall be permitted to participate in any joint build program for underground installation of telecommunications and other compatible utility wirelines and cables and to pay only its reasonably determined proportional share of the cost of all such relocations covered by the joint build program. In all other events, the cost and expense of relocation of Equipment shall be borne by ExteNet.

7.4. Exclusions. ExteNet shall not be required to relocate any poles ExteNet has placed in CITY Rights-of-Way excepting only such actions initiated as a result of an approved acquisition by CITY or other such entity exercising their rights under imminent domain.

7.5. Relocations at ExteNet's Request. In the event ExteNet desires to relocate any Equipment from one Facility to another, ExteNet shall so advise City. City will use reasonable efforts to accommodate ExteNet by making another reasonably equivalent Facility available for use in accordance with and subject to the terms and conditions of this Agreement.

## **8. Indemnification**

8.1. Scope of Indemnification for CITY. ExteNet shall indemnify and hold harmless CITY, its elected and appointed officers, its council members, boards, commissions, employees, and agents from any and all injury, claim, demand, judgment, liability, or damage arising out of or resulting from ExteNet's negligence in the placement, installation, construction, maintenance, operation and removal of Equipment in CITY's Rights-of-Way or on CITY Facilities or otherwise in the performance of this Agreement. ExteNet shall not be obligated to hold harmless or indemnify CITY for any injury, claims, demands, judgments, liabilities or damage to the extent that they are due solely to the gross negligence or intentional and/or willful acts of CITY, or any of its officers, council members, boards, commissions, employees, or agents.

8.2. Scope of Indemnification for ExteNet. CITY shall indemnify and hold harmless ExteNet and its officers, directors, shareholders, employees, and agents from any and all injury, claim, demand, judgment, liability, or damage arising out of or resulting from any negligence by CITY or its officers, boards, commissions, employees, or agents in connection with this Agreement. CITY shall not be obligated to hold harmless or indemnify ExteNet for any injury, claims, demands, judgments, liabilities or damage to the extent that they are due solely to the gross negligence or intentional and/or willful acts of ExteNet.

8.3. Excluded Damages. In no event shall either party be liable for any punitive, consequential, incidental, or special damages or lost profits incurred, or alleged to have been incurred, by anyone.

8.4. Notice. Any party seeking indemnification hereunder ("Indemnatee") shall

notify the other party ("Indemnitor") within fifteen (15) days of the nature and amount of a claim arising under this Section, and the method and means proposed by the Indemnitee for defending or satisfying such claim.

8.5. Representation. The Indemnitor shall pay for all costs and expenses, including reasonable legal fees, of defense for Indemnitee in any claims or actions subject to indemnification hereunder, provided that so long as the Indemnitor has undertaken and is vigorously pursuing such defense it shall not be responsible for additional legal fees and expenses incurred by the Indemnitor. The Indemnitee shall cooperate and consult with the Indemnitor respecting the defense and satisfaction of such claims, including the selection of and direction to legal counsel, and the Indemnitee shall not pay or settle any such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld. The Indemnitee will be allowed, at its own expense, to appear and defend or assist Indemnitor in the defense of such claims.

8.6. Breach of Agreement. In the event that any claim, complaint or litigation is brought by either party to this Agreement against the other for breach of this Agreement, or for an interpretation of this Agreement, each party shall bear its own costs, including legal fees and expenses.

## **9. Insurance**

9.1. General Liability Insurance. ExteNet shall maintain and keep in effect during the Term of this Agreement, commercial general liability insurance with a combined single limit with respect to each occurrence of not less than \$1,000,000, insuring ExteNet (and naming CITY as an additional insured) against loss, damage, cost, expense or liability for any damage to any property or injury, illness or death of any person occurring or arising as a result of the negligence of ExteNet in connection with the placement, installation, construction, maintenance, operation and removal of Equipment in CITY's Rights-of-Way or in connection with any Attachment on CITY Facilities.

9.2. Other Insurance. ExteNet shall maintain and keep in effect during the Term of this Agreement, worker's compensation insurance as required by law.

9.3. Proof of Insurance. ExteNet shall provide insurance certificates or other reasonable evidence of all insurance coverage required under this Agreement to CITY upon request.

## **10. Security**

Not less than ten (10) business days prior to the first Attachment of ExteNet Equipment to CITY Facilities or the first installation of ExteNet Equipment within, over or under the CITY's ROW, ExteNet shall provide CITY with security for the proper removal of such Equipment and restoration of such Facilities or ROW in the form of a bond in the amount

of Ten Thousand (\$10,000.00) Dollars. The Bond shall be reasonably acceptable to CITY, and such Bond or a substantially equivalent replacement shall be maintained in effect throughout the term of this Agreement, subject only to adjustments to the amount to reflect changes in the number of Attachments or in the portion of CITY's ROW occupied by ExteNet.

## **11. Assignment**

- 11.1 Assignment without approval. ExteNet shall have the right to assign this Agreement and all rights and obligations accorded ExteNet to a wholly-owned subsidiary or a parent entity of ExteNet without the prior written consent of CITY. In the event ExteNet assigns this Agreement to a subsidiary or parent entity, ExteNet shall provide CITY with prior written notice of such assignment.
- 11.2 Assignment requiring approval. ExteNet must obtain the prior written consent of CITY in order to assign this Agreement, or any right or obligation under this Agreement, to a third party other than a wholly-owned subsidiary or parent entity of ExteNet. Such consent shall not be unreasonably withheld, conditioned or delayed by CITY.
- 11.3 Sub-licensing. ExteNet, as an integral part of its business operations, shall be permitted to sub-license or sublease to third-party wireless telecommunications providers any, all, or a portion of its rights under this Agreement, including but not limited to placement of Attachments within City ROW, without the City's prior written consent. Furthermore, the installation and use of internal space within ExteNet's Attachments for third party wireless providers utilizing ExteNet's Service and/or the use of ExteNet's Attachments by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or overflashing is expressly permitted by this Paragraph 11.3.
- 11.4 Financing Arrangements. City acknowledges that ExteNet may enter into financing arrangements including promissory notes and financial and security agreements for the financing of the Equipment (the "Collateral") with third party financing entities. In connection therewith, City (i) consents to the installation of the Collateral consistent with the other terms of this Agreement; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any rent due or to become due and that such Collateral may be removed at any time consistent with the other terms of this Agreement without recourse to legal proceedings.

## **12. Termination**

- 12.1 Termination by ExteNet. ExteNet may terminate this Agreement, at its

election and without cause, by providing written notice of termination to CITY at least ninety (90) days prior to the effective date of such termination.

- 12.2 Termination by either party. Either CITY or ExteNet may terminate this Agreement for an uncured material breach by the other party. The party asserting a breach must first provide written notice of the existence of a material breach to the breaching party. Such notice shall state the grounds for termination in reasonable detail. The party receiving notice of termination for cause shall have thirty (30) days to cure, or commence and vigorously pursue good faith efforts to cure the alleged material breach if such breach cannot reasonably be cured within 30 days. A notice of termination for cause issued by CITY shall be issued only after the completion of a public proceeding, during which ExteNet shall have a full opportunity to be heard and to respond to any notice of grounds to terminate.

### 13. Notices

- 13.1 Service of Notice. All notices required or permitted to be given to either party by the other party under any provisions of this Agreement shall be in writing. Notice shall be deemed served when delivered by hand or by a private delivery service to the other party's address set forth below during normal business hours. If a Notice is mailed, service is deemed complete upon the earlier of actual delivery or the close of business on the third business day following the date when the Notice is placed in a receptacle regularly maintained by the U.S. Postal Service addressed to the party at the address set forth below with postage pre-paid.

- 13.2 Notice shall be given to the following:

CITY:

Name: Michael G. Ciaravino

Title: City Manager

Address: 83 Broadway  
Newburgh, NY 12550

With a copy to: Michelle Kelson, Esq.  
Corporation Counsel  
83 Broadway  
Newburgh, NY 12550

ExteNet:

Name: Dan Timm

Title: Chief Financial Officer

Address: 3030 Warrenville Rd., Ste 340  
Lisle, IL 60532

With a copy to "General Counsel" at the same address.

## **14. Validity and Construction of Agreement**

- 14.1 Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original, all of which together shall constitute the same instrument. Execution and delivery may be accomplished by facsimile or other electronic means.
- 14.2 Severability. If one or more of the provisions in this Agreement are held by an agency or court of competent jurisdiction, in a final, non-appealable order, to be invalid, void, voidable, unenforceable or illegal, such provision shall be deemed severable from the remaining provisions of this Agreement. Such invalid, void, voidable, unenforceable or illegal provision shall not affect the remaining provisions of this Agreement so long as the material purposes of this Agreement can be determined and effected.
- 14.3 Entire Agreement. This Agreement states the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the subject matter hereof, and may not be amended or modified except by a written instrument executed by the parties hereto. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. No waiver of any right or remedy hereunder shall be effective unless and until set forth in a writing delivered to the other party, and a waiver, forbearance or other failure to enforce any right or remedy on any given occasion or under any specified circumstance shall not be construed as, or have the effect of, a waiver of such rights or remedies on any other occasion or under any other circumstances.
- 14.4 Amendment. This Agreement may be amended only by the Parties hereto by an entrustment in writing signed by or on behalf of each of the parties hereto.
- 14.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State, without reference to its conflicts of laws principles.

## **15. Force Majeure.**

No failure by a party to perform its obligations in accordance with this Agreement shall be deemed a material breach or grounds for termination if such failure to perform occurred as a result of circumstances beyond such party's reasonable control as described below. Further, the time for performance of any duties or obligation of CITY or ExteNet shall be extended for the period during which performance was delayed or impeded due to causes beyond such party's control, including but not limited to strikes, lockouts, labor disputes, supply shortages, utility outages, cable dig-up by third party, civil disorders, actions of governmental authorities, actions of civil or military authority, national emergency, insurrection, riots, war, acts of terrorism, acts



of God, fire, floods, epidemics, freight embargoes or other causes beyond the reasonable control of the party required to perform an act, the party shall be excused from performing that act for a period equal to the period of the preventing circumstance or delay. If ExteNet or CITY claims the existence of a circumstance preventing performance, the party claiming the delay shall notify the other party in writing of that fact within ten (10) days after the beginning of any such circumstance. Economic hardship, misfeasance, or malfeasance of a party's directors, officers, employees, council, officials or agents shall not be considered as a condition beyond the fault or control of the defaulting party.

#### **16. Confidentiality**

Non-public information provided by either party to this Agreement, including network deployment plans and technical and operational details, shall to the extent allowed by law be kept confidential and used only for purposes related to the performance of this Agreement. Both CITY and ExteNet shall take reasonable steps to protect confidential information obtained from the other in connection with performance of this Agreement from public disclosure or unauthorized use.

**IN WITNESS THEREOF**, the parties hereby bind themselves legally to the terms and conditions set forth in this Agreement, as evidenced by the signature of their duly authorized representatives.

<b>CITY OF NEWBURGH, NY</b>	<b>EXTENET SYSTEMS, INC.</b>
By: _____	By: _____ Daniel L. Timm
Title: _____	Title: CFO
Date: _____	Date: _____

CITY

Telecommunications Attachment and Rights-of-Way Agreement

**Exhibit A**

**Fee Rates**

TELECOMMUNICATIONS ATTACHMENT & RIGHT OF WAY ACCESS FEES	
ROW Fees	
Placement of Equipment cabinet on ground space within ROW	\$360.00 per yr., per equipment cabinet
Placement of new, ExteNet-owned pole, upon which ExteNet will place Equipment in ROW	\$360.00 per yr., per pole
Placement of Equipment upon Utility Infrastructure in ROW	\$360.00 per yr., per pole
Placement of new, ExteNet-owned conduit within the ROW	\$0.50 per linear foot of ROW occupied, one-time fee
Attachment/Use Fees	
Attachment of Equipment to City-owned Facility	\$360.00 per yr., per pole
Placement of ExteNet fiber in City-owned conduit	\$0.50 per linear foot of conduit occupied, one-time fee

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

WILLIAM M. FLYNN  
*Chairman*  
THOMAS J. DUNLEAVY  
LEONARD A. WEISS  
NEAL N. GALVIN  
PATRICIA L. ACAMPORA



DAWN JABLONSKI RYMAN  
*General Counsel*

JACLYN A. BRILLING  
*Secretary*

December 2, 2005

Morgan E. Parke, Esq.  
Couch White. LLP  
P.O. Box 22222  
540 Broadway  
Albany, NY 12201

Re: Case No. 05-C-1428

Dear Mr. Parke:

The application, by Clearlinx Network Corporation on November 8, 2005, for a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service, without authority to provide local exchange service, is hereby approved. This approval is based upon the accuracy of the information provided in the company's application and may be revoked if the application is found to contain false or misleading information, for failure to file or maintain current tariffs, or for violation of Commission rules and regulations.

The company's tariff, P.S.C. No. 1 – Telephone, is also approved.

The company is not authorized to use its own operators to handle 0- (emergency or non-emergency) calls. Such calls must be routed to another telephone company or operator services provider authorized to handle such calls, until such time as an amended Certificate of Public Convenience and Necessity is obtained pursuant to Part 649.6 of the Commission's rules.

The company must obtain any required consents of municipal authorities before commencing construction of telephone lines. It must also comply with applicable federal laws, New York State Public Service Law and related statutes, and the Commission's rules and regulations.

The company is also required to file a Statement of Gross Intrastate Operating Revenues by March 31 each year. It will be notified in writing each year of the required content and format of this report.

If you have any questions, please contact David Cramer at (518) 408-1835.

By direction and delegation  
of the Commission,

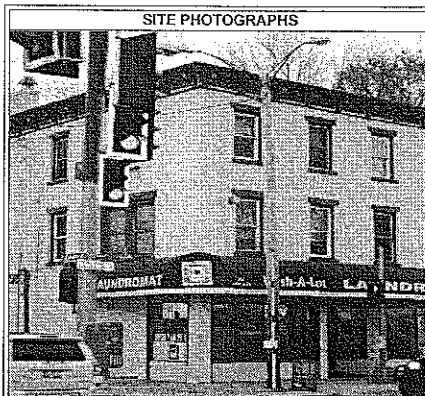
A handwritten signature in black ink, appearing to read "Robert H. Mayer".

Robert H. Mayer

Director

Office of Telecommunications

cc: Maria LeBoeuf  
Greg Pattenaude  
Judy Sylvester  
Elaine Lynch  
Case File (14<sup>th</sup> Fl.)



SITE PHOTOGRAPHS



Newburgh0023A  
303 Liberty St  
Newburgh, NY 12550



SITE MAP

#### SCOPE OF WORK

CONSTRUCTION OF AN UNMANNED TELECOMMUNICATION FACILITY CONSISTING OF (1) Dual TEK0 RRA, (2) OSS, Small Cell Antenna CUT070X06Pxx0 AND ASSOCIATED CABLES & HARDWARE MOUNTED TO A UTILITY POLE.

#### NOTE:

#### PROJECT INFORMATION

SITE ADDRESS: 303 Liberty St.  
Newburgh, NY 12550  
JURISDICTION: Orange County  
POLE NUMBERS: NT  
LATITUDE: 41.502845  
LONGITUDE: -74.010698  
GROUND ELEVATION: 156'  
POLE OWNER: Central Hudson Gas & Electric  
CONTACT PERSON: Patricia Fredette  
3030 WARRENVILLE ROAD, SUITE 340  
LISLE, IL 60532  
NOC: (800) 892-5327  
APPLICANT: extenel Systems, Inc.  
3030 WARRENVILLE ROAD, SUITE 340  
LISLE, IL 60532  
AGENT: Rick Callahan  
902-563-9520  
PVC



#### DRAWING INDEX

SHEET	DESCRIPTION	SHEET	DESCRIPTION
T1	TITLE SHEET	E4	EQUIPMENT SPECS
E1	SITE PLAN & POLE ELEVATIONS	E5	PLUMBING DIAGRAM
E2	ATTACHMENT		
E3	EQUIPMENT MOUNTING DETAILS		
E6	GROUNDING & WEATHERHEAD		

#### CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING:

1. BUILDING CODE
2. UNIFORM BUILDING CODE
3. BUILDING OFFICIALS AND CODE ADMINISTRATORS (BOCA)
4. UNIFORM MECHANICAL CODE
5. ANSITIMEA 222-F
6. UNIFORM PLUMBING CODE
7. NATIONAL ELECTRIC CODE
8. LOCAL BUILDING CODE
9. CITY/COUNTY ORDINANCES

#### GENERAL NOTES

##### STANDARD CONSTRUCTION (SEE):

1. THESE NOTES SHALL BE CONSIDERED PART OF THE WRITTEN SPECIFICATIONS.
2. THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES, AND LABOR NECESSARY TO COMPLETE ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
3. PRIOR TO THE BEGINNING OF WORK, THE CONTRACTOR SHALL VISIT THE JOB SITE AND BE RESPONSIBLE FOR ASKING CONTRACT DOCUMENTS, FIELD CONDITIONS, SURVEYING, AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY DISCREPANCIES ARE TO BE BROUGHT TO THE ATTENTION OF THE SUPERINTENDENT ENGINEER AND RESOLVED PRIOR TO PROCEEDING WITH WORK.
4. THE CONTRACTOR SHALL ACCEPT IN WRITING, AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY ITEM NOT CLEARLY IDENTIFIED OR IDENTIFIED BY THE CONTRACT DOCUMENTS.
5. THE CONTRACTOR SHALL INSTALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INSTRUCTED OTHERWISE OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
6. ALL WORK PERFORMED AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS AND ORDINANCES. CONTRACTORS SHALL OBTAIN ALL NECESSARY PERMITS, APPROVALS, AND INSPECTIONS FROM THE LOCAL BUILDING DEPARTMENT, FIRE DEPARTMENT, AND ANY OTHER AGENCY RESPONSIBLE FOR THE PERFORMANCE OF THE WORK. MECHANICAL AND ELECTRICAL WORK SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS, LOCAL AND STATE PERIODIC CODES, ORDINANCES AND APPROPRIATE REGULATIONS.
7. THE GENERAL CONTRACTOR SHALL APPEAR AND DIRECT THE WORK USING THE BEST JUDGMENT AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROTECTIVE WORK FOR PROTECTION OF ALL PORTIONS OF THE WORK UNDER THE CONTRACT INCLUDING CONTACT AND COORDINATION WITH THE SUPERINTENDENT ENGINEER AND WITH THE LANDLORD'S SUPERINTENDENT ENGINEER.
8. SEAL PENETRATIONS THROUGH FIRE RATED AREAS WITH UL LISTED FIRE CODE APPROVED MATERIALS.
9. PROVIDE A PORTABLE AND OXYGENATOR WITH A FLOW OF NOT LESS THAN 2-1/2 GPM WITHIN 3 FEET TRAVEL DISTANCE TO ALL PORTIONS OF THE PROJECT AREA DURING CONSTRUCTION.
10. ALL CONTRACT WORK SHALL BE IN ACCORDANCE WITH CHAPTER 23 OF THE USE REGARDING SANITATION, FIRE, LIGHT FIXTURES, AND CHIMNEY, INTERIOR PARTITIONS AND MECHANICAL EQUIPMENT. ALL WORK SHALL BE IN ACCORDANCE WITH LOCAL LAWNMOWING CODES AND REGULATIONS.
11. SITE LANE SHALL BE MAINTAINED TO SHOW THE RESULTS OF DESIGN. MINOR MODIFICATIONS MAY BE REQUIRED TO DUE TO OBSTRUCTIONS OR CONDITIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK.
12. THE CONTRACTOR SHALL HAVE ADEQUATE PROVISIONS TO PROTECT EXISTING ADJACENT AREAS, PLANTS, CURBS, VEGETATION, GUTTERED SURFACES, ETC., AND UPON COMPLETION OF WORK REPAIR ANY DAMAGE THAT OCCURRED DURING CONSTRUCTION TO THE SATISFACTION OF THE OWNER.
13. KEEP GENERAL AREA CLEAN, HAZARD FREE, AND DISPOSAL OF ANY EXCESS DEBRIS, RUBBISH AND REMOVE EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY LEAVE PASSAGES IN CLEAN CONDITION AND FREE FROM PARTS, SPILLS, DUST, OR OBSTRUCTIONS OF ANY NATURE.
14. REPRESENTATIONS OF THE NORTH, OTHER THAN INDICATED ON THE PLANS, SHALL BE USED TO IDENTIFY OR ESTABLISH THE BEGINNING OF THE NORTH AT THE SITE. THE CONTRACTOR SHALL, SOON AFTER THE BEGINNING OF CONSTRUCTION AND ANY ADJUSTMENTS MAINTAINED AT THE SITE FOR THE ESTABLISHMENT OF TRUE NORTH, AND SHALL NOTIFY THE ARCHITECT/ENGINEER PRIOR TO PROCEEDING WITH THE WORK. IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS REPRESENTATIONS OF THE NORTH, THE CONTRACTOR SHALL NOTIFY THE ARCHITECT/ENGINEER.
15. PLANS ARE NOT SCALED AND ARE INTENDED FOR INFORMATION ONLY. UNLESS NOTED OTHERWISE.
16. INSURANCE SHALL BE MAINTAINED OVER THE ENTIRE TERM OF THE WORK. THE CONTRACTOR SHALL MAINTAIN ADEQUATE LIABILITY INSURANCE AND SHALL BE VERIFIED BY A SURVEYOR OR BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
17. ALL SITE WORK SHALL BE CAREFULLY COORDINATED BY THE GENERAL CONTRACTOR WITH LOCAL UTILITY COMPANY, TELEPHONE COMPANY, AND ANY OTHER UTILITY COMPANIES HAVING JURISDICTION OVER THE LOCATION.

##### GENERAL NOTE:

1. ALL SITE WORK SHALL BE AS INDICATED ON THE DRAWINGS AND SPECIFICATIONS PROJECT SUMMARY.
2. MATERIALS, EQUIPMENT, SUPPLIES, AND OTHER SERVICES SHALL BE REMOVED FROM THE SITE AND DISPOSED OF LEGALLY.
3. ALL PAVED OR ASPHALTED MATERIALS SHALL BE PLACED IN PROPER POSITION, PROPER MATERIALS, SLOPE OR ICE SHALL NOT BE PLACED IN ANY PAVED OR ASPHALTED AREA.
4. THE USE OF EXCESSIVE WATER, GAS, ELECTRIC, AND OTHER UTILITIES WHERE ENCOUNTERED BY THE WORK SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER PROTECTION OF THE WORK, SHALL BE REDUCED OR STOPPED BY THE CONTRACTOR. EXCESSIVE WATER SHALL BE STOPPED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
5. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES WHERE ENCOUNTERED BY THE WORK, SHALL BE PROTECTED AT ALL TIMES, AND WHERE REQUIRED FOR THE PROPER PROTECTION OF THE WORK, SHALL BE REDUCED OR STOPPED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
6. ALL EXISTING ACTIVE SEWER, WATER, GAS, ELECTRIC, AND OTHER UTILITIES, WHICH INTERFERE WITH THE PROTECTION OF THE WORK, SHALL BE REMOVED AND SHALL BE CAPTED, PLUMBED, OR OTHERWISE DISCONTINUED AT POINTS WHICH WILL NOT INTERFERE WITH THE PROTECTION OF THE WORK, SUBJECT TO THE APPROVAL OF THE ENGINEER.
7. THE AREA OF PROPERTY OBTAINED BY THE WORK AND NOT COVERED BY THE BUILDING, DRIVEWAY OR GARAGE DRIVE, SHALL BE GRADED TO A UNIFORM SURFACE, FERTILIZED, SEEDING, AND COVERED WITH MULCH AS SPECIFIED IN THE SPECIFICATION LANDSCAPE WORK.

3030 WARRENVILLE ROAD, SUITE 340  
LISLE, IL 60532

PROJECT INFORMATION:

NE-NY-NEWBURGH-023A

303 Liberty St.  
Newburgh, NY 12550

CURRENT ISSUE DATE:

4/26/16

ISSUED FOR:

PLANNING

REV. DATE: DESCRIPTION BY:

REV.	DATE	DESCRIPTION	BY
1	4/26/16	DESIGN	JC

PLANS PREPARED BY:

CONSULTANT:

DRAWN BY: CHK: APV:

JC RC

LICENSE:

SHEET TITLE:

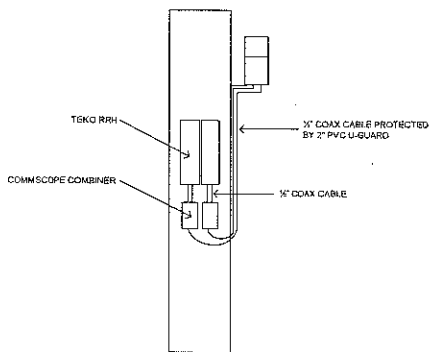
TITLE SHEET

SHEET NUMBER: REVISION:

T1 1

DWG. EXT





COAX CABLE ATTACHMENT DETAIL

**ROW GROUND CONSTRUCTION NOTES:**

1. 120/240 VOLTAGE REQUIRED FOR SERVICE
2. GC TO REMOVE/CLEAN ALL DEBRIS, NAILS, STAPLES, OR NON-USED VERTICALS OFF THE POLE
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH MUNICIPAL, COUNTY, STATE, FEDERAL, G955 AND G6128 STANDARDS AND REGULATIONS
4. CALL ONE CALL 72 HOURS PRIOR TO EXCAVATING, 811
5. ALL LANDSCAPING TO BE RESTORED TO ORIGINAL CONDITION OR BETTER
6. ALL EQUIPMENT TO BE BONDED

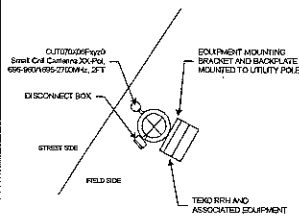
**STANDARD GROUNDING NOTES:**

1. GROUND TESTED AT 5 OHMS OR LESS
2. 5/8\" X 8\" GRD ROD
3. #6 COPPER GROUND AND BOND WIRE
4. CONTRACTOR SHALL LEAVE GROUND VISIBLE UNTIL ELECTRICAL INSPECTION COMPLETED, THEN DRIVE 6\" BELOW GRADE

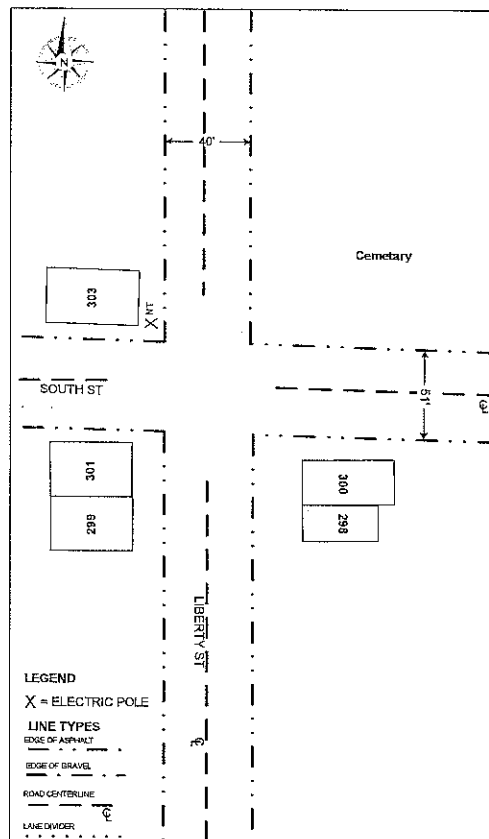
**ROW UTILITY POLE CONSTRUCTION NOTES:**

1. NO BOLT THREADS TO PROTRUDE MORE THAN 1-1/2\"
2. FILL ALL HOLES LEFT IN POLE FROM REARRANGEMENT OF CLIMBERS
3. CABLE NOT TO IMPED 10\" CLEAR SPACE OFF POLE FACE (1200)
4. 90\" SHORT SWEEPS UNDER ANTENNA ARM. ALL CABLES MUST ONLY TRANSITION ON THE INSIDE OR BOTTOM OF ARMS (NO CABLE ON TOP OF ARMS)
5. USE CABLE CLAMPS TO SECURE CABLE TO ARMS, PLACE 2\" EXTENDET CABLE ID TAGS ON BOTH SIDES OF ARMS. ALL TAGS SHOULD BE SECURELY ATTACHED
6. USE 1\" CABLE ON ANTENNAS UNLESS OTHERWISE SPECIFIED
7. FILL VOID AROUND CABLES AT CONDUIT OPENING WITH FOAM SEALANT TO PREVENT WATER INTRUSION
8. EQUIPMENT/ANTENNA SPACING NEAR POWER LINES AND COMMUNICATION CABLES TO BE INSTALLED PER POLE OWNER/UTILITY COMPANY SPECIFICATIONS
9. CONTRACTOR TO ROUTE FIBER AND POWER AERIALLY TO NEAREST UTILITY DEMARK. FIELD VERIFY LOCATION PRIOR TO CONSTRUCTION
10. MAINTAIN 12\" SPACE BETWEEN ALL COMMS

**ROW CONSTRUCTION NOTES**

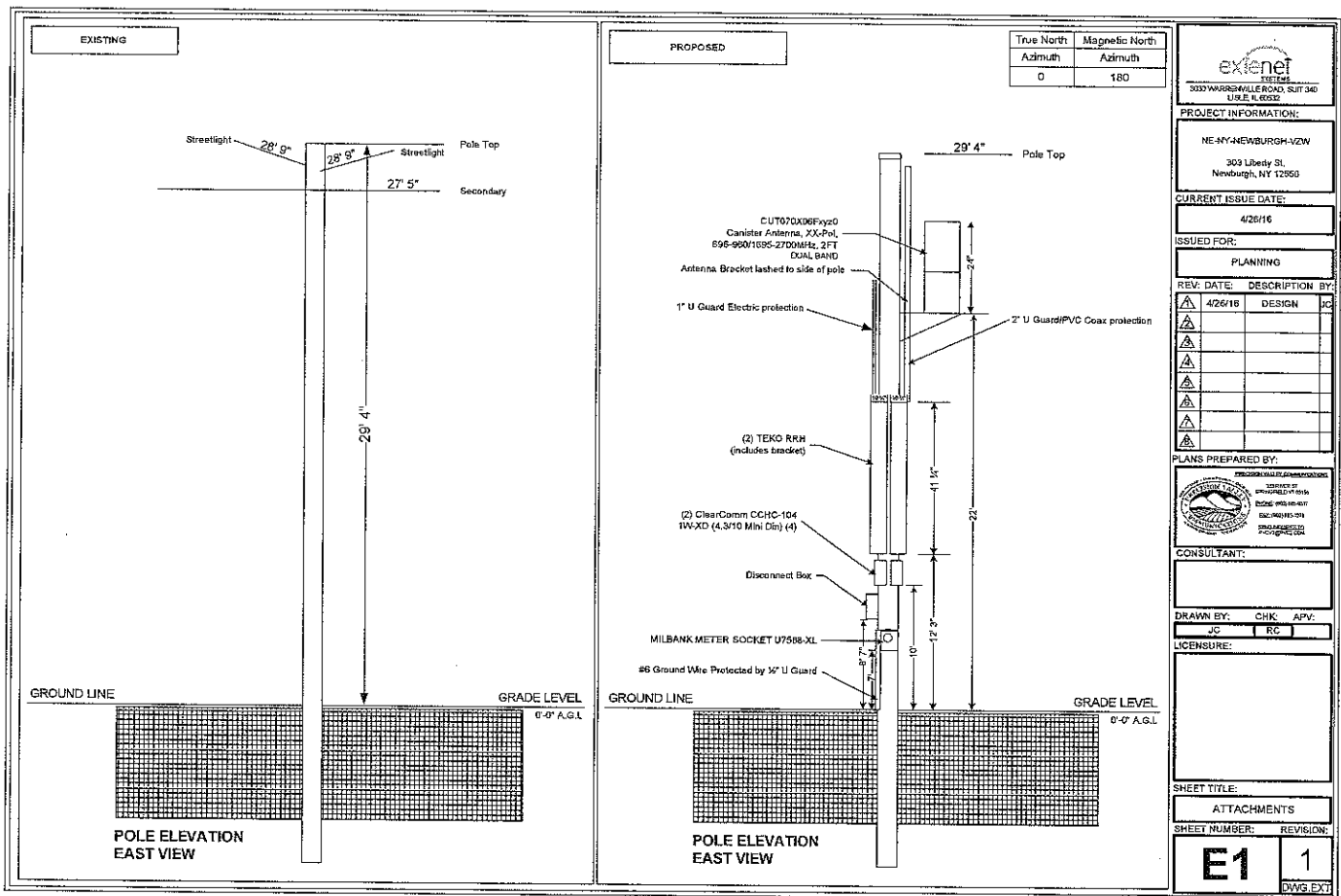


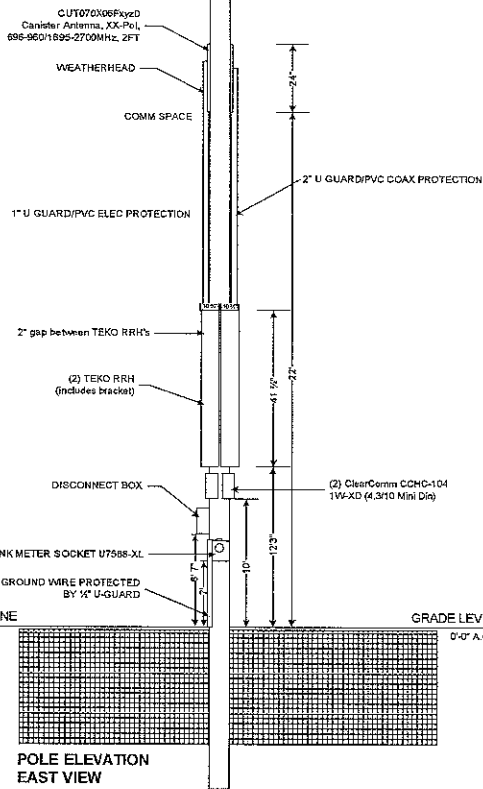
COMM SPACE ANTENNA LAYOUT



**SITE PLAN**

3030 WARREN ROAD, SUITE 340 LEBANON, IL 62430	
<b>PROJECT INFORMATION:</b>	
MEANY-NEWBURN-VZW 303 Liberty St. Newburgh, NY 12550	
<b>CURRENT ISSUE DATE:</b> 4/28/16	
<b>ISSUED FOR:</b>	
<b>PLANNING</b>	
REV. DATE:	DESCRIPTION BY:
4/28/16	DESIGN JC
<b>PLANS PREPARED BY:</b>	
<b>CONSULTANT:</b>	
<b>DRAWN BY:</b> CHK: APV:	
JC	RC
<b>LICENSURE:</b>	
<b>SHEET TITLE:</b>	
<b>SITE PLAN &amp; POLE ELEVATIONS</b>	
SHEET NUMBER:	REVISION:
S1	1
DWG EXT	

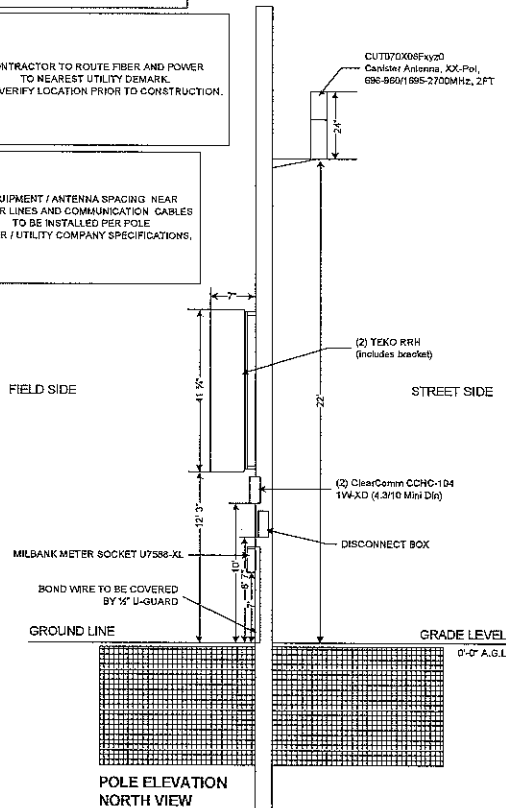




MAINTAIN 12" SPACE BETWEEN ALL COMMS.

CONTRACTOR TO ROUTE FIBER AND POWER TO NEAREST UTILITY DEMARK. FIELD VERIFY LOCATION PRIOR TO CONSTRUCTION.

EQUIPMENT / ANTENNA SPACING NEAR POWER LINES AND COMMUNICATION CABLES TO BE INSTALLED PER POLE OWNER / UTILITY COMPANY SPECIFICATIONS.



**exteneer**  
3003 WARRENVILLE ROAD, SUITE 340  
LIBERTY, IL 60530

PROJECT INFORMATION:

NEARY-NEWBURGH-VZWN  
303 Liberty St.  
Newburgh, NY 12550

CURRENT ISSUE DATE:

4/26/16

ISSUED FOR:

PLANNING

REV. DATE: DESCRIPTION BY:

REV.	DATE	DESCRIPTION	BY
1	4/26/16	DESIGN	JC
2			
3			
4			
5			

PLANS PREPARED BY:



CONSULTANT:

DRAWN BY: JC  
CHK: RC  
APV:

LICENSURE:

SHEET TITLE:

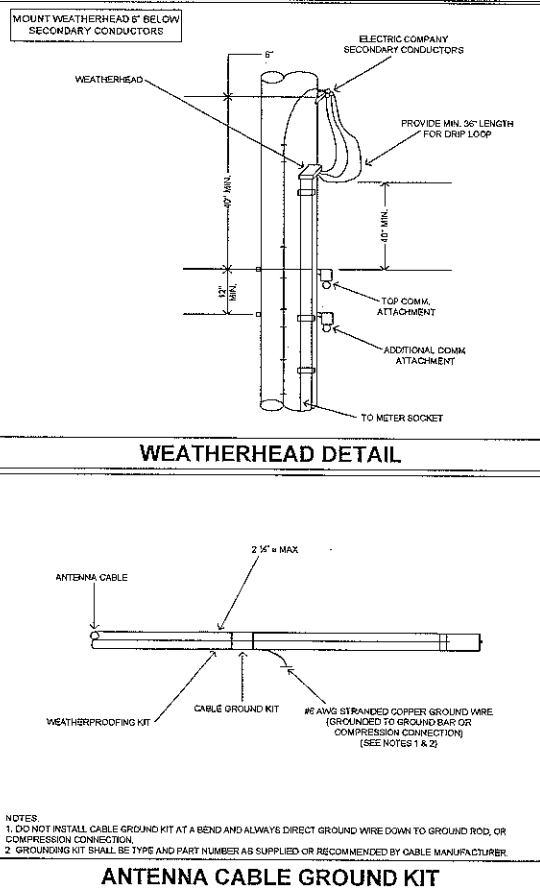
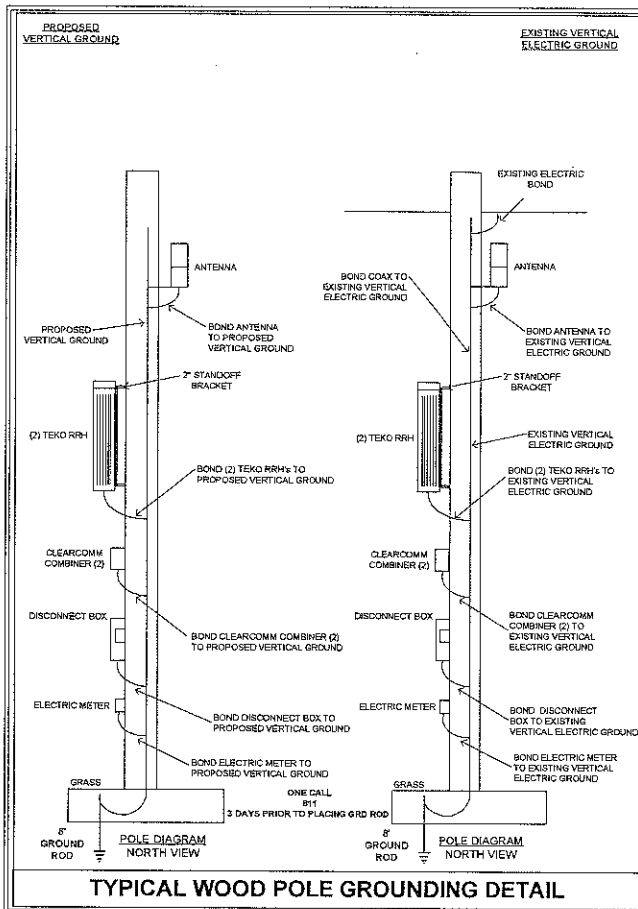
EQUIPMENT MOUNTING DETAILS

SHEET NUMBER: REVISION:

**E2**

**1**

DWG EXT



**exienet**  
320 WASHINGTON RD, SUITE 340  
LIBERTY, NY 12543

**PROJECT INFORMATION:**  
NE-NY-NEWBURGH-VZW  
303 Liberty St.  
Newburgh, NY 12550

**CURRENT ISSUE DATE:**  
4/28/16

**ISSUED FOR:**  
PLANNING

REV. DATE	DESCRIPTION BY:	DESIGN	LC
4/28/16			

**PLANS PREPARED BY:**

**CONSULTANT:**

**DRAWN BY:** JC **CHK:** RC **APV:**

**LICENSURE:**

**SHEET TITLE:**  
GROUNDING & WEATHERHEAD

**SHEET NUMBER:** E3 **REVISION:** 1

**ROWS EXT**

**SPECIFICATIONS**

Assembled Depth (in.): 4.8"  
 Assembled Height (in.): 14.3"  
 Assembled Width (in.): 10.4"

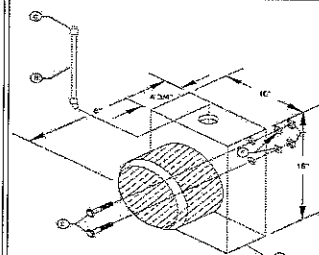
**Certifications and Listings:** 1-UL Listed, ANSI Certified

**Electrical Product Type:** Load Center

Load center depth (in.): 4.27"  
 Load center height (in.): 12.65"  
 Load center width (in.): 8.98"

**Maximum Amperage (amps):** 30/100A  
**Mounting Type:** Plug In  
**Number of Ganges:** 1  
**Number of Spaces:** 4  
**Number of Phases:** 1  
**Product Weight (lb.):** 11.53

Square D Outdoor Manual Transfer Switch w/ 30-Amp Twist Lock Receptacle (QO1DM10030TRBR)



PARTS LIST			
QUANTITY	DESCRIPTION	QUANTITY	REVISION
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP
1	1-1/2" NPT SOCKET W/ 30A TAP	1	1-1/2" NPT SOCKET W/ 30A TAP

NOTES:  
 1. METER SOCKET TYPE AND HEIGHT AS  
 INDICATED BY POWER UTILITY.

MILLBANK METER SOCKET U7588-XL

**SPECIFICATIONS**  
 Product Weight (w/RF modules) 88 lb.

TEKO 40W 2-BAND MIMO POLE-MOUNT RRH'S

**CLEARCOMM COMBINER**

**SIDE-ARM MOUNTING BRACKET**

**JMA MOUNTING BRACKET**

**COMMUNICATIONS TAG**

Extended Equipment Label -  
 To be installed on outside of cabinet.

**"Caution" sign -**  
 To be posted 3 ft or more below the  
 centerline of the antenna unless  
 otherwise noted in the Special  
 Instructions below.

Special Instructions: none

**"Notice" sign -**  
 To be posted at the base of each pole  
 unless other arrangements have been  
 agreed upon with the pole owner and/or  
 municipality.

Special Instructions: none

**"Warning" sign -**  
 If included, Special Instructions will be  
 listed below.

Special Instructions: none

**RF SIGNAGE**

**exteneer**  
 300 WARDENVILLE RD. SUITE 340  
 WILKES BARRE, PA 18706

**PROJECT INFORMATION:**  
 HENRY-NEWBURGH-HVZW  
 303 Liberty St.  
 Newburgh, NY 12550

**CURRENT ISSUE DATE:**  
 4/26/16

**ISSUED FOR:**  
 PLANNING

REV. DATE:	DESCRIPTION BY:
4/26/16	DESIGN JC

**PLANS PREPARED BY:**  
 JC

**CONSULTANT:**  
 JC

**DRAWN BY:** CHK APV:  
 JC RC

**LICENSURE:**

**SHEET TITLE:**  
 EQUIPMENT SPECS

**SHEET NUMBER:** **E4** **1**  
**REVISION:** DWG EXT





696-960 / 1695-2700 MHz

### CUT070X06Fxyz0

DUAL BAND | 3-SECTOR | CANISTER ANTENNA | XX-POL | 65° / 65° | 10.0 / 14.5 DBI | FIXED TILT

#### Features

- 3-Sector (120°) configuration with 12 connectors
- Ideal for Small Cell / DAS applications
- Available with 4.3/10 or 7/16-DIN connectors
- Three unique mounting options
- Can be painted to blend in with a mounting structure

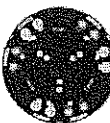
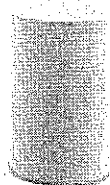
#### Connector Description

This antenna has 12 connectors located on the bottom.

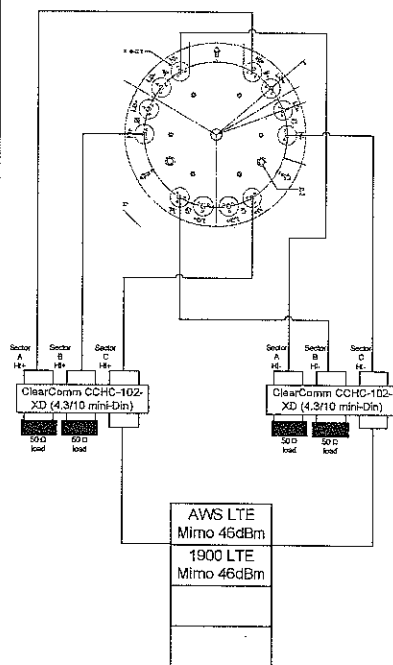
Low Band	696-960 MHz	Red Rings	(x3) 4.3/10 or 7/16-DIN Female
High Band	1695-2700 MHz	Yellow Rings	(x3) 4.3/10 or 7/16-DIN Female

#### Electrical Characteristics

Frequency Bands (MHz)	Low Band			High Band		
	696-800	806-960	1695-1880	1880-1990	1920-2200	2300-2700
Polarization	±45°			±45°		
Horizontal Beamwidth	70°	65°	70°	65°	65°	65°



Amphenol CUT070X06F56 Quasi-Omni  
12 Connectors / 4.3/10 Mini-DIN / Female /  
Bottom of Antenna



TEKO T19AWE19AWEWY Dual-Band  
Mimo remote (Duplexed output)

exteneer

3000 WARREN MILLS SUITE 540  
LISE, IL 60532

#### PROJECT INFORMATION:

NE-NY-NEWBURGH-VZW  
303 Liberty St.  
Newburgh, NY 12550

#### CURRENT ISSUE DATE:

4/28/16

#### ISSUED FOR:

#### PLANNING

REV. DATE: DESCRIPTION BY:

REV.	DATE	DESCRIPTION	BY
1	4/28/16	DESIGN	JC
2			
3			
4			
5			
6			
7			
8			
9			
10			

#### PLANS PREPARED BY:



#### CONSULTANT:

DRAWN BY: CHK: APV:

JC RC

#### LICENSURE:

#### SHEET TITLE:

#### PLUMBING DIAGRAM

SHEET NUMBER: REVISION:

E5

1

DWG EXT

RESOLUTION NO.: 286 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION TO IMPLEMENT A CITY-WIDE  
CURFEW FOR MINORS 16 YEARS OF AGE AND UNDER  
ON OCTOBER 30TH AND 31ST  
FROM 9:00 P.M. UNTIL 6:00 A.M.**

**WHEREAS**, the City of Newburgh has a general obligation to ensure the safety and welfare of the general population of the City including minors, along with protection of private property; and

**WHEREAS**, October, 30<sup>th</sup> and 31<sup>st</sup> are associated with Halloween related activities, including “Trick or Treating” and other related outdoor activities, some of which might be prejudicial to the safety and welfare of the population and protection of private property; and

**WHEREAS**, the City of Newburgh determines that the passage of a curfew resolution for Halloween and the preceding night will assist in protecting the welfare of minors by reducing the likelihood of their involvement in inappropriate behavior, while aiding parents or guardians of minors entrusted in their care;

**NOW THEREFORE, BE IT RESOLVED:**

**THIS COUNCIL HEREBY DECLARES** a city-wide curfew for minors from 9:00 P.M. until 6:00 A.M. each day, starting at 9:00 p.m. on Sunday, October 30, 2016, and ending at 6:00 a.m. on Tuesday, November 1, 2016; and

**BE IT FURTHER RESOLVED**, this Council urges all parents to inform their children and supervise the implementation of this City-wide curfew so that we may avoid problems and promote the safety, health and welfare of our City’s young people and property owners; and

**BE IT FURTHER RESOLVED**, that it shall be a defense to a violation of this curfew that the minor was accompanied by the minor’s parent or guardian, engaged in an employment activity, or involved in an emergency or other legally justifiable activity.

RESOLUTION NO.: 287 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AN AGREEMENT WITH COLBY KENNELS  
TO PROVIDE FOR BOARDING SERVICES FOR DOGS IN  
THE CUSTODY OF THE CITY OF NEWBURGH**

**WHEREAS**, as mandated by the Agriculture & Markets Law of New York State, the Animal Control Unit must have caregivers for the dogs taken into the custody of the City of Newburgh; and

**WHEREAS**, Colby Kennels has submitted a revised proposal to provide boarding services such as clean housing, feeding and rehabilitation of dogs in the custody of the City of Newburgh; and

**WHEREAS**, this Council has reviewed the revised proposed agreement with Colby Kennels and has determined that entering into the same would be in the best interests of the City of Newburgh, its citizens and the animals alike;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement, in substantially the same form annexed hereto with such other terms and conditions as may be required by the Corporation Counsel, with Colby Kennels to provide boarding services for the dogs in the custody of the City of Newburgh.

## **AGREEMENT FOR VENDOR SERVICES**

**THIS AGREEMENT** is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the “**CITY**,” with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **COLBY KENNELS**, a firm with principal offices at \_\_\_\_\_, New York 12550 hereinafter referred to as “**VENDOR**.”

### **ARTICLE 1. SCOPE OF WORK**

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

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall become the property of the CITY, unless otherwise provided for by the parties.

### **ARTICLE 2. TERM OF AGREEMENT**

VENDOR agrees to perform the SERVICES and/or supply goods beginning as of October 1, 2016, and ending September 30, 2017. This contract may be renewed by the City for each of five (5) successive one-year terms.

### **ARTICLE 3. COMPENSATION**

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule A, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant’s Certification form, and if the Claimant’s Certification form is objectionable, will notify VENDOR, in writing, of the CITY’S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

### **ARTICLE 4. EXECUTORY CLAUSE**

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

### **ARTICLE 5. PROCUREMENT OF AGREEMENT**

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

VENDOR makes such representations and warranties to induce the CITY to enter into this Agreement and the CITY relies upon such representations and warranties in the execution hereof.

#### **ARTICLE 6. CONFLICT OF INTEREST**

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

#### **ARTICLE 7. FAIR PRACTICES**

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies that the prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition; and that no attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

#### **ARTICLE 8. INDEPENDENT CONTRACTOR**

In performing the SERVICES and/or supplying goods and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means and methods of performing the SERVICES and/or supplying of the goods and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

#### **ARTICLE 9. NON-EXCLUSIVITY, ASSIGNMENT AND SUBCONTRACTING**

**The parties recognize and agree that VENDOR is providing specialized professional services to assist CITY in performing its obligations under the Agricultural & Markets Law and other state and local laws, rules and regulations; and that VENDOR will provide its services in accordance with same. The parties agree that this agreement is non-exclusive, and that CITY shall be entitled to secure the same services and/or goods from another vendor as provided by VENDOR hereunder at any time including during the term of this Agreement.**

VENDOR shall not assign any of its rights, interest or obligations under this Agreement,



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

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

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

#### **ARTICLE 10. BOOKS AND RECORDS**

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

#### **ARTICLE 11. RETENTION OF RECORDS**

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

#### **ARTICLE 12. AUDIT BY THE CITY AND OTHERS**

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR

shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

#### **ARTICLE 13. INSURANCE**

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage of a minimum of \$2,000,000 per occurrence, naming the City as additional insured, and other insurance with stated minimum coverages, as required by law: Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under commercially-available policies of insurance.

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

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

#### **ARTICLE 14. INDEMNIFICATION**

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

#### **ARTICLE 15. PROTECTION OF CITY PROPERTY**

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

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

#### **ARTICLE 16. CONFIDENTIAL INFORMATION**

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third

parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDOR'S obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

#### **ARTICLE 17. TERMINATION**

Either party may, by written notice to the other effective ninety (90) days after mailing, terminate this Agreement in whole or in part at any time (i) for convenience, (ii) upon the failure of a party to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

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

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

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

#### **ARTICLE 18. GENERAL RELEASE**

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

#### **ARTICLE 19. NO ARBITRATION**

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to

arbitration unless specifically agreed thereto in writing by the City Manager of the CITY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County.

#### **ARTICLE 20. GOVERNING LAW**

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

#### **ARTICLE 21. ENTIRE AGREEMENT**

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

#### **ARTICLE 22. MODIFICATION**

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

{THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK}

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

THE CITY OF NEWBURGH

COLBY KENNELS

BY: \_\_\_\_\_  
Michael G. Ciaravino,  
City Manager  
Per Resolution No. -2016

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

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
KATHRYN MACK  
CITY COMPTROLLER

\_\_\_\_\_  
MICHELLE KELSON  
CORPORATION COUNSEL

## **SCHEDULE A**

### **SCOPE OF SERVICES / FEES & EXPENSES**

COLBY KENNELS shall receive from and take temporary custody of dogs brought to the kennel by the CITY OF NEWBURGH ANIMAL CONTROL officer, or by any police officer or other authorized officer, official, agent or employee of the City of Newburgh. Colby Kennels shall provide shelter, food, treatment and care, and shall otherwise serve the needs of all such dogs as shall be required by the Agriculture and Markets Law of the State of New York, and by the laws, rules, regulations and policies of the City of Newburgh and its officials and officers in connection therewith.

1. All dogs MUST be vaccinated for Rabies, DHLLP and Bordetella and arrive at the kennel with the appropriate records. Colby Kennels will NOT accept a dog from the City of Newburgh without the proper vaccination paper work. EXCEPTION – RABIES QUARANTINE dogs do not need vaccinations.
2. All dogs must be brought to and picked up during Colby Kennels office hours:  
Monday thru Friday 8 a.m. to 12:30 p.m. and 4 p.m. to 5:30 p.m.  
Saturday 8 a.m. to 12:30 p.m.  
The office is closed Saturday afternoons, Sundays and major holidays.
3. No police officer or other authorized officer, official, agent or employee of the City of Newburgh is to disclose to anyone inquiring about a dog that it is at Colby Kennels, except as required by law. Anyone inquiring about the whereabouts of a dog or getting a dog back MUST go through the City of Newburgh Animal Control Officer or the Police Department Administrative Lieutenant.
4. The City of Newburgh Animal Control Officer; no other person or entity; shall be responsible for determining whether each such dog is suitable for adoption and shall be responsible for the tasks associated with the adoption of such dogs.
5. No more than six (6) dogs may be left in the custody of Colby Kennels at any one time without the consent of Colby Kennels manager, Mabel Finley and/or Linda Jobson.
6. For each such dog which shall not have been spayed or neutered and are at Colby Kennels for seven (7) days must be picked up by the City of Newburgh to have procedure done at the City of Newburgh's expense and then can be returned to Colby Kennels.

For each dog brought to or caused to be placed in the physical custody of Colby Kennels by the City of Newburgh, Colby Kennels shall be paid a one-time fee as follows:

- A. For each such dog determined to be suitable for adoption, the fee will be Three Hundred Fifty (\$350.00) Dollars for fourteen (14) day hold.
- B. For each such dog determined to be unsuitable for adoption, the fee will be One Hundred Twenty-Five (\$125.00) Dollars for five (5) day hold and Twenty-Five (\$25.00) Dollars per day until the dog is removed.
- C. For each such dog required to be held for rabies quarantine, the fee shall be Two Hundred Fifty (\$250.00) Dollars for ten (10) day hold and Twenty-Five (\$25.00) Dollars per day until the dog is removed.
- D. For each such dog determined to be suitable for adoption and that remains at Colby Kennels past the fourteen (14) day hold period the fee will be Fifteen (\$15.00) Dollars per day.



RESOLUTION NO.: 288 - 2016

OF

OCTOBER 24, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT  
OF CLAIM WITH WERNER FROST IN THE AMOUNT OF \$3,167.67**

**WHEREAS**, Werner Frost brought a claim against the City of Newburgh; and

**WHEREAS**, the parties have reached an agreement for the payment of the claim in the amount of Three Thousand One Hundred Sixty-Seven and 67/100 Dollars (\$3,167.67) in exchange for a release to resolve all claims among them; and

**WHEREAS**, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Werner Frost in the total amount of Three Thousand One Hundred Sixty-Seven and 67/100 Dollars (\$3,167.67) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

RESOLUTION NO.: <sup>289</sup>\_\_\_\_\_-2016

OF

OCTOBER 24, 2016

**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. 6820-2011, 5810-2012, 5608-2013, 5093-2014, 5028-2015 AND 4433-2016 INVOLVING SECTION 43, BLOCK 1, LOT 1 (BRV SINGH, INC.)**

WHEREAS, BRV Singh, Inc. 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 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017 tax assessment years bearing Orange County Index Nos. 6820-2011, 5810-2012, 5608-2013, 5093-2014, 5028-2015 and 4433-2016; and

WHEREAS, it appears from the recommendation of the City Assessor, Joanne Majewski, and Richard B. Golden, Esq. of Burke, Miele & Golden, 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, BRV Singh, Inc. is willing to settle these proceedings without interest, costs or disbursements, in the following manner:

- 1- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2012-2013 as tax map number 43-1-1 be reduced to a market value of \$775,000.
- 2- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2013-2014 as tax map number 43-1-1 be reduced to a market value of \$775,000.
- 3- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2014-2015 as tax map number 43-1-1 be reduced to a market value of \$775,000.
- 4- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2015-2016 as tax map number 43-1-1 be reduced to a market value of \$775,000.
- 5- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2016-2017 as tax map number 43-1-1 be reduced to a market value of \$775,000.
- 6- That the proceedings brought in connection with the property described on the City of Newburgh tax roll for the tax year 2011-2012 as tax map number 43-1-1 be discontinued with prejudice.

**NOW, THEREFORE BE IT RESOLVED**, that the proposed settlement as set forth and described above, and the attached Order and Stipulation of Settlement are hereby accepted pursuant to the provisions of the General City Law and other related laws.

**BE IT FURTHER RESOLVED**, that Michael G. Ciaravino, City Manager of the City of Newburgh; Joanne Majewski, Assessor of the City of Newburgh; Richard B. Golden, Esq. on behalf of Burke, Miele & Golden, LLP, and Eric D. Ossentjuk, Esq. of Catania, Mahon, Milligram & Rider, PLLC, 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 – STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
In the Matter of the Application of  
BRV SINGH INC.,

Petitioner,

**CONSENT JUDGMENT**

- against -

CITY OF NEWBURGH, (MUNICIPAL CORPORATION),  
Its ASSESSOR AND BOARD OF ASSESSMENT  
REVIEW,

**Index Nos.**    **2011-6820**  
                      **2012-5810**  
                      **2013-5608**  
                      **2014-5093**  
                      **2015-5028**  
                      **2016-4433 EF**

Respondents.

For a Review under Article 7 of the Real Property  
Tax Law of the State of New York.

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**PRESENT: HON. CATHERINE M. BARTLETT**

**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 tax  
rolls for the 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017 tax years, as follows:

Tax Map No. 43-1-1

be reduced in market value, prior to the application of any real property tax exemptions, if any,  
as follows:

<u>Assessment Year</u>	<u>Original Assessment</u>	<u>Revised Assessment</u>	<u>Amount of Reduction</u>
2012-2013	\$828,800	\$775,000	\$53,800
2013-2014	\$828,800	\$775,000	\$53,800
2014-2015	\$876,000	\$775,000	\$101,000
2015-2016	\$876,000	\$775,000	\$101,000
2016-2017	\$824,500	\$775,000	\$49,500

and it is further,

**ORDERED**, that the proceedings brought in connection with the real property described on the City of Newburgh tax rolls for the tax years 2011-2012 as tax map number 43-1-1 be discontinued with prejudice; and it is further,

**ORDERED**, that the Petitioner's real property taxes on said parcel above described for the 2012-2013, 2013-2014, 2014-2015, 2015-2016 and 2016-2017 School, County and City taxes be adjusted accordingly and that any overpayment by Petitioner 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 values; 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 assessments in excess of what said taxes would have been if the market values 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 amounts, if any, paid as County taxes and County Special District taxes against the original assessments in excess of what said taxes would have been if the market values 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 assessments in excess of what said taxes would have been if the market values 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 SAVAD CHURGIN 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 2017-2018, 2018-2019 and 2019-2020 assessment years; and it is further,

**ORDERED**, that in the event that the refunds are made within sixty (60) sixty 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 these proceedings are settled without costs or disbursements to either party as against the other.

Signed:           October \_\_\_, 2016  
                      Goshen, New York

**ENTER:**

\_\_\_\_\_  
HON. CATHERINE M. BARTLETT  
SUPREME COURT JUSTICE

**ON CONSENT:**

\_\_\_\_\_  
Michael G. Ciaravino  
City Manager  
Dated:

\_\_\_\_\_  
JOSEPH A. CHURGIN, ESQ.  
Savad Churgin, LLP  
Attorney for the Petitioner  
Dated:

\_\_\_\_\_  
Per Resolution No.



Joanne Majewski  
Assessor  
Dated:

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RICHARD B. GOLDEN, ESQ.  
Burke, Miele & Golden, LLP  
Attorney for Respondents (2011, 2012, 2013)  
Dated:

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ERIC D. OSSENTJUK, ESQ.  
Catania, Mahon, Milligram & Rider, PLLC  
Attorney for Respondents (2014, 2015, 2016)  
Dated: